

**Investors and Indigenous Peoples:
Trends in Sustainable and Responsible
Investment and Free, Prior, and Informed
Consent**



**First Peoples Worldwide
857 Leeland Road
Fredericksburg, VA 22405
540-899-6545
www.firstpeoples.org**

Forward

This report provides a history of the trends in sustainable and responsible investing, the rising influence of shareholders in ensuring that Indigenous communities have a right to Free, Prior, and Informed Consent (FPIC), and the new roles that multilateral finance institutions are playing in policies promoting and supporting the rights of Indigenous Peoples. It describes the positive effect the investment community has had so far on Indigenous Peoples' rights through a variety of actions, including screening, shareholder dialogue, and direct investment in Indigenous communities.

Since the first significant divestment campaign supporting the James Bay Cree's negotiations with Hydro-Quebec in 1971, attention to Indigenous Peoples' rights has reached a global level in the investment world. Companies engaging in activities that infringe on the rights of Indigenous Peoples—as enshrined in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP)—face increasing reputational and operational risks. These risks lead to issues with access to capital, damage to brand, license to operate, and the threat of litigation and increased regulation.

According to a 2009 risk analysis done across the extractive industries by EIRIS, a global research firm on ethical corporate behavior, 250 large-cap companies with a total market value of \$2.7 trillion have high to medium risk exposure due to Indigenous Peoples' rights issues. Of this total, only 19 percent have companywide Indigenous Peoples policies and only 15 percent support Free, Prior, and Informed Consultation. Less than one percent—only 4 companies,—recognized Free, Prior, and Informed Consent (FPIC). In this report, we'll explain the difference between consultation and consent, and why operationalization of FPIC is key to the health of both corporations and communities going forward.

As the risk to companies grows, shareholder interest in protecting the rights of Indigenous Peoples has increased both in the social investment community and among mainstream investors, for ethical and financial reasons. The UN Principles for Responsible Investment, a membership program with over 850 investors and their companies, recently launched an effort to promote and respect the rights of Indigenous Peoples around the world. Boston Common Asset Management (BCAM)'s ongoing dialogue with ConocoPhillips resulted in the company's 2011 adoption of an Indigenous Peoples policy. That same year, ExxonMobil announced its policy explicitly supporting UNDRIP.

This report is a call to action for Indigenous Peoples to build alliances with investors directly and to expand their influence in socially responsible investing. It is a call for investors to join Indigenous Peoples in getting corporations, NGOs, intermediaries and governments to uphold the principles of FPIC, to ensure that advocates for FPIC rights adhere to FPIC guidelines themselves, and to push for a larger percentage of company dialogues to be led by Indigenous Peoples.

Let's get started,

Rebecca Adamson

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Table of Abbreviations

BCAM	Boston Common Asset Management
CDFI	Community Development Financial Institution
CSR	Corporate Social Responsibility
ESG	Environmental, Social and Governance
FAO	Food and Agriculture Organization
FPIC	Free, Prior, and Informed Consent
GRI	Global Reporting Initiative
ICCR	Interfaith Center for Corporate Responsibility
IFC	International Finance Corporation
ILO	International Labor Organization
IPWG	Indigenous Peoples Working Group
SEC	Securities and Exchange Commission
SRI	Sustainable and Responsible Investing
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
US SIF	US SIF: The Forum for Sustainable and Responsible Investment

Introduction: The Origins of Social Investment

Sustainable and responsible investment (SRI) is an investment discipline that considers environmental, social and corporate governance criteria to generate long-term competitive financial returns and positive societal impact. The first social investors, those who applied their values to their economic, business and investment decisions, were Indigenous Peoples. Indigenous Economics evolved from the values and spiritual beliefs of the world's First Peoples. Notably, economic success was measured by how well goods are flowing to everyone in the society and whether a healthy balance is being maintained with the natural world. While the particulars of each economy differed from culture to culture, there are many common threads.

Economies based on industrialized capitalism also have different particulars and their own common threads. Most notably, public companies have a fiduciary duty to act in the best interest of shareholders and to maximize shareholder value. There is much debate as to whether or not sustainable and socially responsible business practices are part of that fiduciary duty, but social investors argue that incorporating these strategies increases shareholder value. On the other hand, Indigenous Economics, based on the principle that “the land produces for us because we protect it—to protect it is to protect ourselves,” acknowledges the responsibility to adopt business models and investment strategies that incorporate the idea of responsible stewardship of resources.

The evolution of SRI practices within mainstream capitalist economies for the last fifty years has led to discussions of values and social impacts that have become part of the mainstream business and investment lexicon. Likewise, strategies employed by sustainable and responsible investors to address the concerns of Indigenous Peoples have blossomed from tangential inclusion in broader social and environmental criteria to highly evolved, broad-based corporate campaigns targeting specific abuses.

Menominee Tribal Enterprises: An Indigenous Sustainable Business Model

No strangers to lumber markets, the Menominee Tribe in Wisconsin have sustainably harvested and sold timber from their richly forested land since 1850. The Menominee operate their business according to Indigenous Economic principles, taking only the trees nature can afford to give. Walking through the Menominee's forest today, one would not find land scarred by clear-cuts or streams filled with silt from runoff, but instead land where cut stands are replaced by lush meadows and where wildlife is plentiful. By operating in this way, the profit stream of the forest is preserved in perpetuity, rather than being exhausted in a matter of years. “If we maintain a healthy, vibrant forest, over the long term it will sustain the people and the land itself,” explained tribal forester Marshall Pecore to the Christian Science Monitor.

The Menominee's sustainable harvesting practices are a model for the forestry industry and their certified sustainable lumber is widely sought and sold at premium prices. The Menominee reinvest their proceeds from lumber sales in expanding markets for their products and other community economic development projects.¹

History of SRI and Indigenous Peoples' Rights

Indian activism in the 1960s and 1970s made Native American concerns and demands visible to the broader society, specifically the nascent SRI community. Early shareholder advocacy included a 1971 shareholder proposal filed by the Interfaith Center on Corporate Responsibility (ICCR) in support of efforts by members of the Crow Nation to challenge Westmoreland Coal's strip-mining plans on their reservation. At the same time, early social criteria began examining portfolio companies' policies and practices when operating in Indigenous territories. In many of these early screens, Indigenous Peoples' rights were grafted as an appendage to broader human rights or environmental screens. Multilateral development banks began to develop policies to manage the impacts of their loans on Indigenous People and other local communities. The Indigenous Peoples' rights criteria adopted by the UN and the ILO served and continue to serve as best practices that investors and corporations reference in their responsible investment guidelines and policies.

From the first significant divestment campaign supporting the James Bay Cree's negotiations with Hydro-Quebec in 1971, to 91.5 percent of Newmont Mining shareholders voting for the company to reduce its conflict with Indigenous Peoples in 2007, the trajectory of Indigenous-rights-minded investment is accelerating and businesses are listening to their investors. While change may be slower than we like, the engagement process is proving effective.

James Bay Cree, Hydro-Quebec & Divestment (1971-2007)

In 1971, Quebec Premier Robert Bourassa announced plans to develop James Bay's vast hydrologic potential by building a series of dams and flooding an area the size of the state of Vermont. Much of this land was the territory of the James Bay Cree. The Grand Council of the James Bay Cree and the Quebec government signed the James Bay Northern Quebec Agreement, and when construction of the first dam was completed in 1980, Cree land was immersed beneath the flood waters. The James Bay project sent its first electricity south to the United States in 1981.

FPIC vs. Consultation

At the center of the push for corporate acknowledgment of Indigenous sovereignty is the concept of Free, Prior, and Informed Consent (FPIC). In essence, FPIC allows communities to decide not only how they will engage with developers in their territories, but ultimately it gives them the right to deny access to companies entirely. FPIC should not be conceived of as a one-time, "yes or no" vote, but as an ongoing, iterative process. It reflects less a destination and more a marker on the path to genuine justice, whereby Indigenous Peoples establish the rules of development within their territories, and select the companies they want to partner with in developing their land and resources.

Early corporate Indigenous policies mandated "consultation" with communities, with the implicit caveat that companies still reserved the option of bypassing community decisions if negotiations did not favor their interests. While consultation is a necessary step in the FPIC process, it is not a substitute for respecting the sovereignty of Indigenous communities. As international rights documents such as UNDRIP refine language about the importance of consent, multilateral lending agencies increasingly demand FPIC policies in companies they lend to, and investors take an active role in pushing FPIC to the top of shareholder agendas, it becomes clear that consultation is not enough to satisfy the international call for corporate responsibility.

At the same time, it became clear that the environmental impacts of the project were far greater than those forecast by Hydro-Quebec during the initial negotiations. In 1984, ten thousand caribou died while crossing the Caniapiscau River, deaths the Cree suspected were the result of an excess water release. The Cree also increasingly found deadly amounts of toxic mercury in their food supply due to the decomposition of leaves, trees and other vegetative matter destroyed by the flooding.

When Hydro-Quebec failed to address these issues, the Cree launched a corporate campaign aimed at revoking Hydro-Quebec's social license to operate and curtailing future hydro-development on their land. They first targeted utility customers of Hydro-Quebec and were able to win contract cancellations by utilities in Maine and New York. Next, in 1995, Cree leaders led by Grand Chief Matthew Coon Comb targeted Hydro-Quebec's funders, convincing Tufts University's trustees to be the first of several US institutions to vote to divest their school's Hydro-Quebec bonds. With key constituents withdrawing their support for the project, Quebec government officials placed future hydro development on indefinite hold.

Under the new terms of the settlement negotiated under the leadership of Cree Grand Chief Matthew Mukash and announced in July 2007, the James Bay Cree assume full responsibility for all policing, sanitation, courts, and social and economic development within their territory. Hydro-Quebec paid the Cree \$1.2 billion—money that the Cree are using to adapt their economy to the new environmental realities, but in ways that continue to be based on their cultural values.¹

¹ ["Tufts ECO Wins Divestment from Hydro-Quebec." *Guide to Uncovering the Right on Campus*. 1994](#)

Timeline of SRI and Indigenous Peoples' Rights

1971	1977	1983	1989	1990
ICCR supports Crow Nation's challenge of Westmoreland Coal's strip mining plans on their reservation. Hydro-Quebec plans to build on James Bay Cree territory in northern Quebec.	Indigenous Peoples first take concerns to the UN Human Rights Commission. UNDRIP will not be passed for another 30 years.	The Lakota Fund, the first Native CDFI, is founded. The World Bank adopts its first safeguard policy on Indigenous Peoples (the policy was updated in 2005, and is currently being updated again).	ILO Convention 169, concerning Indigenous and Tribal Peoples in Independent Countries, is adopted.	Oneida Tribe of Indians of Wisconsin Trust Funds adopts its first sustainable and responsible investment policy.
1995	1999	2002	2004	2005
James Bay Cree leaders convince Tufts University's trustees to divest their Hydro-Quebec bonds. Quebec government places future hydro development on indefinite hold.	Calvert creates the first investment policy on Indigenous Peoples' rights in the US. KLD adds corporate engagement with Indigenous Peoples to its ESG research database.	Proposal filed by Trillium Asset Management with IDACORP to report on the effects of its Hells Canyon complex on Native Americans receives unprecedented 35% shareholder support.	Indigenous Peoples Working Group of the Social Investment Forum is created. Inter-American Court of Human Rights begins incorporating FPIC into its human rights rulings.	World Bank updates policy to include free, prior, and informed "consultation." NCAA excludes from championship play 18 teams with mascots named after Indigenous tribes or leaders without their permission.
2006	2007	2009	2010	2011
Rio Tinto adopts Indigenous Peoples policy.	UN Declaration on the Rights of Indigenous Peoples (UNDRIP) passes with language on free, prior and informed consent. An unprecedented 91% of Newmont shareholders support a shareholder resolution asking for steps to reduce conflict with Indigenous Peoples.	Wilmar Group, the world's largest palm oil trading company, returns disputed land to Indigenous communities, and provides compensation for damages caused.	Boston Common Assets works with ConocoPhillips to become the first energy company to announce an Indigenous Peoples policy that recognizes UNDRIP.	ExxonMobil, BP and Suncor announce Indigenous Peoples policies that recognize UNDRIP.
2012	2013			
NCAI passes a resolution encouraging tribes to follow sustainable investment guidelines. UN Principles of Responsible Investing adopt an Indigenous Peoples policy that recognizes UNDRIP. FPIC added to the policies of signatories to the Equator Principles. IFC issues requirement that clients obtain FPIC from Indigenous Peoples.	First Peoples releases its Indigenous Rights Risk Report.			

Establishment of an Indigenous Rights Screen

In 1999, respect for Indigenous Peoples took a major step forward, driven by an increase in global awareness of Indigenous rights and the sophistication of tools employed by social investors. Led by Cherokee economist Rebecca Adamson, two leaders in the social investment industry adopted investment criteria based upon the international treaties and instruments that define and protect Indigenous Peoples' rights. Kinder, Lydenberg, Domini (now MSCI²) committed to expand the research of its SOCRATES³ database to include specific information on corporate practices of engagement with Indigenous Peoples. That same year, the Calvert Social Investment Fund became the nation's first to formally adopt stand-alone Indigenous Peoples' rights criteria.⁴

Calvert's Indigenous Peoples' Criteria came into play as it was reconsidering the Fund's long-standing refusal to own bonds issued by the World Bank. In July 2007, Calvert announced that, due to positive changes within the World Bank's human rights, gender and Indigenous Peoples' rights policies and practices, the Fund would consider investing in World Bank bonds in the future. World Bank performance is now reviewed annually through a continuing dialogue with Calvert and the SRI community.

Led by Calvert, KLD, ICCR, BCAM, and Trillium Asset Management, the SRI industry strengthened their call for companies to improve their policies and practices towards Indigenous Peoples. Concepts such as the "social license to operate" and FPIC elevated social investors' expectations that corporations deal directly and respectfully with Indigenous Peoples at the negotiating table, as partners and even co-developers.

In Europe, the Norwegian Government Pension Fund's Ethical Guidelines, which includes specific language on human rights, led to its divestment of Freeport-McMoRan in 2006 and Barrick Gold in 2009, due to the impacts of their mining operations on Indigenous Peoples in Indonesia and Papua New Guinea, respectively. These events further proved that funds with hundreds of billions of dollars in assets under management can influence corporate behavior.⁵

Calvert's Indigenous Peoples' Rights Criteria

"Calvert is concerned about the survival and security of Indigenous Peoples around the world. Companies operating on or directly affecting the land of Indigenous Peoples should support appropriate economic development that respects indigenous territories, cultures, environment, and livelihoods. We seek to avoid investing in companies that have a pattern and practice of violating the rights of Indigenous Peoples. Calvert is also concerned about culturally offensive or negative images that promote racial, cultural, or religious stereotyping of Indigenous Peoples, and we may dialogue with companies that manufacture and/or market products with offensive labels and logos."¹

² In the early 2000's Kinder, Lydenberg, and Domini changed its name to KLD Research and Analytics. The company was acquired by RiskMetrics Group in November 2009 and RiskMetrics was subsequently acquired by MSCI, Inc. in June 2010.

³ A research database used by social investors, SOCRATES contained environmental, social and governance profiles on corporations.

⁴ "Calvert Group Funds Screen for Indigenous Peoples' Rights." *Social Funds*. Nov 11, 1999

⁵ [Norwegian Government Ministry of Finance](#)

Establishment of the Indigenous Peoples Working Group of US SIF

The SRI in the Rockies Conference, now known as the SRI Conference, is a major industry conference for social investors, organized annually by First Affirmative Financial Network (FAFN) and US SIF: The Forum for Sustainable and Responsible Investment (US SIF), and typically attended by hundreds of social investors. In 2003, Calvert, with the help and support of the Calvert Social Investment Fund Advisory Council, drew attention to the fact that the choice of venue for the upcoming SRI in the Rockies conference—Squaw Valley—was offensive to American Indians (“Squaw” is an extremely offensive, derogatory term that refers to American Indian women). Given the industry support of Indigenous Peoples’ rights, Calvert suggested that the site was inappropriate.

Since the issue first arose just weeks before the conference, the organizers were unable to change the venue, but were amenable to using the experience as an education opportunity. The conference’s agenda was changed to reflect the importance of sensitivity to Indigenous culture. Guests were briefed on the problem with the conference venue and the issue was addressed throughout the conference, including an address and welcome by the chairman of the local Washoe tribe, a breakout session on Indigenous Peoples issues and a meeting with representatives of the resort and other interested businesses in the valley.

In the wake of this shift in sensitivity, and on a recommendation from Rebecca Adamson, US SIF chose to create an Indigenous Peoples Task Force in order to better incorporate Indigenous Peoples issues into its work. This group eventually became the Indigenous Peoples Working Group (IPWG) and is currently co-chaired by Susan White (Oneida) and First Affirmative’s Jan Bryan. Today, the Working Group “seeks to promote

Indigenous Rights Screen in Action: Liz Claiborne and Weyerhaeuser

Calvert applied the Indigenous Rights Screen to two companies, Liz Claiborne and Weyerhaeuser, and divested in both after unsuccessful engagement.

Calvert supported ICCR’s ongoing efforts to engage Liz Claiborne over the company’s marketing of the “Crazy Horse” brand. Although Liz Claiborne had taken action when other groups protested its brands, including the removal of words from the Koran after Muslims expressed their offense, with Crazy Horse the company offered only minor alterations. It made “horse” plural and lower case. Gary Brouse, a long-time Program Director at ICCR and a member of the Calvert Social Investment Fund’s Advisory Board at the time, noted the irony of Liz Claiborne’s recalcitrance: “It seems to me that if anyone should understand the value of a person’s name and legacy, it should be Liz Claiborne herself.” ICCR organized 800 institutional investors to sign a letter that asked Liz Claiborne to withdraw the Crazy Horse label from the market. When the company refused, Calvert invoked its new screen and sold the stock, which drew significant media attention to the issue. Liz Claiborne refused to change the Crazy Horse name for many years, but quietly discontinued the Crazy Horse label in 2007.¹

In May 2009, Calvert announced that it would sell its shares in Weyerhaeuser Company because the company no longer met the criteria outlined in Calvert’s Indigenous Peoples’ Rights Policy. Weyerhaeuser had made some progress since talks with Calvert regarding Indigenous Rights had begun in 2003, but it was not enough to allay Calvert’s concerns over the company’s influence on treaty implementation negotiations between Grassy Narrows First Nation and the Province of Ontario. Specifically, Weyerhaeuser put pressure on the Province of Ontario to conclude or circumvent the negotiations so that the company could regain access to timber from the Whiskey Jack Forest.

Indigenous leadership through programs and initiatives which link the sustainable and responsible investment (SRI) industry and Native communities.”

The 2007 SRI in the Rockies conference, held at the Native American-owned Tamaya resort, was a pivotal moment in bridging Native American and SRI communities. This conference involved Native Americans within the SRI community in selecting the location for the conference. Indigenous people also were involved in the planning process and their issues incorporated into the conference itself. With over 700 attendees, the conference included several speakers and sessions that addressed Indigenous Peoples’ concerns. In addition, IPWG and U.S. SIF hosted a day long pre-conference that brought together three dozen Native American leaders and social investors to discuss social investment practices.

The 2012 SRI Conference was again held at a Native American-owned resort, the Mohegan Sun in Connecticut. FAFN noted that their reason for selecting Mohegan Sun was their belief “that the broader case for community impact investing can be made and understood more deeply by the SRI industry if more people understand what Native American communities are doing with their community development efforts and initiatives.”⁶

Shareholder Advocacy for Indigenous Peoples

For both ethical and financial reasons, shareholder interest in protecting Indigenous Peoples’ rights is strong within both the sustainable/responsible and mainstream investment community. A 2007 survey of the SRI community, conducted by First Peoples Worldwide, found that Indigenous Peoples’ rights ranked third among issues of greatest concern. Mainstream investors have demonstrated concern about these issues when weighing in through proxy voting. A 2002 proposal filed by Trillium requesting IDACORP to report on the impacts of its Hells Canyon complex on Native Americans was supported by more than 35% of shareholders, unprecedented for that time period.⁷ A 2006 resolution on the evolving concept of FPIC presented to Alcan by Montreal-based money manager Groupe Investissement Responsable garnered 36.8% of the votes cast. In 2008, Trillium and NEI Investments co-filed a resolution requesting Enbridge to produce a report assessing the costs and benefits of adopting a policy requiring FPIC, which won 32% support. Momentum continued to build and that same year Newmont Mining, in a highly unusual move, asked shareholders to vote in favor of a shareholder resolution offered by Christian Brothers Investment Service and others. The resolution, requesting Newmont to publish a report explaining the causes of community conflicts with the company and what Newmont intended to do to reduce them, was supported by an unprecedented 91% of shareholders.⁸

Over the last 15 years, sustainability-minded and socially responsible investors have honed the tools they use to voice their concerns about Indigenous Peoples’ rights. When compared to other issues championed by social investors, such as the environment, sustainability reporting, political spending, and diversity, Indigenous Peoples’ rights may appear less prominent. According to the As You Sow Proxy Preview 2012, labor and human rights resolutions (under which Indigenous Peoples is a category) accounted for 7 percent of proposals filed in 2012.⁹ Many Indigenous issues are not represented in that number, however, because a company’s impact on Indigenous Peoples is often addressed through environmental resolutions versus those directly addressing their rights. However, a small group of shareholders has focused on engagement

⁶ “The Mohegan Sun Conference Center.” *SRI*. October 2, 2012

⁷ <http://www.sec.gov/Archives/edgar/data/49648/0001133884-02-000391.txt>

⁸ “91.6 Percent of Newmont Shareholders Support Resolution for Mining Company to Report on its Impacts on Local Communities.” *Christian Brothers Investment Services*. April 24, 2007.

⁹ “Helping Shareholders Vote their Values.” *As You Sow*. 2012

specifically regarding Indigenous Peoples, while many investment managers have incorporated the rights of Indigenous Peoples into their Proxy Voting Guidelines to ensure that, when an Indigenous-specific proposal does end up on the ballot, their votes count.

As a result of increased shareholder advocacy, companies are becoming more likely to discuss addressing policy issues than to risk shareholder resolutions. When comparing 2009/2010 shareholder engagement with that of 2011/2012, the number of Indigenous Peoples' rights proposals filed dropped by 50%, but the number of companies engaged in dialogue on the rights of Indigenous Peoples doubled.

Sustainable and responsible investors in the US and Canada have engaged over 50 companies, primarily in the US but also expanding globally, through filing shareholder proposals and ongoing company dialogues. While companies involved in resource extraction are the most prevalent target, consumer goods and retailing companies that participate in the commercialization of Native sacred images and names are also targets of shareholder advocacy. Some shareholder resolutions concern Indigenous Peoples specifically, while others reference them as part of broader social issues, such as employee diversity, climate change or broad-based human rights. In the last few years FPIC has taken center stage in shareholder advocacy and several campaigns have been successful. Multilateral institutions and governments have adopted FPIC policies and guidelines that support the social investment community in making the case for companies to respect Indigenous Peoples' rights. In addition, continued disruption of company operations due to opposition by Indigenous Peoples who are not properly engaged with helps investment managers make the business case that ignoring Indigenous Peoples' rights poses financial risk.

The Business Case for Respecting Indigenous Peoples

While some companies are learning that strong community engagement yields mutual benefits to both the company and the community, others continue to dismiss their responsibilities to seek a social license to operate, resulting in financial loss and sullied reputations that make them unwelcome in new communities.

Development without Conflict: The Business Case for Community Consent, a 2007 report by the World Resources Institute, examined four case studies that make a strong financial argument for companies to focus their attention on community engagement. One of the case studies profiles Royal Dutch Shell's gas development projects in the Philippines. Having learned from previous weak community engagements, Shell began to track all of its investments in community engagement and the financial results generated. An initial \$6 million was committed to get the community engagement process started. This investment included paying development consultants to help the company listen to and incorporate the community's views, flying community members to conferences and other meetings where they could meet and strategize with other Indigenous Peoples facing development challenges, and funding economic development projects designed by the community. Both the community and the company benefited greatly. Before Shell's community engagement began, the community was strongly opposed to Shell, but after the engagement process took hold, 80% of the community supported the company's presence. Shell's upfront investment of \$6 million was followed by an ongoing investment of about \$1 million per year. These costs represented 0.6% of the total project development costs and 0.4% of annual pre-tax profits stemming from the project - a rate of return exceeding 1000% over the life of the project.¹⁰

¹⁰ ["Development Without Conflict: The Business Case For Community Consent." World Resources Institute. 2007.](#)

Many other companies are experiencing the negative impacts of ignoring Indigenous Peoples issues. Newmont Mining's Minas Conga Mine in Peru began operation prior to the company including FPIC in its policies, and in 2011 the company reported that demonstrations by local community members to stop the project resulted in losses of \$2 million a day. In 2012, Talisman Energy became the fifth company to withdraw operations from Block 64 of the Peruvian Amazon due to resistance from the Achuar and other Indigenous communities affected by its operations. Talisman's claim to have obtained local support was refuted by many communities in the region. Since beginning exploration in the region in 2004, the company had come under increased scrutiny by shareholders for operating without Achuar consent.¹¹

Financial Risks to Shareholders: Chevron in Ecuador

In 2011, an Ecuadorian court ordered Chevron to pay \$19.04 billion in reparations for environmental damages to Indigenous communities in the Ecuadorian Amazon. The damage had been caused by Texaco, which Chevron purchased in 2000, and the original *Aguinda vs. Texaco* lawsuit had been filed in 1993. Chevron appealed the decision, asking a U.S. appellate court for an injunction to block enforcement of the order. In 2012, the appellate court ruled against Chevron's appeal. The trial has raised questions about the impact on shareholder value if the verdict is upheld. While Chevron has downplayed the impact, one equity research firm, Trefis, found that even if a reduced fine were levied, the company's stock value would decrease by 5%. In addition, the company's actions have impacted shareholder confidence in the ability of the board and management to properly manage litigation risk and fulfill their fiduciary responsibilities.¹¹

These are just two examples of the billions of dollars of investment in mining and oil & gas exploration in Peru that have been lost or delayed due to the failure of companies to obtain consent from the local Indigenous communities. The Peruvian government, in an attempt to draw more foreign investment, passed a law in 2011 making it mandatory for corporations to seek consultation with Indigenous Peoples' before developing projects on their territories.¹²

According to the Oxfam Community Index, Newmont Mining is the only US company that has adopted an explicit FPIC policy. Only four other companies have such explicit policies: Canadian firms Inmet Mining and Talisman Energy, and British firms British Rio Tinto and Xstrata. Other companies note that they aspire to FPIC and/or community consent but do not have explicit mandates, including ExxonMobil, Marathon Oil and Occidental. These companies can serve as examples for shareholders to reference of competitors who have adopted or are in the process of integrating FPIC into their corporate policies.

Trends in Shareholder Engagement

Historically, shareholder resolutions have been the most effective way to get companies to improve their policies on Indigenous Peoples' rights. However, in the last few years, companies have been willing to engage in ongoing dialogue on Indigenous Peoples' rights without the added step of shareholder resolutions. In 2009, Batirente and Regroupement pour la Responsabilite Sociale et l'Equite co-filed a proposal requesting that Talisman Energy conduct a costs and benefits assessment of adopting an FPIC policy, which never went to vote because the company immediately accepted the proposal.¹³ Two years

¹¹ ["Talisman Energy Withdraws From Peruvian Amazon." *Amazon Watch*. Sep 13, 2013](#)

¹² ["Peru's President Approves Indigenous Consultation Law." *BBC News*. Sep 6, 2011.](#)

¹³ <http://batirente.gc.ca/en/all-news/47>

later, the company announced the incorporation of FPIC into its Global Community Relations Policy. BCAM's ongoing dialogue with ConocoPhillips resulted in the company's 2011 adoption of an Indigenous Peoples policy that includes community consultation, and BCAM continues to use its influence to persuade the company to adopt an FPIC policy.¹⁴ Also in 2011, ExxonMobil announced its explicit support for UNDRIP, which contains a number of provisions that address FPIC.¹⁵ With pressure from investors and multilateral lending institutions, more and more companies are willing to engage in meaningful dialogue with Indigenous Peoples.

Polaris' Joint Venture Partnerships with First Nations

Polaris Minerals' relationship with the Hupacasath and Ucluelet First Nations on the shore of the Alberni Inlet in Vancouver Island exemplifies a successful community engagement model. In 2002, Polaris entered a joint venture with the two communities to develop the Eagle Rock Quarry, a project with a 100-year expected lifespan. Central to the partnership are significant equity positions owned by both First Nations, making them equal partners at the table. Polaris executives have noted openly that each side brings capacities to the partnership that the other side does not have. For instance, Polaris brings knowledge of mining and capital, while the Hupacasath and the Ucluelet bring knowledge of the land and strong traditions of conservation. According to project leaders at Polaris, the environmental perspective provided by the First Nations has been stepping stone to more efficient and sustainable mining practices. Outside reports paint a picture of a genuine relationship between the First Nations and corporate staff that includes hiking together, dinner parties and shared family picnics. These relationships create a platform for community building that surpasses the "get it done" motivation of the transactional model of development. This shared desire to enhance the community informs the community benefits agreements. However, close rapport does not make for effortless negotiation, but in the words of Polaris' founder and president, Marco Romero:

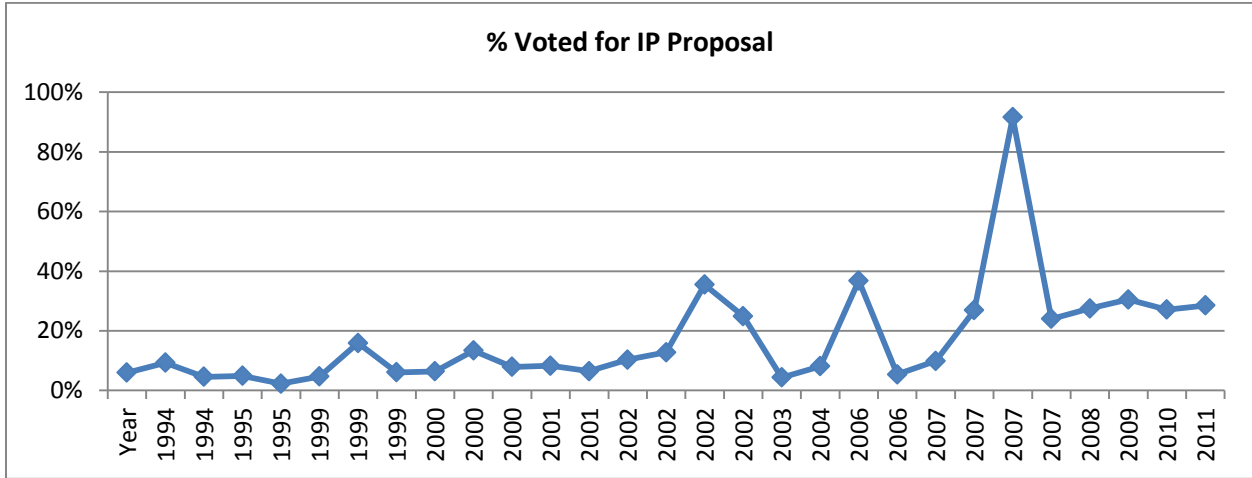
"It's all been about good faith engagement over the long haul. We have spent countless valuable and enjoyable hours getting to know our partners, learning their needs and values slowly and respectfully, fishing, hiking and eating together, and meeting their families with our families. Certainly we've had conflicts and tough negotiations—it took a year to get our partnership agreement done—but we've built a base of trust and mutual respect. More importantly, we've developed friendships."

Over time, the number of shareholders involved in supporting Indigenous Peoples has steadily risen; industries targeted by shareholder actions have varied, although Oil & Gas and Mining have always been targets; and there have been significant shifts in the specific issues raised by shareholders, as the following graphs depict.

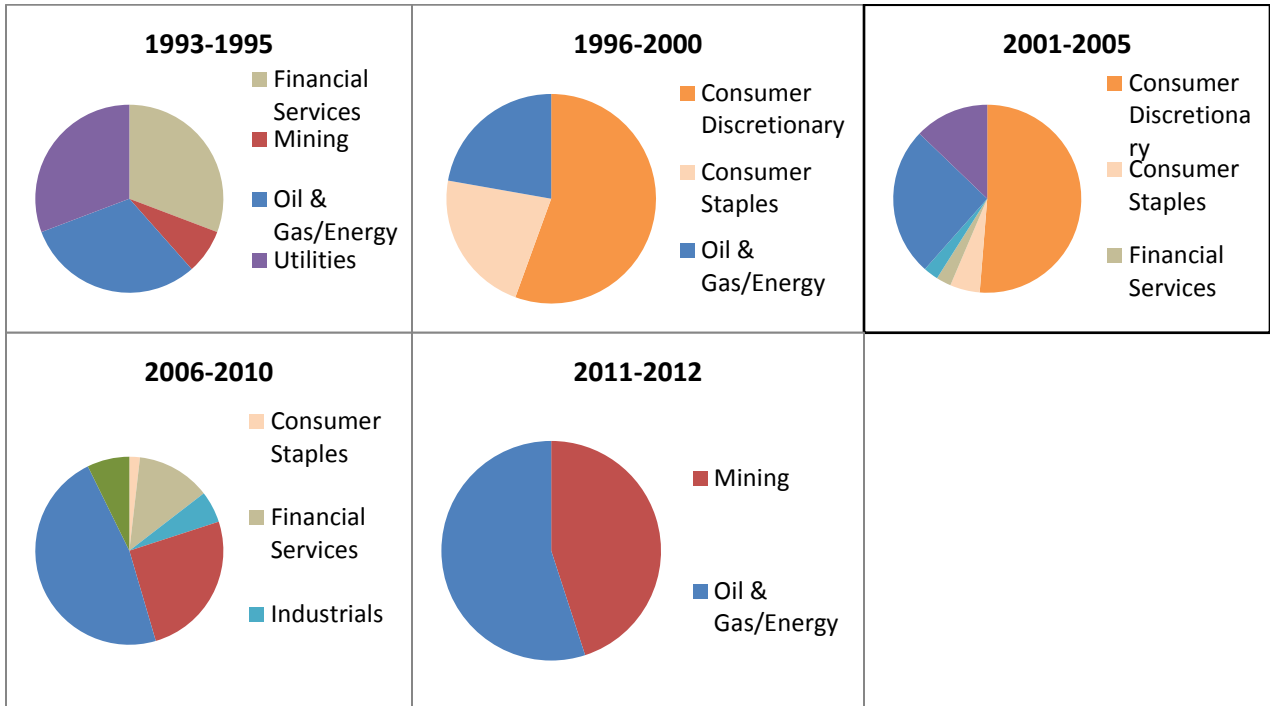
¹⁴ ["ConocoPhillips commits to Indigenous Peoples' rights with Support from BBT." *Brethren Benefit Trust*. Aug 26, 2011](#)

¹⁵ ["Indigenous Peoples." *ExxonMobil*.](#)

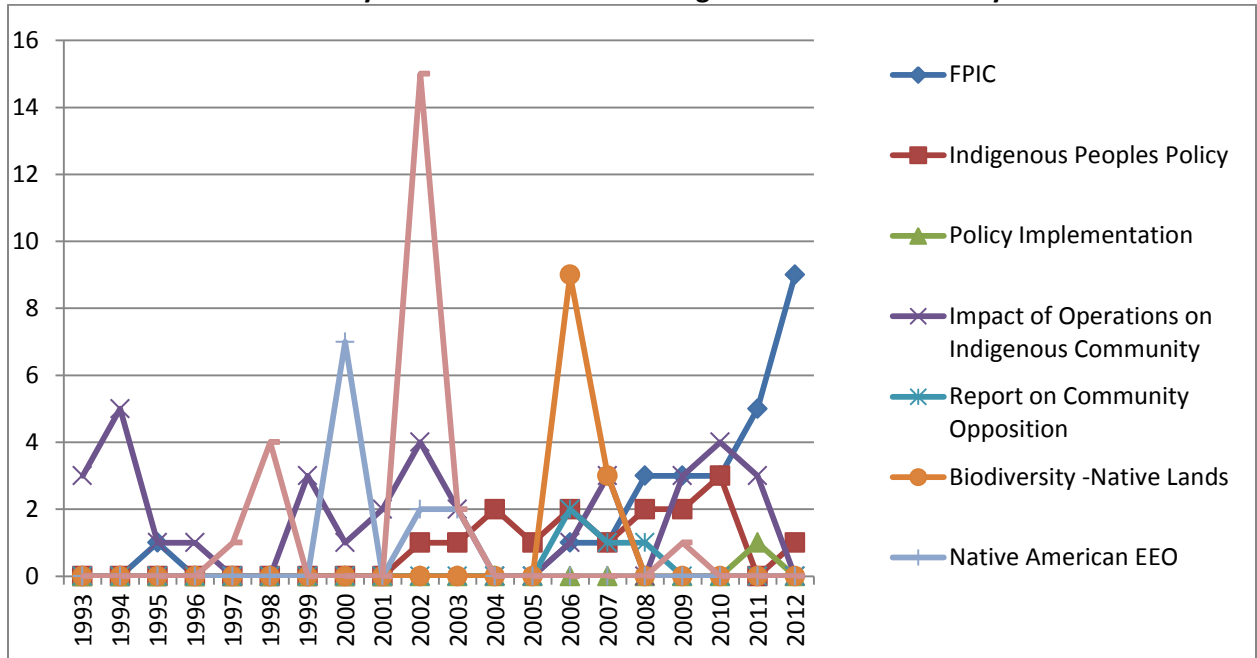
Shareholders Voting on the Rights of Indigenous Peoples



Historical Voting Trends by Industry



History of Issues Addressed through Shareholder Advocacy



Sources: Interfaith Center on Corporate Responsibility; Securities and Exchange Commission

Survey of Sustainability-Minded and Responsible Investors

In 2007, members of US SIF were invited to participate in a web-based survey exploring the practices of the SRI community relating to Indigenous Peoples issues. A broad range of SRI firms were among the 50 respondents to the survey, including the largest SRI mutual funds and money managers, social research providers, a socially responsible bank, an NGO, and a number of financial planners and individual brokers specializing in SRI.

Nearly three quarters (74%) of respondents to the US SIF survey included Indigenous Peoples issues in their social investment practice in one form or another. However, only 17.4% reported having explicit Indigenous Peoples screens, with 56.6% reporting that their Indigenous Peoples screens were part of broader human rights screens.

37% of the companies surveyed had written or spoken to corporate officials regarding their policies concerning Indigenous Peoples, 22.4% had invested in community development financial institutions controlled by Indigenous Peoples, 31.7% had voted proxies in support of shareholder proposals involving Indigenous Peoples. 55% screened their portfolio companies based on respect of Indigenous Peoples, and 15.6% had divested a corporation's stock based on poor performance in responding to Indigenous Peoples' concerns.

To get a sense of how things have changed over the last five years, six active investment managers (BCAM, Walden Asset Management, Trillium, Calvert, Christian Brothers Investment Service and NEI Investments) were surveyed in 2012.

The 2012 survey revealed a clear trend away from screening and towards engagement. The vast majority of investment managers had screened for Indigenous Peoples issues for many years, going back as far as the 1990s. Over time, the specific criteria had changed from language under human rights and environmental polices to specific policies on Indigenous Peoples and FPIC. Socially responsible investors also began expanding the tools they use, including shareholder resolutions and ongoing dialogues with companies about the material risks of ignoring the rights of Indigenous Peoples, in addition to exclusionary screening.

In 2007, the most common concern raised by respondents in their dialogues with corporations was environmental pollution related to resource extraction (85% mentioned this), followed by use of sacred lands (75%), excluding Indigenous Peoples from the decision-making process (75%), human rights issues pertaining to use of security forces (60%), and use of Indigenous Peoples' names/images in marketing (40%).

Environmental pollution and FPIC were the top issues in the 2012 survey, closely followed by human rights issues related to security forces. These three formed the trilogy of issues currently most relevant to social investment managers working on extractive industry portfolios. Most of the investment managers surveyed were not comfortable naming laggards or companies they had divested from, preferring to talk about those with which they had active or successful engagements. However, several managers mentioned that they divested from British mining firm Vedanta after determining the company had no real intentions of addressing Indigenous Peoples issues.

In 2007, 21.1% of respondents engaged their portfolio companies based on a request by an Indigenous organization, 36.8% based their engagement on a campaign sponsored by a non-Indigenous organization, and 36.8% based their engagement on a client-initiated request. Many smaller firms and individual

practitioners reported following the lead of the larger SRI institutions in guiding their Indigenous Peoples activities. Among these larger institutions, Calvert was most often mentioned.

In 2012, the investment managers gave a variety of responses on how they decided to engage portfolio companies on Indigenous Peoples issues, ranging from an internal management decision to requests from clients, Indigenous groups and non-Indigenous groups. Investment managers frequently selected companies for engagement on Indigenous Peoples issues because they had previously engaged with those companies on other social and environmental issues. While Indigenous organizations were not always the driving force behind engagement, the investment managers noted that they reach out directly to Indigenous groups to help inform and shape solution sets for companies.

When asked about the impact of the UNDRIP and the 2012 IFC revised Sustainability Framework on shareholder advocacy, investment managers noted that both were important milestones which allowed investment managers to raise the topic of Indigenous Peoples' rights with companies in a more serious way.

Addressing Key Issues through Shareholder Advocacy

Indigenous Images: Preserving Ownership and Respect

Dominant cultures often justify their exploitation of other cultures with teachings that these cultures are primitive, uneducated, and inferior. These stereotypes are commonly reinforced by appropriating images and using them in demeaning ways. Some of the most obvious examples are sports mascots. Whether it is the tomahawk chop mimed by Atlanta Braves fans, war-whoops chanted by supporters of the University of Florida Seminoles, the painted faces of Washington Redskins fans, or the toothy grin of the feather-in-his-hair Chief Wahoo of the Cleveland Indians, Indigenous images have been appropriated for commercial purposes and used in ways offensive to Indigenous Peoples.

Campaigns using financial pressure to reclaim Indigenous images and tribal names have been increasingly successful. While the Cleveland Indians refuse to retire Chief Wahoo, Anheuser-Busch bowed to shareholder and consumer pressure and agreed to stop using Chief Wahoo in their advertising aimed at Cleveland's baseball fans.¹⁶ An even bigger success came in August 2005 when the commissioners of the National College Athletic Association voted to exclude 18 teams whose mascots were named after Indigenous tribes or leaders without permission from the tribes from post-season championship play.¹⁷ Given how prestigious and financially lucrative championships are to universities, this sanction catalyzed action. The University of Illinois replaced its Chief Illini mascot, and the Universities of Iowa and Wisconsin both announced a discontinuation of athletic competitions against schools with Indigenous mascots. The University of Florida took a different tack and entered into negotiations with the Seminole Nation for continued use of their name. The negotiations allowed the tribe to establish

Indigenous Leaders in the Fight Against Discriminatory Use of Indigenous Images

The National Coalition on Racism in Sports and Media (NCRSM), led by the late WaBun-Inini (Vernon Bellecourt) (White Earth Ojibwa), Charlene Teters (Spokane), Bill Means (Oglala Lakota) and many others, has challenged the racist use of Indigenous imagery since 1991 by leading demonstrations outside sports arenas and educating the public on the damage done by these images. Suzan Harjo (Cheyenne and Hodulgee Muscogee) has led a group of Native plaintiffs in bringing legal challenges to the Washington Redskins' name. Gary Brouse (Ponca) of ICCR and the Oneida Trust, film actor and producer Sonny Skyhawk (Sicangu Lakota), and many others have also

¹⁶ ["Coalition of Religious Investors Fight Baseball Team Logo." *Catholic Culture*. Jul 10, 1997](#)

¹⁷ ["NCAA American Indian mascot ban will begin Feb 1." *ESPN*. Aug 12, 2005](#)

respectful conditions under which the name could be used, and to identify certain practices that had to change.

The problem persists, however, and continues to be challenged by members of the social investment community. The ICCR, a longtime leader in challenging racist images in marketing, continues to refuse deliveries of packages from FedEx, which purchased the naming rights to the stadium where the Washington Redskins play. When FedEx returns packages addressed to ICCR, another opportunity for education—and change—arises.

A Best Practice: Free, Prior and Informed Consent

The migration from consultation to consent was propelled by a 2005 World Bank policy shift that required free, prior and informed consent of Indigenous communities before they can be resettled by any Bank-funded project. From this narrowly stated policy has emerged a broader commitment to consent, even in cases where resettlement is not required.

According to a 2009 risk analysis done across the extractive industries by EIRIS, a global research firm on ethical corporate behavior, 250 large-cap companies with a total market value of \$2.7 trillion had high to medium risk exposure due to Indigenous Peoples' rights issues. Of this total, only 19 percent had companywide Indigenous Peoples policies and only 15 percent of these policies supported Free, Prior, and Informed Consultation. Just 4 companies recognized FPIC.¹⁸ A 2012 Oxfam Research Backgrounder on community consent in the extractive industries shows that some progress has been made but there is still a long way to go. The report found that while 20 of the 28 global companies surveyed had made explicit commitments to Indigenous Peoples' rights, only seven had publicly available Indigenous Peoples policies, only five had adopted FPIC, and only three had guidelines for the implementation of those policies. ConocoPhillips has stated that its policies are in line with ILO Convention 169,¹⁹ but Newmont Mining remains the sole US company to explicitly adopt an FPIC policy.

One of the key unanswered questions in the ongoing debate about how to define Free, Prior, and Informed Consent is “prior to what?” Some companies engage in dialogue prior to the first bulldozer moving the earth, but long after development plans are conceived and approved. This model traps Indigenous Peoples at the negotiating table into having to seek the best from a bad situation—development will happen whether they like it or not.

Investors continue to push leading companies to recognize the shortcomings of delaying engagement, and instead to involve communities in the earliest stages of project conception and design. Doing so will allow the wisdom of Indigenous Peoples to be utilized in the development process and avoid the costs associated with expensive litigation later on.

¹⁸ [Indigenous Rights, Risks and Opportunities for Investors. EIRIS. 2009](#)

¹⁹ [Community Consent Index. Oxfam. 2012.](#)

Songman Protocol

Indigenous communities often craft their own terms of development to guide corporations interested in pursuing projects on their territories. An example of this practice is the Songman Protocol, produced by the Songman Circle of Wisdom, a group of Aboriginal Australian elders. The Protocol, developed with the encouragement and financial support of the Aveda Corporation, outlines the group's view of development and a procedure for certifying products based on Indigenous intellectual property. Within the Protocol, it is the community that monitors and certifies compliance with community standards. The Songman Protocol is a guiding document that provides a framework that will:

- Respect and acknowledge Indigenous culture and spirituality
- Advocate practical models that deliver positive outcomes for Indigenous communities
- Allow certification of compliance and provide recognition to activities and projects
- Increase real financial returns and commercial opportunities to the mutual benefit of project partners
- Provide a sound commercial basis for Aboriginal business development.

The Goldfields Land and Sea Council, responsible for the management of Aboriginal lands in the Goldfields region of southwestern Australia, is in the process of finalizing a development policy to guide negotiations with corporations seeking to operate in the region. A number of other Land Councils in Australia are also in the process of developing their own development policies based on their cultural values and economic objectives.¹

Building Bridges: Social Investors Take Their Cues from Indigenous Peoples

In 2003, BCAM and their client, Brethren Benefit Trust (BBT), partnered with Amazon Watch, a leading NGO that works to protect Indigenous communities of the Amazon, to pressure Burlington Resources to respect the rights and governance processes of Shuar and Achuar Peoples in Ecuador. Amazon Watch communicated the views of the Shuar and Achuar to BCAM, and helped shape the shareholder proposal and subsequent dialogue with Burlington Resources officials. In 2006, ConocoPhillips acquired Burlington Resources and BCAM, along with Amazon Watch, continued their push for the company to respect the governance structures of the Shuar and Achuar. BCAM's Steven Heim participated in a fact-finding trip to Ecuador in 2005 and in 2006, and BCAM enabled indigenous leaders from Ecuador and Peru to attend ConocoPhillips' annual stockholders meeting. BCAM and BBT withdrew a shareholder proposal in 2008 after ConocoPhillips committed to addressing the concerns of Indigenous Peoples in its 2009 Sustainable Development Report. In August 2011, after nine years of engagement and ongoing dialogue, ConocoPhillips revised its Human Rights Position to be consistent with the principles of ILO Convention 169 and UNDRIP.¹

The Role of the SEC

When shareholders want to bring a resolution to a company's annual general meeting, they must first clear the resolution with the Securities and Exchange Commission. Many companies have sought to keep shareholders from weighing in on Indigenous issues by seeking permission from the Securities and Exchange Commission (SEC) to leave proposals dealing with Indigenous Peoples off of the proxy ballot. In many cases, the SEC has held that matters pertaining to the racist and offensive appropriation of Indigenous names and sacred symbols for commercial gain are matters of "ordinary business," not within the purview of shareholders. It is our hope that the SEC will acknowledge the growing importance of Indigenous issues to the health of many different industries, and allow shareholders to weigh in on them

more frequently. There is also hope that the SEC will play a role in ensuring transparency and in holding companies accountable for these issues. In August 2012, the SEC adopted two new disclosure rules, both mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act. The first requires companies to publicly disclose their use of conflict minerals that originated in the Democratic Republic of the Congo or an adjoining country, with the first reports to be filed in May 2014. The second rule requires extractive companies to provide more transparent disclosure of revenue payments to governments. The importance of the first rule is that companies are being held accountable for impacts down their supply chain. The second rule is a step towards Indigenous Peoples' rights in that it will create transparent, granular, annual, high-quality data that can be used to determine where operations overlap with Indigenous communities. The SRI community, through US SIF and its members, played a role in getting these new rules passed through active participation during the commentary period and letters of support for the new rules. These successes, along with the continued push towards integrated reporting of financial and sustainability information, will support the SRI community in influencing corporations to uphold the rights of Indigenous Peoples.²⁰

Disclosure on Sustainability Issues

In order for investment managers to evaluate corporate policies as they pertain to Indigenous Peoples' rights, companies must have robust practices of disclosure and reporting on these policies. In 2012, the Global Reporting Initiative (GRI) released a draft of its updated reporting Guidelines, which define reporting standards for businesses.²¹ While the guidelines highlight UNDRIP, ILO Conventions 107 and 169, and FPIC as useful instruments in the assessment of Indigenous Peoples' rights, the reporting on Indigenous Peoples is focused on compliance violations and is a subset of human rights. For investment managers to be able to fully and accurately assess a company, GRI should call for reporting on proactive strategies to address the reporters' impact on Indigenous communities (particularly with respect to cultural heritage) and how well they are equipped to anticipate, forestall and mitigate negative impacts.

Banks and Multilateral Organizations

As investors began to take the lead in pushing companies to address Indigenous issues, multilateral development banks began to adopt policies to manage the impacts of their loans on Indigenous Peoples and other local communities, often by requiring specific actions to be taken to address Indigenous Peoples' rights before approving funding for projects. As the Indigenous rights movement gained momentum, more and more mutual funds, pension plans and private financiers began to incorporate respect for Indigenous Peoples' rights into their investment strategies.

Although the ILO adopted Convention 169 in 1989, the migration from consultation to consent was finally propelled by a 2005 World Bank policy shift to require FPIC of Indigenous communities before those communities can be resettled in any Bank-funded project. Subsequently, in 2007, the UN adopted specific language on FPIC that, along with ILO Convention 169, provided guidance and support for social investors promoting Indigenous Peoples' rights. Articles 10 and 11.2 of UNDRIP include specific language on FPIC as it relates to relocation as well as cultural, intellectual, religious and spiritual property.²²

IFC's adoption of FPIC, effective January 2012, is the latest milestone on the path to incorporating Indigenous Peoples' rights into investment decisions. In its revised Sustainability Framework, the IFC included revisions to Performance Standard 7, which requires clients to obtain FPIC from Indigenous

²⁰ ["Dodd-Frank Wall Street Reform and Consumer Protection Act." Security and Exchanges Commission.](#)

²¹ ["Sustainability Reporting Guidelines." Global Reporting Initiative.](#)

²² [UN Declaration on the Rights of Indigenous Peoples](#)

communities when the project includes exploitation of natural resources on lands traditionally owned by, or under the customary use of, Indigenous Peoples. A proposed draft of the Equator Principles, a social and environmental risk assessment framework utilized by more than 70 banks, contains FPIC language that is consistent with IFC Performance Standard 7²³.

Community Investing: Putting Money to Work on the Ground

Another pillar of social investing is community investment through community development financial institutions (CDFIs), which provide credit and financial services to underserved communities. Native CDFIs are one of the most effective tools for stimulating Native economies because they create local entrepreneurs, homeowners and tribal businesses, as well as develop the infrastructure and knowledge that lead to solid and culturally appropriate governance, legal systems, commercial practices and community-focused financial management.

Currently the Native American CDFI Assistance Program, operated by the US Treasury Department, lists 72 certified Native CDFIs, up from 46 in 2009. These include 5 banks, 13 credit unions, 2 depository institutions, and 52 loan funds (see appendix II for list).

The Lakota Fund and the Community Investment Industry

South Dakota's Pine Ridge Reservation had been the poorest area of the United States since 1960. When the Lakota Fund began three decades ago, there were 30 small businesses on the Reservation, mostly owned by white people. Yet there was a vibrant Indian economy made up of informal businesses that provided catering, locksmithing, coffin making, hairdressing, fence mending, tire repair and Indian crafts. These businesses sustained people—barely—but needed capital to grow. In 1983, Indigenous economist Rebecca Adamson, traditional leader Birgil Kills Straight, education activist Gerald Sherman, small business owner Elsie Meeks, and other key Lakota leaders created the Lakota Fund to provide very small loans to businesses in this “informal sector.” As a direct result, there are over 200 Lakota-owned small businesses in Pine Ridge today.

The Lakota Fund was also a key driver behind Indigenous Peoples-centered social investment. From its basis in traditional Native values, the Fund served as a model for connecting capital markets to low-income communities. In 1989, Calvert's founding trustees Wayne Silby and John Guffey were interested in Rebecca Adamson's microfinance experience in launching The Lakota Fund, and invited her to join Calvert's Board of Trustees. The following year, Adamson used traditional Native values honed in her experience with The Lakota Fund to design the first program for high-social impact investing through a mutual fund. The Lakota Fund inspired Calvert's shareholders to unanimously approve the company's first-in-the-industry decision to commit 1% of fund assets to community investment vehicles. After listening to the Lakota Fund story, many Calvert shareholders asked the Fund to consider investing a greater share of assets in Lakota and other life-affirming investments. In 1995, in collaboration with Calvert Investments and the Ford, MacArthur and Mott Foundations, the Calvert Foundation devoted itself exclusively to these types of investments, called Community Investment Notes. Community Investment Notes became a new way to help lift people out of poverty while gaining a return on investments. Today, the Calvert Foundation has nearly \$200 million invested in 250 community organizations in all 50 states and over 100 countries, and the investment industry as a whole has committed more than \$1 billion in Community Investment Notes. From its basis in principles of Indigenous Economics, the success of Calvert's high-social impact investment program led to a key repositioning of social investment practices at the time from passive avoidance of irresponsible corporations to directly investing in positive community economic development, allowing the wealth of the greater American society to flow to some of its most vulnerable members.

Indigenous Peoples Influence Sustainable and Responsible Investing: Trust Committee of the Oneida Nation

Using initial capital provided from a century-old land claims settlement and additional capital generated by a successful gaming operation, the Trust Committee of the Oneida Nation voted in 1998 to invest some of their assets in stock and bond investments using social investment criteria. They hired two money managers specializing in socially responsible investing. By leveraging the expertise of money managers as well as new relationships with the broader social investment community, The Trust Committee has taken an active role in making their investments not only stronger but more socially responsible. Susan White, manager of the Oneida Trust Committee, played a catalyzing role in the formation of SIF's Indigenous Peoples Working Group (IPWG). Like Calvert's earlier commitment to bring Indigenous Peoples into the governing bodies of their funds, the IPWG gives Indigenous Peoples a voice in issues that affect their communities around the world, while allowing the social investment community to benefit from Indigenous Peoples' wisdom and experiences in developing and maintaining balanced economies.

While the Oneida have fully brought their values into the mainstream economy of stocks, bonds and social investment practices, they've simultaneously continued to practice investment within their community in ways that sustain and enhance their culture. The beautiful and award-winning Oneida Turtle School is designed in the shape of a giant turtle, one of the tribe's clan symbols. The school features Oneida language courses and time-out rooms staffed by Oneida elders to work with students having a difficult time managing their behavior. The Oneida Native Foods Program has reintroduced traditional foods to the Oneida's territory, and is being used especially to provide for elders suffering from nutrition-related diseases like diabetes. In March 2005, the Oneida Trust Committee approved a \$25,000 loan to The Lakota Fund, the first intertribal loan for the purpose of community economic development.¹

The Oneida also engage companies that act as vendors to the tribe. The Oneida Tribal Council selected Mobil Corporation to supply the Oneida One-Stop with fuel. Since Mobil merged with Exxon, a growing number of tribal members and leaders have become concerned about ExxonMobil's business practices, which disrespect the rights and environment of Indigenous communities throughout the world. In order to express these concerns, the Oneida Tribal Council initiated dialogue with ExxonMobil, inviting a representative to respond to their concerns at a business committee meeting. This action reveals a different sort of relationship than that which commonly occurs between Indigenous Peoples and large companies. It was, and is, Oneida's choice as to who provides gas to their One-Stop; they set the terms of investment.

Conclusion: Next Steps

The next step in establishing universal corporate practices that respect Indigenous rights and sovereignty is education and the development of clear guidelines for implementation and monitoring of FPIC. Much of this process is already underway. In 2012, the UN Principles for Responsible Investing held a day-long webinar on FPIC for their 850 member investors. That same year, First Peoples Worldwide and Trillium introduced the Indigenous Peoples Guidebook to FPIC and Corporation Standards, produced by First Peoples Worldwide, at the UN Permanent Forum on Indigenous Issues. The Guidebook is intended to leverage and catalyze the growing attention multinational organizations and corporations are paying to Indigenous Peoples, and serve as a tool for Indigenous communities who are actively engaging with corporations.

Adoption and operationalization of FPIC is the major challenge facing the Indigenous rights movement, and several investment managers note that banks and financial institutions have a key role to play in ensuring companies act quickly and are held accountable for their actions. Corporations need to evolve their focus from acknowledging and addressing Indigenous issues piecemeal to forming working relationships with communities that can see them through the entire FPIC process. The corporate relationship with Indigenous Peoples must shift from a transactional, “yes or no” approach to a long-term partnership that acknowledges Indigenous Peoples’ sovereignty and recognizes the potential for mutual benefit if such a relationship is cultivated. This will entail a shift from a model in which Indigenous Peoples react to plans developed by companies and governments to one in which Indigenous Peoples take the lead in planning, managing and monitoring economic development, and through which they have the right to simply say no to development. It is only when this stage is reached that an economic worldview based on growth and maximizing yield can be balanced with worldviews organized around taking only *enough* and maximizing the equitable distribution of resources.

Significant progress has been made over the last five years, but there is still a long way to go. Continued pressure and engagement by the social investment community combined with workshops to help companies better understand FPIC and its effective implementation will help make Indigenous Peoples’ rights part of general corporate operational strategies in the next five years. As socially responsible investors continue to take the lead in defending Indigenous rights in the corporate sphere, business practices can and will be changed to reflect the values of a truly global human society.

Actions You Can Take in Support of Indigenous Peoples

As an active investor, you are uniquely positioned to bring about big changes in the global market by investing in the right companies and influencing those companies to adopt policies that respect Indigenous rights.

Three Actions You Can Take As an Investor

1. Ask your Investment Advisor or Investment Manager about whether or not your investments take into account the Rights of Indigenous Peoples.

By asking the question, you are letting your advisor/manager know that this is an issue of concern to you and that you'd like them to seek out products and investments that incorporate analysis on the material risks associated with environmental, social and governance (ESG) issues.

Applying a sustainable investment strategy does not necessarily mean screening out companies that do not meet the highest standards. Frequently, investments are made in companies to leverage ownership to effect change. Ask your investment advisor or portfolio manager to join US SIF and participate in the work of its Indigenous Peoples' Working Group.

2. Be proactive in voting your proxies and ask your mutual fund, investment manager, etc. for a copy of their proxy voting guidelines.

Voting your proxies allows you to be an active shareowner and ensure that any ballot proposal addressing the rights of Indigenous Peoples or related environmental issues receives your support. Additionally, many sustainable/responsible investment firms have proxy voting guidelines that address ESG issues, including human rights and the rights of Indigenous Peoples, often available on their websites. By asking for these documents, you are signaling that you are interested in and value these issues. Social investing is driven by clients. If you don't ask, they will think you are not interested.

3. Seek out community investment opportunities that directly impact Indigenous communities.

You can direct a portion of your money into investments that directly impact Indigenous Communities. See section on Community Investing for more information.

Again, if you have an investment advisor or investment manager, ask them about investments in these areas. Once you have expressed your interest, they will be better able to serve you.

Three Actions You Can Take as an Investment Manager

1. Incorporate the material risks associated with the rights of Indigenous Peoples into your investment strategy.

Social investors can encourage corporations to press for recognition of the sovereignty of Indigenous Peoples. As noted earlier in this document, ignoring the rights of Indigenous Peoples and failing to get free, prior and informed consent can be costly to a company due to delays and disruptions in operations, as well as reputational damage that can drive away customers. As an investment manager, seek out information on a company's policies with regards to Indigenous Peoples. If they do not have a specific policy, review the human rights and community policies. Ask your ratings agency about how they incorporate the rights of Indigenous Peoples into their ratings system and if this method differs by industry.

2. Join the campaign to get companies to adopt policies that recognize the sovereign rights of Indigenous Peoples.

Use your leverage as an investment manager to engage corporations in dialogue. Join a campaign and file a shareholder proposal. There are several investment firms that have taken a lead in this area,

including Calvert Investments, Trillium Asset Management, First Affirmative Financial Network, and Boston Commons Asset Management. They are all members of the Social Investment Forums' Indigenous Peoples Working Group. First Peoples Worldwide is also working closely with these groups on a campaign to get companies to adopt policies that recognize the rights of Indigenous Peoples.

3. Seek out community investment opportunities targeting Indigenous Communities.

See Appendix II for a list of Native Community Development Financial Institutions.

Three Actions You Can Take as an Individual

1. Address the issue of sacred names and images at the local level.

Some social investors have begun refusing delivery of packages delivered by FedEx, forcing the company to return the package to the sender, and creating an opportunity to explain why. A campaign aimed at getting Bank of America to suspend their heavy promotion of the Washington Redskins' racist imagery is also underway.

Additionally, many high schools continue to use sacred names or offensive mascots. Start a movement in your community to either receive permission from the tribe that owns the name or image or to change the name or image.

2. Encourage your university endowment to adopt a responsible investment strategy.

Determine if your university has a responsible investment strategy and if it includes the rights of Indigenous Peoples. If not, write your board of trustees stating your interest in having the money you donate to the university be invested in a responsible manner. The Responsible Endowments Coalition²⁴ is a great resource for both alumni and students seeking to get their institutions of higher education to adopt a responsible investment policy.

3. Be a conscious consumer.

Educate yourself on those companies that are leaders in addressing the rights of Indigenous Peoples and direct your consumer dollars towards them.

Honorings

While it would be typical to acknowledge and thank those who contributed to this publication, we prefer instead the Native American practice of honoring those who have gone before us, to show us the way. Movement toward greater justice and understanding comes from standing on the shoulders of others. Honor belongs to many whose names we no longer know, but the following are some of those we honor in offering this report:

To the ancestors and elders of the Menominee Tribe, who tended the forests of their land in sustainable ways that came to be seen as models for a sustainable industry.

To Suzan Harjo, Charlene Teters, Bill Means, Sonny Skyhawk, and the late Vernon Bellecourt, who persisted in raising awareness about the theft of Native names and images for commercial gain, and to all the members of the religious community organized by ICCR who have tirelessly advocated that corporations respect the rights and listen to the wisdom of Indigenous Peoples in the communities where they operate.

To The Lakota Fund, one of the grandmothers of the community investment industry, for showing how Indigenous values of listening to and nourishing the needs of communities can transform lives, and for showing that success can and should be measured by the way capital flows, rather than how it pools, and to the Calvert shareholders who voted to invest 1% of their fund's assets in community-based investments after hearing the story of The Lakota Fund.

To those Indigenous leaders who have crossed bridges and invited collaboration with the social investment community: to Grand Chief Matthew Coon Comb of the James Bay Cree, to the Trust Committee of the Oneida Nation, and to those sustainability-minded and responsible investors who met these leaders and worked with them: Trillium Asset Management, Walden Asset Management, Calvert Investments, and US SIF: The Forum for Sustainable and Responsible Investment.

And lastly, to those who shared their stories and memories with the authors of this report: Tim Smith of Walden Asset Management, Gelvin Stevenson (Cherokee) of First Nations Development Institute, and Jon Lickerman, former Social Research Director of The Calvert Group, and to members of the Social Investment Forum who shared the stories of the ways they use social investment tools to respond to Indigenous Peoples' concerns through the survey on SRI activities to support Indigenous Peoples.

Appendix I: Sample Shareholder Resolution

Filed by Boston Common Asset Management in 2008 with ConocoPhillips

Stockholder Proposal: Report on Recognition of Indigenous Rights

WHEREAS:

ConocoPhillips understands that “respecting indigenous communities is an important part of addressing the company’s community impact” and has declared a commitment to “conduct our business in a way that promotes economic growth, a healthy environment and vibrant communities.” (ConocoPhillips Sustainability Report 2005)

Emerging standards on Indigenous Peoples rights, such as the principle of Free, Prior, and Informed Consent embedded in the recently adopted UN Declaration on the Rights of Indigenous Peoples will likely shape the laws and regulations of the countries in which we operate.

The Voluntary Principles on Human Rights and Security acknowledges that accurate assessment of human rights conditions present in a company’s operating environment is critical to the security of personnel, local communities and assets and to the promotion of human rights.

Since its acquisition of Burlington Resources in 2006 and new upstream investment, ConocoPhillips has become a major holder of oil concessions in Latin America, located particularly in remote rainforests where there are: 1) Indigenous Peoples who have expressed outright opposition to oil activities in their territory; and 2) where there are Indigenous Peoples living in voluntary isolation.

Burlington Resources faced legal challenges, protests, and accusations of using divisive tactics in attempts to obtain consent for its projects from Indigenous Peoples in Ecuador’s south-central Amazon. The oil blocks remain in force majeure due to community opposition

ConocoPhillips is a minority partner in Block 39, located in the Northern Peruvian Amazon, where substantial evidence indicates the presence of four groups of uncontacted Indigenous Peoples living in voluntary isolation, the Abijiras (or Aushiris), Taromenane, Arabela and Pananujuri. They are susceptible to epidemics and mass deaths because they lack immunological defenses. Contact through oil exploration could lead to their extinction.

ConocoPhillips’s operations impact Indigenous Peoples in other parts of the world as well, such as in the Southwestern United States where its natural gas operations in the San Juan Basin have caused concern regarding the impacts on remaining sacred cultural sites and wildlife resources, plus noise and odor impacts on nearby families, of the Navajo (Dine) Nation in northwestern New Mexico. The area is the Navajo’s ancestral homeland known as Dinetah.

Failure to obtain consent or respect Indigenous Peoples rights, as well as to understand the vulnerabilities of uncontacted Indigenous Peoples, may injure our company’s reputation. We believe that respect for Indigenous Peoples rights aids community development, advances the cause of human rights, and contributes to our company’s ultimate success.

RESOLVED: Shareholders request that the Board prepare a report by November 1, 2008, at reasonable cost and omitting proprietary information, on ConocoPhillips’s policies, procedures, and practices for obtaining consent of Indigenous Peoples affected by our activities — whether as operator or minority partner —

through their recognized and official governance structures; and its policies to avoid contact with Indigenous Peoples living in voluntary isolation.

SUPPORTING STATEMENT: Changing norms on Indigenous Peoples rights should inform our company's policies and procedures for obtaining consent of Indigenous Peoples, thereby helping us maintain our reputation for leadership and achieve long-term success.

BOARD RESPONSE: THE BOARD RECOMMENDS THAT YOU VOTE "AGAINST" THIS PROPOSAL FOR THE FOLLOWING REASONS:

As the proponents correctly note, the Company is committed to respecting indigenous communities. We are proud of our record in this regard. In fact, our interactions with indigenous communities in Alaska and Canada have contributed to our long term success.

In furtherance of our commitment, and to guide our activities, in 2006 we adopted a Human Rights Policy, which states as follows:

"Governments have the primary responsibility for protecting human rights. ConocoPhillips believes business has a constructive role to play to advance respect for human rights throughout the world as do Non-Government Organizations (NGOs) and other representative groups in Civil Society.

We recognize the dignity of all human beings and our core values embrace these inalienable rights for all people to live their lives free from social, political or economic discrimination or abuse.

Our Commitment...

ConocoPhillips will conduct its business consistent with the human rights philosophy expressed in the Universal Declaration of Human Rights (UDHR), and the International Labour Organization Declaration on Fundamental Principles and Rights at Work.

Our intent regarding human rights is also reflected in our Purpose and Values and in our business ethics policy and health, safety and environmental policy, found at www.conocophillips.com. These policies address how we conduct our business with respect for people and the environment, accountability and responsibility to communities, and ethical and trustworthy relationships with our stakeholders. We will maintain ongoing discussion with government, NGO and other business stakeholders through our participation in the Voluntary Principles on Human Rights and Security."

We continue to expand our dialogue with members of communities in which we operate. One such initiative is our recent election to participate in the Extractive Industry's Transparency Initiative. This initiative provides for improved transparency of operations in resource-rich countries through the publication and verification of a company's payments to, and government revenues from, oil, gas and mining operations.

In summary, we are committed to respecting the rights of, and have a sound record of appropriately interacting with, indigenous peoples affected by our business activities. We openly discuss our record and listen to any specific issues with legitimately interested parties. We therefore believe that the report requested by the proponents is unnecessary and not a good use of resources.

The Board believes developing a special report on policies and procedures regarding consent of indigenous peoples is unnecessary and would not be value added and, therefore, recommends that you vote AGAINST this proposal.

Appendix II: List of Native CDFIs

Adair County Indian Credit Association	Loan Fund	Oklahoma
Affiliated Tribes of Northwest Indians Financial Services	Loan Fund	Oregon
Alaska Growth Capital BIDCO, Inc.	Loan Fund	Alaska
Aleutian Financial, Inc.	Loan Fund	Alaska
Aloha Federal Credit Union	Credit Union	Hawaii
American Indian Economic Development Fund	Loan Fund	Minnesota
Arizona Tribal CDFI	Loan Fund	Arizona
Bank 2	Bank or Thrift	Oklahoma
Bank of Cherokee County, Inc.	Bank or Thrift	Oklahoma
Cha Piyeh, Inc.	Loan Fund	New Mexico
Chehalis Tribal Loan Fund	Loan Fund	Washington
Cherokee Nation Economic Development Trust Authority, Inc.	Loan Fund	Oklahoma
Chickasaw Bank Holding Company	Depository Institution Holding Company	Oklahoma
Chickasaw Nation Community Development Financial Institution	Loan Fund	Oklahoma
Choctaw Federal Credit Union	Credit Union	Mississippi
Choctaw Home Finance Corporation	Loan Fund	Oklahoma
Citizen Potawatomi Community Development Corporation	Loan Fund	Oklahoma
Coastal Villages Community Development Fund, LLC	Loan Fund	Alaska
Community Development Bank, FSB	Bank or Thrift	Minnesota
Community Development Financial Institution of the Tohono O'odham Nation	Loan Fund	Arizona
Cook Inlet Lending Center, Inc.	Loan Fund	Alaska
Council for Native Hawaiian Advancement	Loan Fund	Hawaii
First American Capital Corporation	Loan Fund	Wisconsin
First Hawaiian Homes Federal Credit Union	Credit Union	Hawaii
First Nations Oweesta Corporation	Loan Fund	Colorado
Fort Gibson State Bank	Bank or Thrift	Oklahoma
Four Bands Community Fund, Inc.	Loan Fund	South Dakota
Four Directions Development Corporation	Loan Fund	Maine
Haa Yakaawu Financial Institution	Loan Fund	Alaska
HAWAII FIRST FCU	Credit Union	Hawaii
HawaiiUSA Federal Credit Union	Credit Union	Hawaii
Hoopa Development Fund	Loan Fund	California
Hopi Credit Association	Loan Fund	Arizona
Hunkpati Investments, Inc.	Loan Fund	South Dakota
Indian Land Capital Company	Loan Fund	Minnesota
Karuk Community Loan Fund, Inc.	Loan Fund	California
Ka'u Federal Credit Union	Credit Union	Hawaii

Keweenaw Bay Ojibwa Housing and Community Development Corporation	Loan Fund	Michigan
Kulia Ohana Federal Credit Union	Credit Union	Hawaii
Lac Courte Oreilles Federal Credit Union	Credit Union	Wisconsin
Lakota Fund, The	Loan Fund	South Dakota
Lokahi Pacific	Loan Fund	Hawaii
Lower Brule Community Development Enterprise, LLC	Loan Fund	South Dakota
Lumbee Revitalization & Community Development Corporation	Loan Fund	North Carolina
Lummi Community Development Financial Institution	Loan Fund	Washington
Mazaska Owecaso Otipi Financial, Inc	Loan Fund	South Dakota
Minnesota Chippewa Tribe Finance Corporation	Loan Fund	Minnesota
Molokai Community Federal Credit Union	Credit Union	Hawaii
Montana Homeownership Network	Loan Fund	Montana
Native American Bancorporation, Co.	Depository Institution Holding Company	Colorado
Native American Bank, N.A.	Bank or Thrift	Colorado
Native American Development Corporation	Loan Fund	Montana
Native Community Finance	Loan Fund	New Mexico
Navajo Partnership for Housing, Inc.	Loan Fund	New Mexico
NiiJii Capital Partners, Inc.	Loan Fund	Wisconsin
Northern Shores Loan Fund, Inc.	Loan Fund	Michigan
Northwest Native Development Fund	Loan Fund	Washington
Osage Financial Resources	Loan Fund	Oklahoma
Pima Leasing and Financing Corporation	Loan Fund	Arizona
Prince Kuhio Federal Credit Union	Credit Union	Hawaii
Rural Alaska Investment and Finance Corporation	Loan Fund	Alaska
Salt River Financial Services Institution	Loan Fund	Arizona
Sisseton Co-op Federal Credit Union	Credit Union	South Dakota
Sovereign Leasing & Financing, Inc.	Loan Fund	Montana
The Alliance CDFI	Loan Fund	California
The Queens Federal Credit Union	Credit Union	Hawaii
The Sequoyah Fund, Inc.	Loan Fund	North Carolina
TURTLE MOUNTAIN CDFI	Loan Fund	North Dakota
White Earth Investment Initiative	Loan Fund	Minnesota
Wind River Development Fund	Loan Fund	Wyoming
Wolf Point Federal Credit Union	Credit Union	Montana
Yavapai Apache Nation Community Development & Lending Corporation (CDFI)	Loan Fund	Arizona