

TIAA's Links to Land Grabbing and Deforestation



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Invested in **Exploitation?**

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CONTENTS

Executive summary

Part 1: The palm oil crisis	7
TIAA's investments in palm oil, deforestation and exploitation	9
Close-up View: Six of TIAA's Palm Oil Holdings	10
• Felda Global Ventures	
• IOI Corporation	
• Kuala Lumpur Kepong	
• Indofood	
• Golden Agri-Resources	
• Bumitama Agri Ltd.	
Part 2: TIAA and the role of finance in land speculation	20
Allegations of land grabbing in Brazil	23
Part 3: TIAA's ties to extractive industries and displacement	26
Part 4: The materiality of human rights and the costs of social conflict	28
TIAA's ESG and farmland investment policies	30
Part 5: Conclusion and recommendations	32
Endnotes	34

Executive Summary

Collectively, pension funds are the largest actors in the financial industry, holding around \$39 trillion USD in assets globally.ⁱ They manage this money on behalf of public and private sector workers with the promise of providing for a comfortable retirement. Like all investment funds, pension funds have a fiduciary responsibility to increase the assets they manage for their clients, through wise investment strategies across asset classes and markets. But what happens when these funds are invested in companies and sectors that cause significant environmental and social harm?

Teachers Insurance and Annuity Association (TIAA), a trusted name in money management, is one of the largest pension funds in the United States, with \$834 billion USD in assets under managementⁱⁱ for clients worldwide in academic, government, research, medical and cultural fields, including public and private universities, and media clients such as National Public Radio (NPR).ⁱⁱⁱ TIAA is among the 100 largest corporations in the U.S., serving over 5 million active and retired employees from more than 16,000 institutions.

In recent years, TIAA has taken a leading role in promoting social responsibility in investment through its responsible investment portfolios and practices,^{iv} its establishment of an approach to responsible farmland investment,^v and its membership in the UN Principles for Responsible Investment and other networks of progressive investors. In 2015, TIAA

was named the World's Most Ethical Company by the Ethisphere Institute^{vi}.

As this report will show, when you scratch the surface, you find that TIAA's portfolios do not entirely reflect its responsible investment approach. Through the index funds it makes available to clients, TIAA has at least \$172 million exposed to the global palm oil sector, including shares in companies widely known to drive gross deforestation, species extinction, land grabbing and human rights abuses. Through holdings in extractive industries, TIAA has links to serious cases of forced eviction and displacement. Through its farmland holdings in the vast northeastern *cerrado* region of Brazil where monocropping of soy and other agricultural commodities is rapidly displacing the fragile and richly biodiverse savannah, TIAA has driven inflation in land prices and raised the ire of Brazilian social movements by furthering a historic pattern of land conflict and dispossession.

Each of these aspects of TIAA's investment approach carries with it real impacts to communities and ecosystems, as well as material risks to TIAA and its clients. This report will touch on several areas in which TIAA needs to take concrete steps to reduce both its Environmental, Social and Governance (ESG) impacts and the material and reputational risks it faces. The bulk of the report, however, focuses on TIAA's palm oil holdings, which are both problematic in themselves



and emblematic of a considerable blind spot in the firm's responsible investment practice. TIAA is one of the top 10 U.S. investors in the palm oil sector. Compared to its overall holdings, TIAA's exposure to companies that produce palm oil is relatively small and is primarily concentrated in index funds. This, however, should not deter TIAA from taking responsibility for the egregious impacts of these companies.

In the past several years, driven by pressure from civil society, hundreds of consumer companies and agribusiness conglomerates with more than \$30 billion USD in annual palm oil sales have instituted voluntary commitments to eliminate deforestation and exploitation from their supply chains. This growing trend shows a willingness to address the risks associated with an industry that causes the loss of millions of hectares of rainforest and that drives widespread social and cultural harm. Given the scale and pace of the destruction of our tropical forests and the dispossession of local and indigenous communities, these voluntary commitments by agribusinesses, while they are a positive step, fall far short of the efforts required to address the problems. For these commitments by agribusiness companies and consumer brands to drive change, they need to be backed up by a similar tidal shift toward environmental and social responsibility in the finance industry.

There is no better place to begin to make this shift than with a firm like TIAA, which already displays an understanding of ESG concerns. With increasing attention being given to the ESG impacts of institutional investors, TIAA and its members have an opportunity to take responsibility, through policy commitments, transparency and accountability, for the very real impacts of their shareholdings — and to do better.

TIAA should take its funds out of land grabbing and deforestation and commit to respecting human rights by taking a comprehensive approach to its holdings in land and agrocommodities by: **disclosing** exposure to deforestation and land risks in farmland, palm oil, soy, and other soft commodities sectors; **committing** to a comprehensive deforestation and land grab-free investment policy; **excluding** companies and land deals that cannot meet this standard; and proactively investing only in companies and projects committed to demonstrably **repairing** the harm that has been done. Specifically, in order to adequately respond to the allegations of illegal acquisition of farmland in Brazil addressed in this report, TIAA should disclose the exact locations of the farms; how many farms the firm owns or leases and how large they are; what they produce, who produces it, and what methods are prevalent in the production; when the farms were purchased, the purchase price, and from whom they were purchased. Disclosing this kind of information is essential for any kind of independent monitoring of TIAA's activities.





Nearly 90 percent of global production comes from Indonesia and Malaysia, where 55-60 percent of palm oil expansion since 1990 has occurred at the expense of native rainforests.

1 The Palm Oil Crisis

Palm oil, derived from the fruit of the West African oil palm tree, is the world's most widely traded vegetable oil commodity, and its production is projected to double over the next decade.^{vii} It is prized for its versatility, high yield and lack of unhealthy trans fats.^{viii} Spurred by market mandates, as well as a 2006 U.S. Food and Drug Administration requirement that all food labels list their trans fat content,^{ix} a 2010 EU mandate requiring all transportation fuels to be blended with biofuels^x, and a 2015 U.S. FDA ban on trans fats,^{xi} palm oil is currently used in thousands of consumer products from baked goods and ice cream, to cleaning products and cosmetics, to biofuels.

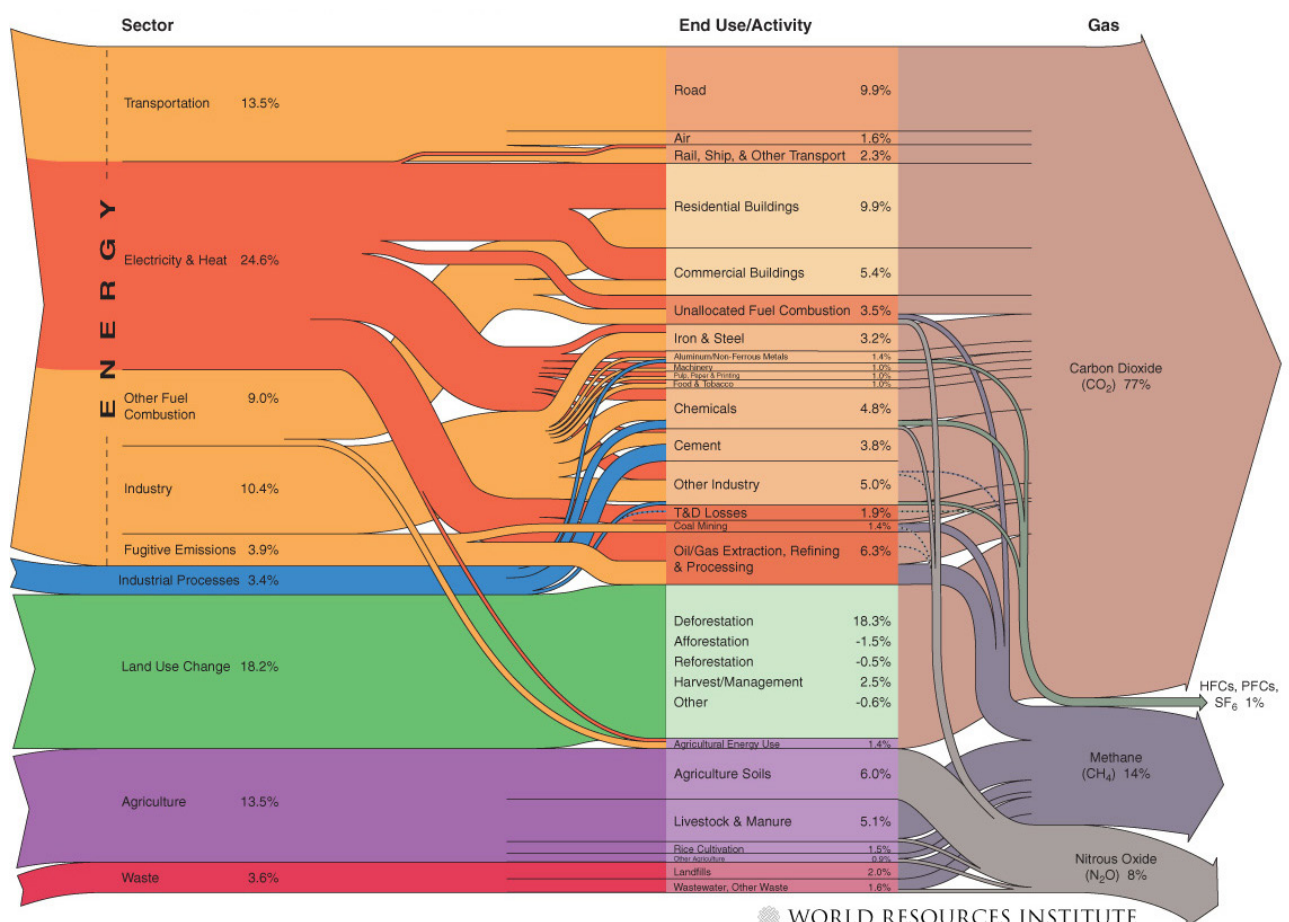
However, palm oil comes with a high environmental and social cost: palm oil production is the fastest growing cause of tropical deforestation. Palm oil expansion has already devastated vast areas of forest in South East Asia and is rapidly spreading to other rainforest regions in Central Africa and Latin America. Nearly 90 percent of global production comes from Indonesia and Malaysia,^{xii} where 55-60 percent of palm oil expansion since 1990 has occurred at the expense of native rainforests.^{xiii}

In Indonesia, palm oil expansion has taken a particularly severe toll. Indonesia's forests include some of the most biodiverse areas in the world and are home to endangered species such as Bornean orangutans and Sumatran tigers. As recently as the 1960s, about 80 percent of Indonesia was forested.^{xiv} From 2009-11, Indonesia lost at least 3 million acres of previously forested lands to palm oil plantations.^{xv} Today, less than half of the country's original forest remains.^{xvi}

The Indonesian government's management of its forests is in constant flux due to competing interests, including a strong recent bent toward conservation to meet its international climate commitments. However, the Indonesian government has plans to convert some 45 million more acres of rainforests — an area the size of the state of Missouri — into palm oil plantations by 2020.^{xvii} A somewhat less dramatic estimate by the Center for International Forestry Research suggests expansion plans of nearly 10 million acres by 2020.^{xviii}

World GHG Emissions Flow Chart^{xix}

Caption:
Deforestation is responsible for up to 18 percent of global greenhouse gas emissions — more than the combined emissions from all the cars, trucks, trains and buses in the world each year combined.



In Indonesia and Malaysia, deforestation to clear land for palm oil production is especially polluting because it often involves draining and burning in peat swamp forests — carbon-rich wetland ecosystems that have sequestered billions of tons of carbon through thousands of years of accumulating leaf litter and organic material.^{xx} In Indonesia, 5.1 million acres of peat land have already been deforested and drained for palm oil plantations^{xxi} — activities that cause the highest carbon dioxide emissions of all land uses.^{xxii} This conversion of peat lands to palm oil plantations^{xxiii} is having an impact on the climate similar in scale to the world's biggest coal and tar sands projects.

Fires in peat land areas are often set deliberately to clear land for palm oil. These fires can burn for months, releasing carbon dioxide, methane and nitrous oxide, with a climate impact more than 200 times worse than fires on other land.^{xxiv} The peat fires of 2015 were among the worst forest fires on record and caused enormous health problems for hundreds of thousands of people in Indonesia and neighboring countries. Bloomberg calculated that on Oct. 14, 2015, emissions from the fires alone soared to 61 megatons — almost 97 percent of Indonesia's total emissions^{xxv}, and greater than all emissions from the U.S. economy on that day. A Harvard University study estimated that the 2015 haze will have contributed to upwards of 100,000 premature deaths across Indonesia, Malaysia and Singapore.^{xxvi} The World Bank valued the economic costs of the fires at more than \$16 billion USD^{xxvii} — twice as much as the Indonesia palm oil industry generated in profits the previous year.

In the last half decade, large commodity producers from Asia have moved rapidly into Africa,^{xxviii} making that continent the new frontier of palm oil expansion.^{xxix} Some 138 million acres of land deals have taken place in Sub-Saharan Africa since 2000,^{xxx} with more than 6.4 million acres in 10 western and central African countries either earmarked or under development to large-scale oil palm plantation projects,^{xxxi} most of it for biofuel production.^{xxxii} Of the areas projected for palm oil plantation expansion in Africa, some 60 percent is currently habitat to great apes.^{xxxiii} Conservationists and primatologists agree that, left unchecked, palm oil is among the greatest threats to African great apes over the next several decades.^{xxxiv}

Corporate land grabbing of indigenous and community forests for palm oil plantations is responsible for serious human rights abuses and persistent conflicts between companies and rural communities. Indonesia's National Lands Agency has registered 3,000 conflicts between palm oil companies and communities.^{xxxv} In too many cases, private armies and paramilitaries have been deployed and people have been killed.^{xxxvi}

To highlight just two cases (see company profiles for additional detail), in Guatemala, where the palm oil sector is expanding rapidly, TIAA investees Wilmar International and IOI are sourcing palm oil directly from companies embroiled in ongoing land conflict involving massive water contamination, labor abuses, and murder of indigenous social movement leaders.^{xxxvii} As recently as February 2017, the Complaints Panel of the Roundtable on Sustainable Palm Oil (RSPO) ruled in favor of a three-year-old complaint against Wilmar International for unlawfully taking over the lands belonging to the indigenous Kapa community in West Sumatra, Indonesia.^{xxxviii}

Many industrial oil palm plantations also rely on the use of forced and child labor.^{xxxix} In Malaysia and Indonesia, child labor has been documented and allegations of modern day slavery on plantations across Malaysia and Indonesia are common.^{xl} A recent report by Amnesty International, "The Great Palm Oil Scandal: Labour Abuses Behind Big Brand Names," found extensive human rights and labor rights abuses in the plantations and supply chain of Wilmar International^{xli} — a company in which TIAA holds positions worth roughly \$5 million USD.^{xlii} The documented abuses include forced labor, child labor and gender discrimination, as well as "exploitative and dangerous working practices that put the health of workers at risk."

Amnesty International reports: "The abuses identified were not isolated incidents but due to systemic business practices by Wilmar's subsidiaries and suppliers, in particular the low level of wages, the use of targets and 'piece rates' (where workers are paid based on tasks completed rather than hours worked), and the use of a complex system of financial and other penalties. Workers, especially women, are employed under casual work arrangements, which make them vulnerable to abuses."^{xliii}

TIAA's investments in palm oil deforestation and displacement

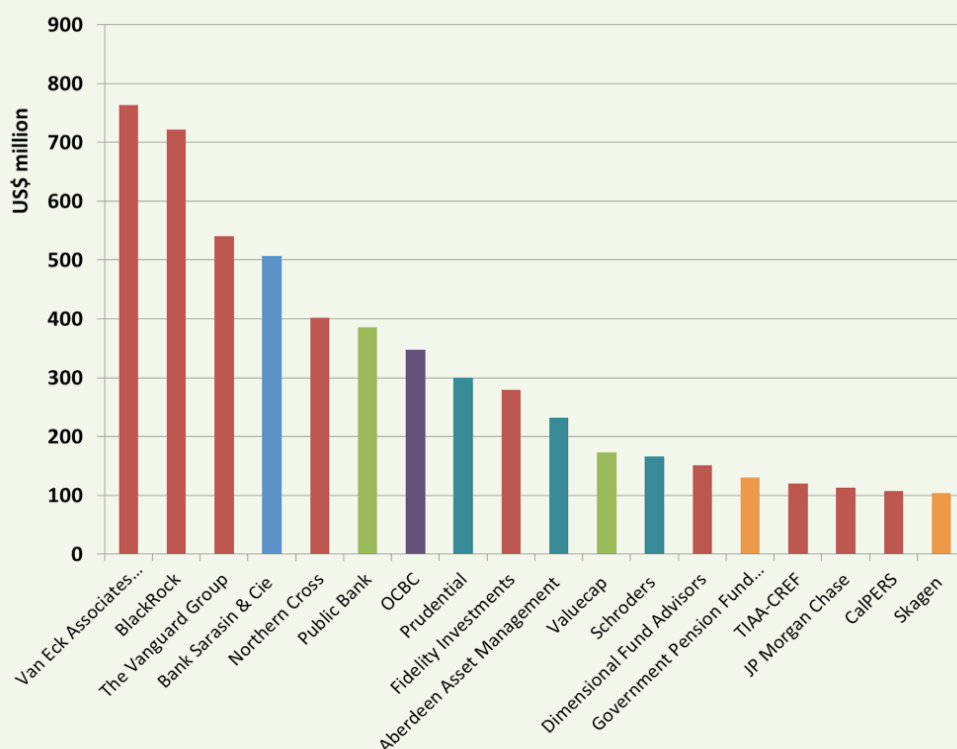
The availability of easy financing combined with a general lack of accountability for the social and environmental costs of plantation expansion have fueled the palm industry's rapid growth. Due to lack of disclosure, it is difficult to determine exactly how much of the palm oil sector's growth is driven by equity and debt financing, but we have some clear markers: from 2008-12, major financial institutions invested more than \$20 billion USD in the palm oil industry^{xliv} and, according to a recent report by Greenpeace, since 2012, 18 global banks have provided at least \$23.6 billion USD in financing to just six palm oil plantation companies. This clearly suggests that financing for palm oil expansion is on the rise.

Institutional investors account for about 6 percent of the financing for the world's largest palm oil traders, mostly based in Southeast Asia.^{xlv} In the U.S., TIAA is one of the largest financiers of palm oil along with the management arm of JPMorgan Chase, California Public Employee Retirement System (CalPERS) and mutual fund managers BlackRock, Vanguard, Van Eck, Fidelity and Dimensional Fund Advisors.

As of March 2017, according to Friends of the Earth's research using publicly available data, TIAA had at least \$172 million USD invested in palm oil plantation companies. When we shared these figures with TIAA, the firm responded as follows: "TIAA has no direct investments in palm oil farmland. Because we are dedicated to offering our customers choices, however, we do hold a variety of public company index funds that automatically track specific stock market indexes, some of which may hold palm oil producers. The majority of TIAA's exposure to palm oil producers is via such index funds where there is no active discretion."

In relation to its entire holdings, TIAA's investments in palm oil, and in any one company, are relatively small and are, as the firm states, held through index funds which TIAA does not actively manage. But, taken in aggregate, TIAA is among dozens of U.S. investment firms propping up companies and practices that should be, at the very least, disclosed to its clients, and, at best, made subject to active management in order to address their ESG performance, or excluded.

Institutional Investors Financing the Southeast Asian Palm Oil Industry



Source: Profundo. Financing Oil Palm Expansion in Indonesia and Malaysia. January 2015.

A snapshot of TIAA's Palm Oil Holdings^{xlvi}

The tables below compile public information from two data sources, Bloomberg and Morningstar.

Company/Security	Ticker/Exchange	TIAA shares in USD, March 2017
Bumitama Agri	BAL SP:SGX	\$305,300
Daewoo International Corp	47050:KS	\$1,352,939
Eagle High Plantations	BWPT:IDX	\$205,183
Felda Global Ventures	FGV:KLSE	\$841,837
First Resources	FR:SGX	\$617,668
Genting Plantations	GENP:KLSE	\$783,097
Golden Agri Resources	GGR:SGX	\$3,044,166
Hap Seng Consolidated	HAPSENG:KLSE	\$1,601,846
IJM Bhd	IJM: KLSE	\$3,043,616
IOI Corp	IOICORP/KLSE	\$3,939,572
Indofood Agri Resources	5JS:SGX	\$139,765
Indofood Sukses Makmur	INDF:IDX	\$4,930,970
Kuala Lumpur Kepong	KLK:KLSE	\$7,021,669
Olam International	032:IDX	\$2,757
Persusahaan Perkebunan London Sumatra	LSIP:IDX	\$1,312,166
Posco	PKX:KSE	\$8,944,258
PPB Group Bhd	PPB:KLSE	\$799,031
PT Austindo Nusantara	ANJT:IDX	\$785,896
QL Resources	QL:KLSA	\$8,422,661
Salim Ivomas Pratama	SIMP:IDX	\$390,295
Sawit Sumbermas Sarana	SSMA:IDX	\$228,191

Company/Security	Ticker/Exchange	TIAA shares in USD, March 2017
Sime Darby	SIME:KLSE	\$7,502,160
Ta Ann Holdings Bhd	TAANN:KLSE	\$99,910,112
TDM	TDM:KLSE	\$90,373
Wilmar International	WIL:SGX	\$16,233,916
YNH Property Bhd	YNHPROP:KLSE	\$21,014
Total		\$172,520,458

TIAA palm oil holdings in publicly available mutual funds and ETFs (as of March, 2017)^{xlvii}

TIAA-CREF International Equity Index Fun (TCIEX)

Wilmar International Ltd	\$3,196,030
Golden Agri-Resources Ltd	\$1,340,585

TIAA-CREF Enhanced International Equity Index Fund (TFIX)

Wilmar International Ltd	\$1,861,946
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TIAA-CREF Emerging Markets Equity Index Fund (TEQPX)

POSCO	\$6,076,207
Sime Darby Bhd	\$1,735,684
IOI Corp Bhd	\$1,009,741
Kuala Lumpur Kepong Bhd	\$957,172
PT Indofood Sukses Makmur Tbk	\$899,332
IJM Corp Bhd	\$770,476
PPB Group Bhd	\$583,086
Posco Daewoo Corp	\$416,543
Hap Seng Consolidated Bhp	\$348,973
Genting Plantations Bhd	\$166,553
Felda Global Ventures Holdings Bhd	\$130,182
Total	\$19,492,510

Close-up view: six of TIAA's palm oil holdings

As of the first quarter of 2017, TIAA holds passive positions in at least 19 companies for whom palm oil production is among their primary businesses. Here are profiles of six of these companies, emphasizing their publicly documented environmental and social impacts.



FELDA Global Ventures (FGV:MK)

TIAA shares as of March 2017: at least \$841,837 USD.^{xlvi}

Felda Global Ventures, a Malaysian state owned company, is the world's largest producer of crude palm oil, with operations in 10 countries.^{xlix} Felda is a member of the RSPO and supplies a number of multinational companies, including Cargill, Nestlé and Procter & Gamble. In July 2015, a Wall Street Journal investigation reported serious allegations of abuses of migrant workers' rights at Felda Global Ventures palm oil plantations in Malaysia.ⁱ Allegations involved links with human traffickers, violence, exploitation and lack of payment of workers. After the report, a coalition of NGOs called on the Malaysia government, the RSPO and those international companies to open an investigation into the allegations.ⁱⁱ Felda has denied all allegations and has claimed it is in compliance with all labor standards,ⁱⁱⁱ but independent auditors employed by the RSPO found examples of "other subtle forms of forced labour" on Felda plantations, such as withholding identity documents, accumulation of debt, unclear contractual arrangements and minimum wage obligations not

being met.^{liii} A second audit was commissioned by Felda and carried out by Wild Asia in January 2016. The results, which were released in October 2016, reveal a number of risks of forced labor, including workers paying high fees for their jobs, workers being given false promises by labor recruiters and workers earning insufficient wages to repay debts. Workers also reported they were afraid to report grievances, having their passports retained, being paid below minimum wage, not understanding wage slips, and not knowing their right of Freedom of Association. Squalid living conditions were also observed by the auditor.^{liv}

Typically, Felda's human rights record is matched by its failures in governance, which has reportedly led it to bleeding billions of dollars when purchasing overvalued acquisitions. According to the investigative news source, Sarawak Report, these acquisitions are "suspiciously enriching third parties at the expense of the ordinary Malaysian shareholders, including many tens of thousands of settler small-holders."^{lv}



IOI Corporation (IOI:MK)

TIAA shares as of March 2017, at least \$1.01M USD.^{lvi}

IOI Corporation is a Malaysia based palm oil company that owns large palm oil plantations in Malaysia and Indonesia and buys palm oil from third-party suppliers, including Bumitama Agri Ltd. and Cargill. IOI has subsidiaries across the world that sell palm oil to consumer companies, including refining and manufacturing segment IOI Loders Crokiaan^{lvii} and IOI Oleochemicals, which sells to more than 65 countries,^{lviii} including the U.S., the Netherlands and China. The group is headed by its founder, Lee Shin Cheng. Forbes ranked Lee as number six of Malaysia's 50 Richest in 2012.^{lix} IOI has a controlling stake (67 percent) in four Indonesian plantation companies (PT Bumi Sawit Sejahtera, PT Berkat Nabati Sejahtera, PT Sukses Karya Sawit, PT Ketapang Sawit Lestari)^{lx} jointly owned with Bumitama Agri Ltd,^{lxi} which has a 28 percent stake. IOI also part owns Bumitama Agri Ltd (31.4 percent).^{lxii} In addition, IOI also controls the Indonesian plantation company PT Kalimantan Prima Agro Mandiri.^{lxiii}

IOI has a total land bank of 229,000 hectares it owns or leases for purposes of developing plantations, with 169,000 hectares located in Malaysia and 60,000 hectares in Indonesia.^{lxiv} The company first ventured into Indonesia in 2007 in partnership with Bumitama. After the public listing of Bumitama Agri Ltd. in April 2012, IOI Corporation became one of Bumitama's controlling shareholders, with a 31.2 percent stake at present.^{lxv} IOI's Chief Executive Officer, Lee Yeow Chor presently holds a position on the Board of Directors of Bumitama Agri of the civil society watchdog, Finnwatch.

In 2014, IOI came under scrutiny for alleged violations of basic labor rights in its Malaysian operations,^{lxvi} including paying wages well below the minimum wage, seizing workers' passports to prevent freedom of movement, and preventing workers from joining unions. Workers also reported incurring large debts in the form of recruitment fees to get their jobs at IOI. A follow-up report published by Finnwatch in 2016 found that issues related to high fees, passport retention and payment below minimum wage persisted.^{lxvii}

Along with Wilmar, IOI Corporation, has a supply chain link to Guatemalan palm oil company Empresa Reforestadora de Palma de Petén SA (REPSA),^{lxviii} which is part of Guatemala's largest palm oil producer, the Grupo Olmeca conglomerate. Grupo Olmeca controls at least a third of the country's 130,000 hectares of oil

palm plantations, with exports going primarily to other Central American and Caribbean nations.^{lxix} REPSA has been the subject of ongoing labor and land grabbing grievances^{lxx} and is currently the subject of a criminal investigation over its role in a massive fish-kill in the Pasion River in June 2015 which affected an estimated 12,000 people from 18 communities.^{lxxi} REPSA is also under investigation for its possible role in the killing of a community activist on Sept. 18, 2015 — the day after a criminal court ordered the suspension of its operations pending investigations into the fish-kill. Community groups impacted by REPSA's operations are seeking the indefinite closure of the company. A March 2017 report by Oxfam details both the substance of the current concerns, and the broader context of socio-economic crisis in Guatemala.^{lxxii} IOI is just one among a number of companies that source palm oil from REPSA and are thus complicit in the company's abuses — but as a global player, IOI's role is significant.

In April 2016, IOI was suspended from the RSPO for a broad range of violations of RSPO policies based on grievances filed as far back as 2011,^{lxxiii} but its suspension was lifted in August of that year, based on IOI's adoption of an action plan to remediate the problems.^{lxxiv} The concerns that led to the temporary suspension include illegal land grabbing, peat land clearing and drainage, destruction of HCV forests and planting illegally inside a forest reserve — all of which are grounds for suspension of membership in the RSPO. A report by sustainability finance analysts Chain Reaction Research examining the financial risks associated with IOI's (then potential) suspension from the RSPO noted that 25 percent of IOI's land bank in Sarawak and Central Kalimantan is contested by local owners and subject to peat land drainage, forest clearing outside concession boundaries, absence of legal permits and destruction of primary (HCV) forest. IOI's estates in West Kalimantan suffered from significant fire outbreaks in 2014 and 2015, contributing to the extreme regional haze between August and October 2015,^{lxxv} an event recognized one of the worst environmental disasters of the 21st century.^{lxxvi}

Most recently in March 2017, a number of civil society groups raised concerns about an unresolved land dispute between IOI, the community of Long Teran Kanan and surrounding villages in Sarawak, Malaysia — a dispute that has been ongoing since 2006.^{lxxvii}



Kuala Lumpur Kepong Berhad (KLSE: KLK)

TIAA shares as of March 2017, at least \$957,172 USD.^{lxxviii}

Kuala Lumpur Kepong Berhad (KLK), incorporated in 1973, is Malaysia's third largest palm oil plantation company and is listed on the Malaysian Stock Exchange. Originally starting out as a rubber plantation company back in 1906, it only joined the palm oil business in 1960. KLK has a land bank of more than 269,442 hectares spread across Malaysia, Indonesia, Liberia and Papua New Guinea.

KLK processes the crop in its own mills and refineries into crude palm oil, palm kernel oil, and oleochemicals. Its operations have expanded through joint ventures and acquisitions in Malaysia, China, Switzerland, Germany, Belgium and the Netherlands, allowing the oleochemical division (KLK OLEO) to venture further downstream into products like methyl ester sulfonate, amines, biodiesel, fine chemicals and surfactants. Through Crabtree & Evelyn, a worldwide brand, the group is involved in the manufacture and retail of personal care products, toiletries, home fragrances and fine foods. The 1990s also saw KLK branch into property development in Peninsular Malaysia.^{lxxix}

KLK subsidiary PT ADEI was found guilty of causing some of the 2013 forest fires in Riau that choked neighboring Singapore and Malaysia with haze. PT ADEI was handed a \$111,750 USD fine for violating Article 99 (1) of the 2009 Environmental Protection and Management Law, and required by the court to pay an additional \$1,124,950 USD to repair the environmental damage caused by the forest fires.^{lxxx}

In 2013, KLK set up a joint venture with Astra Agro Lestari, one of the most irresponsible actors in the palm oil industry,^{lxxxi} to market refined palm oil products and to provide logistical support. According to the

Indonesian NGO KKI WARSI, in a September 2016 report, Astra Agro Lestari had expropriated the land of more than 400 Indigenous people from Jambi to plant its palm oil plantations and, in the process, left the affected people in extreme poverty.^{lxxxii}

In recent years, KLK has faced significant opposition from local communities in Liberia and Papua New Guinea who have opposed its expansion plans and raised broader concerns about KLK's willingness to respect communities' right to say no to palm oil development through a genuine FPIC process.^{lxxxiii} Formal RSPO complaints were raised by local communities and NGOs in both cases, and, while some progress has been made, satisfactory outcomes remain to be realized.^{lxxxiv}

KLK was exposed by Bloomberg for having trafficked workers in conditions of modern day slavery in its East Kalimantan plantations. KLK responded by reportedly blacklisting the labor contractors responsible, including a man by the name of Handoyo.^{lxxxv} However, in 2012 and 2013, investigations by Indonesian NGO Sawit Watch found workers still recruited by the labor contractor Handoyo, working under a new enterprise called CVDaun Mas.^{lxxxvi} Sawit Watch's investigations also found child laborers and workers working without labor contracts while contractors held their IDs and other valuable documents. An independent labor audit conducted by Verite in 2015-2016 found workers to have been coached prior to the audit, but still revealed a number of legal compliance issues, including nonpayment of minimum wage, workers not being promoted to permanent status, unlawful restrictions on granting sick and menstrual leave, and restrictions on worker strikes.^{lxxxvii}

Indofood is one of the largest palm oil growers in the world and Indonesia's largest food company. Indofood is listed on both the Indonesian and Singapore Stock Exchange. Indofood is a vertically integrated company that produces and processes raw materials (including palm oil), manufactures food products, and distributes and sells consumer products. Indofood's 2015 revenue amounted to the equivalent of approximately \$5 billion USD. At the very top of Indofood's leadership is Anthoni Salim, who is ranked the third richest Indonesian by Forbes magazine.

The palm oil arm of Indofood, Indofood Agri Resources Ltd (IndoAgri), is the third largest private palm oil company in Indonesia. Its plantations cover a total land bank area of 246,000 hectares in East Kalimantan, Central Kalimantan, West Kalimantan South Sumatra, North Sumatra East Java, West Java, North Sulawesi, South Sulawesi and Riau. IndoAgri has been expanding aggressively over the past eight years by an average of 10,000 hectares of new palm oil plantations annually. As of 2015, IndoAgri generated the equivalent of approximately \$1 billion USD in revenue from large-scale production and processing of palm oil. Indofood is also the largest private palm oil company in Indonesia that has yet to adopt a responsible palm oil policy in line with emerging best practices.

In 2013 and 2014, IndoAgri subsidiary PT SIMP cleared 4,600 hectares of forest in East Kalimantan — that same area was also subject to burnings in 2014 and 2015. In May 2016, evidence surfaced that Indofood leader Salim had acquired and started to develop oil palm plantations in West Papua province, which could result in the deforestation of 117,000 hectares.^{lxxxix}

According to a complaint lodged with the RSPO in October 2016, PT SIMP had violated more than 20 labor laws, which included such infractions as child labor, exposure to hazardous chemicals, reliance on temporary workers, payment below minimum wage and the suppression of independent unions.^{xc}

Indofood Agri is one of several companies excluded from the sustainability portfolios of U.S. investment titan Dimensional Fund Advisers in December 2016, due to sustainability concerns.^{xcii}

In January 2017, Indonesian NGO Organisasi Penguatan dan Pengembangan Usaha-usaha Kerakyatan, Rainforest Action Network and the International Labor Relations Forum sent a letter^{xciii} to the RSPO asking for two of Indofood's plantation subsidiaries to be suspended from the RSPO due to flagrant labor rights violations. As recently as February 2017, Indofood was the subject of an analysis by Chain Reaction Research^{xciii} that names TIAA as one of Indofood's top (minority) investors, notes that Accreditation Services International (ASI) retracted the accreditation of IndoAgri's certification body, SAI Global, in December 2016, and predicts that Indofood may be suspended from the RSPO in 2017.

"If the company were suspended from the RSPO," the report says, "it would be excluded from certified sustainable palm oil supply chain and would lose a price premium for 38 percent of its total CPO production. But as was shown by the IOI case [referred to above], an initial suspension may magnify into an unexpected and uncontrollable flow of interventions by investors, buyers, joint venture partners and consumers."

In response to this civil society pressure, Indofood released a new sustainability policy^{xciv} in early 2017, but the substance of the policy is sorely lacking.^{xcv}



gar

agribusiness and food

Golden Agri Resources (GGR:SP)

TIAA shares as of March 2017, at least \$1,340,585 USD.^{xcvi}

Golden Agri-Resources Ltd (GAR), a subsidiary of the massive Sinar Mas conglomerate, is the world's second largest palm oil plantation company with a total land bank area of 482,200 hectares (up from 246,359 hectares in 2015). Founded in 1996, GAR is headquartered in Singapore, incorporated in Mauritius, and has been listed on the Singapore Stock Exchange since 1999. GAR has integrated operations focused on the production of palm-based edible oil and fat, with plantations across Indonesia (West Kalimantan, South Kalimantan, East Kalimantan, Central Kalimantan, Papua, Riau, South Sumatra, North Sumatra, Jambi, Lampung, Bangka and Belitung islands) and Liberia, as well as major operations in China that include soybean crushing, noodle manufacturing and refining of edible oil products.^{xcvii}

GAR has an extensive record of social conflict and forest destruction. As far back as 2008, GAR subsidiary PT BNM has been in conflict with Indigenous communities in West Kalimantan, repeatedly bulldozing the community's lands. In 2014 the civil society watchdog Forest Peoples Programme found that GAR subsidiary PT KPC had cleared land and planted palm oil trees against the community's objections in West Kalimantan.^{xcviii} In May 2015, supply chain sustainability consultants The Forest Trust

suspended its contract with Sinar Mas, in part due to GAR's bad practices.^{xcix} As recently as June 2016, security personnel employed by GAR subsidiary PT BKS injured two Indigenous people from Jambi and burnt down their settlement.^c

Golden Veroleum Liberia, a subsidiary of the UK-based Verdant Fund in which GAR is a leading investor,* has been embroiled in a spate of problems in Liberia. Golden Veroleum manages a concession of 220,000 hectares, where there have been ongoing allegations of land clearing without consultation, pollution of community water sources, and destruction of cultural and spiritual sites. In October 2012, Liberian NGO Green Advocates made these claims in a complaint filed with the RSPO. The NGO Forest People's Programme has gathered evidence on places where crops were destroyed, shrines were desecrated, villages displaced, and burial grounds and graves sites denigrated, as well as several sites where wetlands, including rivers, marshlands, swamps, streams and creeks, have been dammed or diverted and polluted.^{ci}

Analysis by local civil society groups of the concession agreements between the Liberian government and Golden Veroleum concluded that the company "failed to ensure compliance with their corporate responsibility to respect human rights."^{cii}



Bumitama Agri Ltd. (BUMI:SI)

TIAA shares as of March 2017, \$305,300 USD.^{ciii}

Bumitama Agri Ltd., an Indonesian palm oil plantation company listed on the Singapore Stock Exchange, and a member of the Harita Group, is one of the largest producers of palm oil in Indonesia, where it controls roughly 200,000 hectares of palm oil plantations in the provinces of Central Kalimantan, West Kalimantan and Riau.^{civ} Bumitama Agri sells to global palm oil traders including IOI Corporation of Malaysia and Wilmar International of Singapore, Sinar Mas and Musim Mas.^{cv} The company has been a member of the Roundtable on Sustainable Palm Oil since 2007 but only 33.12 percent of its plantations are RSPO certified; its first plantation was certified in 2014.^{cvi}

Bumitama's practices appear to take advantage of weak governance and lack of enforcement to contribute to widespread environmental and social devastation. A 2014 report by Friends of the Earth revealed that Bumitama had clearly and explicitly engaged in illegal practices, misrepresented itself to investors and financiers to underwrite the expansion of its operations, and was repeatedly engaged in deforestation, including on orangutan habitat and peatland.^{cvi} The report and related advocacy led DeutscheBank to end its financing of the company in May 2014.^{cvi}

As of July 2014 there were five complaints filed against the company within the Roundtable on Sustainable Palm Oil; the RSPO Complaints Panel eventually confirmed that the company had been clearing land before carrying out the necessary High Conservation Value assessments and that the noncompliant

practices of Bumitama were "systemic in nature." In August 2014 the Indonesian Supreme Court ruled that Bumitama's subsidiary PT. HPA illegally cleared 7,000 hectares of rainforest in Borneo for plantations.^{cix}

Bumitama's subsidiary BGA operates a plantation in the West Kotawaringin regency of Central Kalimantan which is the subject of ongoing conflicts over land claims, labor abuses and environmental degradation. In 2015, Indonesian NGO Sawit Watch filed a complaint with the RSPO, but the case has been closed for monitoring,^{cx} – essentially, shelved – despite the fact that, according to local stakeholders, the issues have not been resolved. Indeed, in August 2016, Bumitama sent a letter to the RSPO requesting that the case be dropped and asking RSPO to "disallow continuous and repetitive claims by Sawit Watch"^{cx} – despite the group's ongoing documentation of land and labor abuses and irregularities in the company's agreement with the communities within its concession area.

In 2015 investigations by both Greenpeace and Friends of the Earth found that a nearby Bumitama plantation called Andalan Sukses Makmur (PT ASMR) had been the source of fires on peatland areas that had formerly been protected under a presidential decree,^{cxii} and had been subject to sustained conversion of High Conservation Value (HCV) forests, including orangutan habitat.^{cxiii} While the company has not been charged with setting the fires, under Indonesian law companies are legally responsible for fires that occur on land they own.^{cxiv}

The palm oil sector is too risky for the world's largest sovereign wealth fund

Since the establishment of socially responsible investing, several asset classes and geographies have become subject to exclusion from investment portfolios, either voluntarily or as mandated by law. These include conflict minerals, tobacco, arms, and products or resources from certain volatile and high-risk countries. Generally, however, U.S. equity investors are loathe to exclude companies from their portfolios. Most, if not all, favor engagement to drive improvement of performance, be it financial or ESG performance.

However, when it comes to investments in emerging markets where most U.S. investors – like TIAA – have relatively small stakes, and where engagement is both costly and uniquely challenging due to cultural, political, and informational barriers, the possibility of exclusion may outweigh the perceived advantages of engagement. Further, when these investments are held through index funds, and engagement is not an option for driving ESG performance, the arguments against exclusion fall flat. Increasingly, indexed products are available that are weighted toward companies and sectors with low ESG risks, and financial data providers are able to provide investors with screening tools that ensure their investments are not exposed to controversial sectors and companies.

Globally, the leading example of exclusion of companies linked to deforestation is the \$900 billion USD Norwegian Sovereign Wealth Fund (NBIM),^{cxv} which has excluded dozens of palm oil companies from its portfolio. NBIM has a climate change policy which sets out expectations to all companies in its portfolio to reduce their contribution to climate change and rainforest destruction. Crucially, the policy states that companies engaged in activities with a direct or indirect impact on tropical forests should have a strategy for reducing deforestation that results from their own activities or from their supply chains.

In April 2013, the fund announced zero tolerance for investments in deforestation and social conflict and divested from 23 palm oil companies because of their unsustainable business practices.^{cxvi} In mid-2015, the fund excluded an additional four companies, showing an ongoing commitment to its deforestation-free and exploitation-free finance.^{cxvii} In 2016, the fund carried out a thorough review of the palm oil sector, and again found too many problems for the palm oil sector as a whole to be worth the risk.^{cxviii}

The specific challenges cited by NBIM were lack of traceability in the palm oil supply chain and lack of faith in palm oil certification systems, as well as the expansion of some palm oil producers into parts of Africa where governance, land ownership and human rights issues are key concerns.





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2

TIAA and the role of finance in land speculation



Photo by Carmelo Fioraso

Since the global financial crisis of 2007-08 and the 2006-07 collapse of the U.S. housing market bubble that triggered it, agricultural commodities and farmland have become major targets for speculative investment. These investments have been disastrous, contributing to a spike in the price of food that pushed 250 million people into starvation,^{cxix} and often generating conflicts over land and ecological destruction on the ground. As a 2015 report by the Rede Social de Justiça e Direitos Humanos, “A Empresa Radar e a especulação com terras no Brasil,” (translated as “Foreign Pension Funds and Land Grabbing in Brazil”) points out, “farmland has become a hot target for financial players looking for alternative places to invest the money they manage. The surge in food prices and the financial crisis, which both erupted at the end of 2007, convinced many top private equity funds, banks and other financial firms that farmland can provide a secure new asset class with high returns on investment.”^{cxx}

The financial logic of investing in farmland is clear: fund managers seek regions where land prices are relatively low, such as Australia, Sudan, Russia, Zambia or Brazil, and because the price of farmland moves in sync with inflation and wages but not with other commodities,

fund managers can expect a diversified income stream as a financial hedge to manage risks. The rising price of farmland also provides long-term pay-offs, with near-term cash flow generated by renting the land as well as selling crops, livestock, and meat and dairy products.^{cxxi}

Among the types of institutional investors that are behind this trend, pension funds play a leading role. Pensions are typically managed by public or private companies on behalf of unions, governments, individuals or employers; these companies are responsible for managing and growing people’s pension savings, so that the funds can be paid out to workers after they retire. Pension funds are the largest actors in the financial industry, holding around \$39 trillion USD in assets globally.^{cxxii} Therefore, any movement by pension funds generates huge impacts, which can be either positive or negative.

The institutional investors that manage pension funds have only recently begun investing heavily in farmland and global agricultural commodities. By 2013, some \$5-15 billion USD had reportedly gone into farmland acquisitions, and this number doubled by 2015, with numerous pension funds having made their first farmland investments at that time.^{cxxiii}

TIAA has led this trend, citing the sector's "low correlation to traditional asset classes," as a primary reason for its appeal.^{cxxiv} TIAA launched its first farmland fund in 2012 with \$2 billion USD.^{cxxv} In 2015, another \$3 billion USD fund was launched; according to TIAA's 2016 report on its investments in farmland, at the end of 2015 the company owned over 1.5 million acres of farmland valued at \$5.1 billion USD. Of those acres, 233,913 (or 15.6 percent) are located in the U.S., some or all of which are managed by Westchester Group Investment Management, Inc.^{cxxvi} The report also notes that 65.6 percent of their farmland is planted in grains and oilseeds, although it is impossible to know whether these crops are intended for sale on the commodity market, for bio fuels production, or for concentrated animal feeding operations that may exist on their farms.

In a June 2016 article about the increasing financialization of farmland in *The Progressive Farmer*, an agricultural industry publication, Marcia Zarley Taylor noted that "since 2007...TIAA has reportedly dedicated \$8 billion to farmland purchases in the U.S. and overseas."^{cxxvii} This \$8 billion figure was confirmed in an interview in the *Agri Investor Newsletter*, when Justin Ourso, who manages the farmland portfolio for TIAA, said the firm "manage[s] around \$8 billion in farmland assets including commitments."^{cxxviii}

It is possible, then, that TIAA owns considerably more than the 1.5 million acres mentioned in its 2016 report, given that the value of its farmland investments have increased almost 60 percent in the past year. What is more, the interview in the *Agri Investor Newsletter* indicates that TIAA intends to continue to grow its investment in farmland, expanding its land ownership in the U.S., South America, Australia and into Europe and that the company expects to continue to develop the financial market in farmland, which would make investor ownership of farmland much more common and pervasive.

Facing concern about pension funds buying farmland and public pressure for more transparency, in recent years TIAA has begun to publish an annual farmland investment report that provides the total area of farmland by country and province, as well as general information about the commodities cultivated in each province. These reports are also supposed to provide evidence that TIAA's investments in farmland are sustainable and responsible. However, this general information is not anywhere near sufficient for any kind of independent monitoring, and the reports do not articulate their methodology to verify their

conclusions. Disclosing specific and exact information about the locations of their farms, what they grow and how they do it, who they bought land from and how much they paid is critical. TIAA's "Farmland Guidelines" emphasize environmental sustainability, respecting labor and land rights, business ethics, and reporting. But what do these Guidelines mean if there is no way to know where TIAA's farms are, what the working conditions on them are, or what agricultural model is being applied on that land? Moreover, how can they claim to be sustainable when the kinds of farms they are buying are large-scale, monocrop plantations that require chemicals?

The dangers of farmland as an asset class

TIAA is leading the trend of turning farmland, including forestland and timber land,^{cxxix} into an asset class so that institutional investors can speculate on its price. To understand what this means, we can look at how the housing market in the U.S. was financialized as home mortgages became an asset class and were then turned into securities for large investors. Ironically, and certainly ominously, it was the collapse of "subprime" mortgage-backed securities — the "collateralized debt obligations" (CDOs) — that caused the financial crisis, and it is that crisis that has since driven these investors to seek new opportunities for speculation.

Speculation on farmland poses many dangers for farmers and communities. Besides funding large-scale purchases of land that may violate national or international laws and norms that limit foreign ownership of large tracts of land, speculation on farmland typically hurts farmers and communities by driving up the price beyond what anyone in the local community can pay.^{cxxx} This is particularly the case with small-scale peasant farmers in the Global South who have almost no cash and rely on the land for their livelihood. But it is also a serious problem for farmers in the U.S.^{cxxxi}

In the U.S., speculation has been linked to the rising price of farmland over the past few years. According to a 2014 study about the financialization of farmland, "of the farmland fund managers interviewed, almost all expected at least 50 percent of their fund's total internal rate of return (IRR) to come from land appreciation, and some expected substantially more."^{cxxxii}

The primary impact of speculation, then, is to make land so expensive that family farmers cannot afford it, leaving many new or beginning farmers — to say nothing of the millions of landless farmworkers — without the ability to own land. Because of “Get Big or Get Out” agriculture policies, which increase the costs of farming but decrease farmers’ earnings, many family farmers are forced to rent additional land to produce more crops on more acreage.^{cxiii} This compounds the problem of skyrocketing land rents due to increased farmland speculation. Additionally, while rising land prices would supposedly benefit farmers who own their land, the National Family Farm Coalition cites cases in which banks have encouraged family farmers to sell their farms instead of providing them with loans.^{cxiv}

According to TIAA’s documents about how the firm manages farmland, we can conclude that along with the transition to “rentier” ownership of farmland comes a transition to the chemical, industrial agribusiness model that produces for global commodity and biofuels markets. Ninety-six percent of TIAA’s investments are not in small-scale farms producing food for local markets, but in large-scale, industrial commodity row crops.^{cxv} In order to justify the increasing price of land, TIAA is expanding the agribusiness model, which has devastating impacts on the communities that rely on peasant agriculture. The shift to absentee ownership of farmland, as well as increased incentives to follow the industrial agriculture model, are serious threats to rural communities and ecosystems. This is especially concerning in a region such as the Brazilian cerrado, where the rapid expansion of soy monocultures is devastating one of the world’s most biodiverse ecosystems.

There are strong similarities between the trend of rising prices in farm country and what gentrification is doing to major cities in the U.S. Displacement and major structural changes in urban neighborhoods have been accomplished, not through forced dispossession, but through the work of the real estate market that pushes housing prices far beyond what local communities can afford so that they lose control of their land. A similar dynamic could soon be playing out on farms and rural communities in the U.S. Currently, more than half of all farmers are over 58 years old, which means that many farmers will be retiring in the next 15-20 years. Potentially 400 million acres of farmland — half of all farmland in the U.S. — will transition ownership through inheritance or sales in just over a decade.^{cxvii} In this situation, where land speculation is causing prices to rise too high for farmers to afford, the only buyers for half of all U.S. farmland will be banks and investors like TIAA. TIAA and other investors will either act as absentee landlords and lease that land back to farmers, or they will contract with farm management companies to operate those farms.^{cxviii}



Photo: Workers on farm in Brazil. Credit: Douglas Mansur/ Rede Social de Justiça e Direitos Humanos

Allegations of land grabbing in Brazil

As of late 2015, TIAA had more than \$200 million USD invested in Brazilian farmland through its global farmland fund, TIAA-CREF Global Agriculture LLC (TCGA), despite a Brazilian law passed that restricts foreign investment in Brazilian farmland. By using a complex company structure and acting under subsidiary companies, TIAA was allegedly able to evade the law, essentially acquiring the land through illegal means.^{xxxix} These allegations are described in detail in a 2015 report by Brazilian researchers Fabio Pitta and Maria Luisa Mendonça, “A Empresa Radar S/A E A Especulacao com Terras No Brasil” translated and adapted as “Foreign Pension Funds and Land Grabbing in Brazil.” The findings of the investigation challenge TIAA’s compliance with its own policies as well as with Brazilian laws.

The report describes the social and environmental context in which these investments occur:

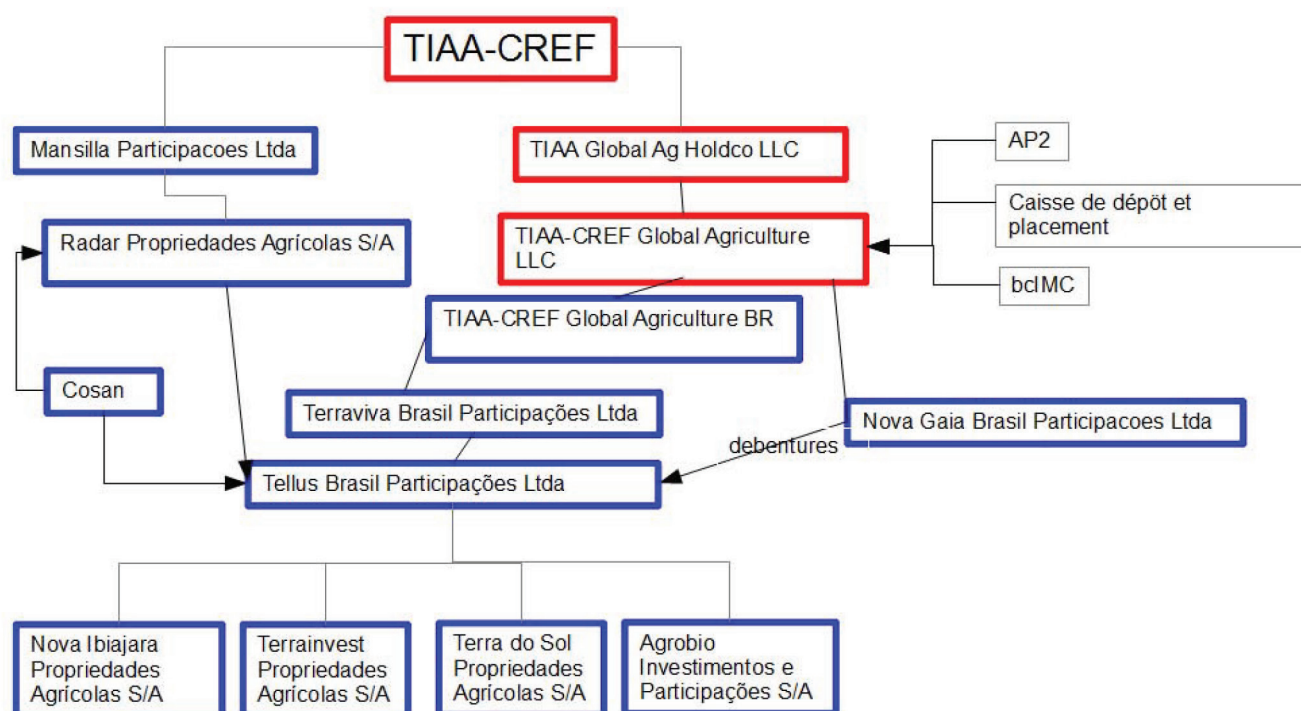
Brazil has one of the most unequal distributions of land in the world, and the situation is getting worse as agribusiness, backed with foreign money, pushes further into the territories of indigenous peoples and into the lands used by local communities and small

farmers. This expansion of agribusiness also spreads a disastrous model of agriculture. The plantations growing commodity crops, like sugarcane and soybeans, deplete soils and water sources, pollute and poison local communities with pesticides, and provide few jobs to a desperate and exploited rural workforce.

Brazil’s indigenous peoples and the mass movements of landless people in the country have been struggling against the historically unjust land distribution situation for decades. They have been articulating demands for agrarian reform towards a vision of food sovereignty based on small-scale, agroecological food production and local food systems.^{cxl}

The report does not charge TIAA with forcibly taking land or evicting locals, but rather of setting up a complex company structure that allows it to own a majority stake in land while insulating it from a historic trend of land grabbing. A TIAA subsidiary called TCGA bought at least 13 farms in Brazil’s BAMAPITO Cerrado region (also known as MATOPIBA) — an area under increasing agro-industrial production, specifically soybean farming.

Diagram 1. TIAA-CREF’s farmland investment in Brazil



Blue = Brazilian registered company; Red = US registered company.

Source: Fabio T. Pitta and Maria Luisa Mendonça, Rede Social de Justiça e Direitos Humanos (2015) “A Empresa Radar S/A E A Especulacao com Terras No Brasil”

The ecosystems of the BAMAPITO region has long provided local indigenous communities with lands for hunting, grazing, collecting firewood, and harvesting fruit and medicinal plants. Over the years, these lands have been acquired by companies and wealthy individuals through the illegal process of land grabbing known in Brazil as “grilagem”. Through this commonly known process, title claims over public lands and forests are forged, often with the help of government officials, public land is fenced off, and local communities are evicted through intimidation and violent force – often from lands they’ve inhabited for generations. A majority of the land in the BAMAPITO region is understood to have been acquired illegally through the use of falsified documents and armed security forces. At least four of the farms purchased by TCGA, though its subsidiaries in the BAMAPITO region were purchased from companies associated with Euclides de Carli, a man well-known in the region for illegal land grabbing.^{cxli}

In 2016, the Agrarian Prosecutor in the state of Piauí issued an order canceling the sale of over 100,000 hectares of land illegally acquired by businessman Euclides de Carli.^{cxlii} The case cited land grabbing (grilagem) and the illegal use of lands assigned to agrarian reform.

However, in the face of allegations and evidence that TCGA’s subsidiaries purchased farms from companies associated with Euclides de Carli in Brazil, TIAA has only responded by saying their due diligence process is sufficient, implying that it is impossible for them to have bought land that was “grabbed.” They claim that their due diligence relies on a land title search and reviewing satellite information, but the land grabbing taking place in northeast Brazil works precisely by creating fraudulent land titles and by fostering political corruption which would make it almost impossible for TIAA to actually verify that the farm it buying were not grabbed.^{cxliii} Regardless of what TIAA claims, it is extremely difficult to believe in TIAA’s due diligence process when they have bought farms from Euclides de Carli, a man well-known for land grabbing and creating fraudulent land titles.

Currently, a judge who is looking into this issue of widespread land grabbing through counterfeit land titles, Heliomar Rios, has received death threats.^{cxliv} These threats point out just how difficult and dangerous it is to actually get to the bottom of who owns the land and who is selling it. For these reasons, it is critical that TIAA disclose all relevant, detailed information about the farms it owns.

According to research by the Rede Social de Justiça e Direitos Humanos, TCGA’s investments in Brazilian farmland have also caused significant negative social, economic and environmental impacts. Communities report use of violent force during the eviction process and instances of labor exploitation during the farm construction process. Researchers have found that industrial scale farming of commodity crops like soy and sugar has resulted in few jobs for local community members and has led to negative health and environmental impacts, including a rise in cancer and respiratory diseases from the use of pesticides, pollution of local drinking water and soil depletion.^{cxlv}

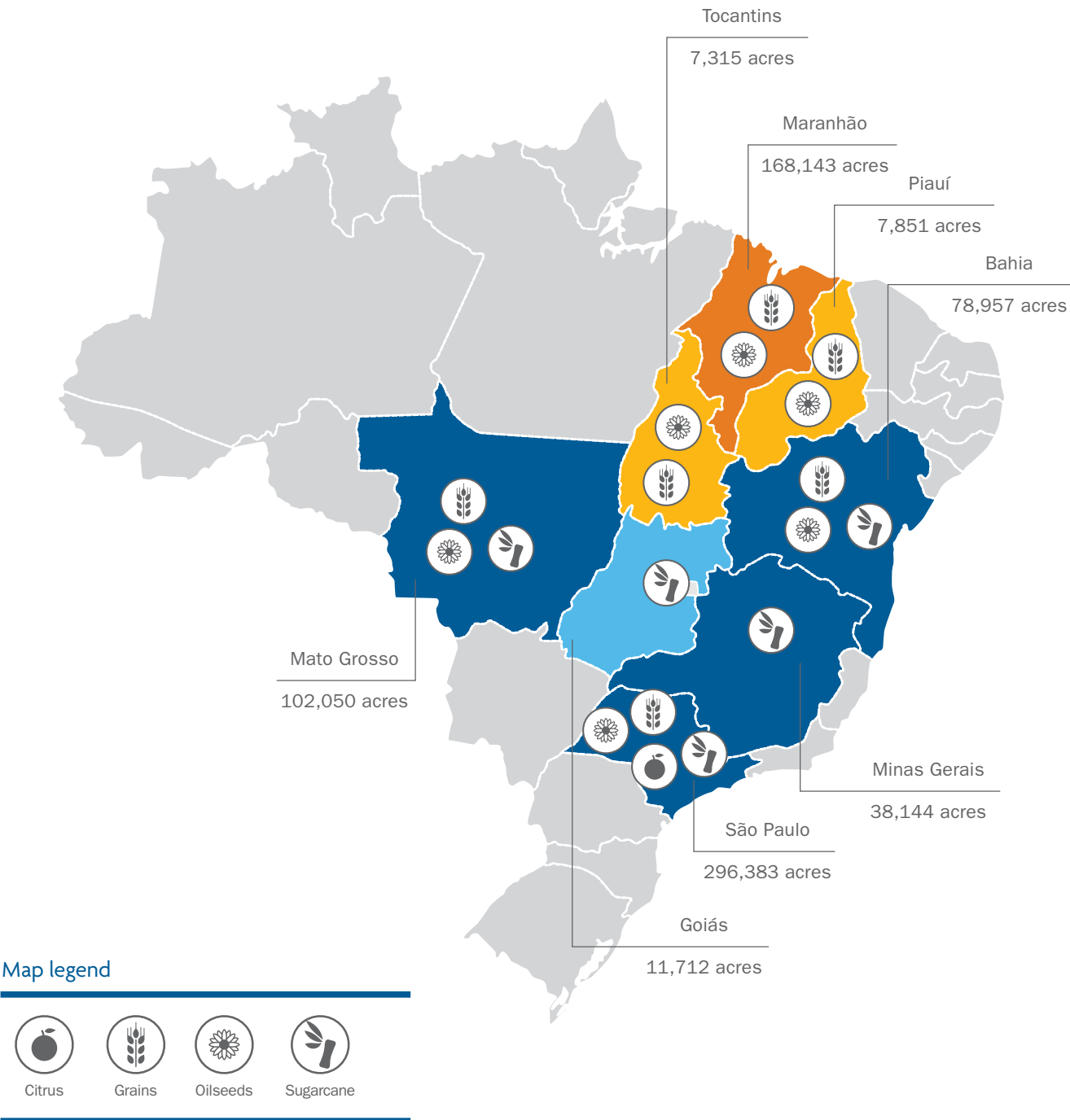
While it is the former landowner, not TIAA, that is responsible for stealing land from local communities and converting it to industrialized farmland, researchers with the Rede Social de Justiça e Direitos Humanos believe that TIAA purchased the land in apparent knowledge that it was acquired illegally by its former owner, and is therefore complicit. In addition to specific failures of due diligence, the purchase of large tracts of land by foreign entities through dubious processes sends a strong signal to others and encourages additional land grabbing by powerful local actors. In this sense, the very existence of TIAA’s large farmland fund contributes to speculation in farmland and to this situation in northeast Brazil where illegal and unethical activities are taking place, which the report “Foreign pension funds and land grabbing in Brazil” made clear.



Photo: Worker on farm in Brazil. Credit: Carmelo Fioraso / Rede Social de Justiça e Direitos Humanos

Brazil

TIAA Farmland Holdings



Total acreage as of 12/31/15: 710,555

Source: TIAA Responsible Investment in Farmland report, 2016.

3

TIAA's ties to extractive industries and forced displacement



Photos (Clockwise from top left): 1. Coal miners in India's Singrauli district. Credit: Joe Athialy 2. A community member displaced by AngloGold Ashanti in Guinea. Credit: Chase McNabb 3. Four people were killed protesting an NTPC coal mine in Jharkand, India. Credit: National Alliance of People's Movements 4: Security forces violently evicted villagers to make way for the gold mine in Guinea. Credit: Chase McNabb.

In yet another aspect of its investment practices, TIAA holds positions in numerous companies in the energy and mining sectors that have been publicly charged with land grabbing, including forced evictions. What follows is a brief review of some of these holdings.

TIAA holds positions worth \$26,890,830.19 USD (2,022,371 shares, or 0.5 percent of total shares) in **AngloGold Ashanti** (NYSE:AU),^{cxlvi} a South African mining company that is developing a gold mine in Guinea implicated in military-backed forced evictions, intimidation and violence.^{cxlvii} AngloGold Ashanti is also implicated in similar abuses in Colombia.^{cxlviii} TIAA's holdings in AgloGold make it the 13th largest shareholder company.

TIAA holds 3,367,611 shares, or 0.04 percent, of **NTPC** (NSE: NTPC),^{cxlix} India's national coal power company, which is involved in numerous harmful coal plants and mines. A few documented examples include the controversial Rampal plant in Bangladesh, which will devastate the world's largest remaining mangrove forest;^{cl} the Vindhyachal Power Station in Madhya Pradesh,^{cli} which generated significant conflicts^{clii} with local communities during its construction phase; and the planned 800 megawatt Koldam Hydro Power Plant in Himachal Pradesh, which could potentially submerge 68 villages^{cliii} and a religious pilgrimage site, where residents say they have not been consulted^{cliv} about the project and have been offered inadequate compensation.^{clv}

Finally, NTPC is attempting to forcibly evict indigenous people in India's Jharkhand state in order to establish a coal mine. In October 2016, police opened fire on community members demonstrating against the mine, killing at least four people and wounding 20.[endnote]

TIAA holds 1,736,701 shares, worth a total of \$4,776,674 USD, in **Hindalco** (NSE: HINDALCO).^{clvi} In a joint venture with Essar, Hindalco developed a coal mine that would have caused the destruction of one of the largest and oldest indigenous forests in India and would have displaced 54 indigenous villages.^{clvii} However, activists successfully protested the mine, leading to its cancellation.^{clviii}

TIAA owns 0.03 percent of **Jindal Steel & Power** (NSE: JINDALSTEL),^{clix} which operates multiple steel plants in Orissa state. The company has a poor human rights and environmental track record in Orissa. Many indigenous communities affected by the company's projects do not consent to being relocated.^{clx} Protesters have been met with repression^{clxi} and violence.^{clxii} The company has acquired land for its projects without consent from affected indigenous communities, resulting in forced displacement with little or no compensation paid.^{clxiii}

TIAA owns 33,849 shares, or 0.05 percent, of **Eveready Industries India** (NSE: EVEREADY),^{clxiv} the current incarnation



of the Union Carbide India — the company responsible for the Bhopal gas disaster that led to the deaths of tens of thousands of people in 1984.^{clxv} Union Carbide discontinued operation of the Bhopal plant following the disaster, but failed to clean up the industrial site completely. The plant continues to leak toxic chemicals into local aquifers,^{clxvi} adding dangerous contaminated water to the legacy of the Bhopal gas disaster.

- **The Germano mine**, jointly owned by Vale and BHP Billiton. In November 2015, the mine’s dam collapsed, unleashing toxic waste that killed 15 people and contaminated nearly 1,500 hectares of land,^{clxviii} in one of the worst environmental disaster in Brazil’s history.^{clxix} An estimated 1.6 million people experienced adverse health impacts.^{clxx}
- **The Moatize mine**, which began operations in 2011, displaced 1,313 families^{clxxi} within a high intensity conflict^{clxxii} and police interventions.
- **Vale** is building a railroad through the Nacala Corridor to transport coal from Moatize. The Nacala Corridor is part of ProSavana, a massive agribusiness project encompassing 14 million hectares^{clxxiii} that will affect 500,000 people living in the Nacala Corridor.^{clxxiv} Environmental impacts include deforestation and destruction of the savannah.^{clxxv}



4

The materiality of human rights and the costs of social conflict

Investments in farmland and agricultural commodities are widely perceived as low-risk investments with long time horizons. But global awareness of the high-risk implications of investments in land and agrocommodities is growing. These risks, broadly speaking, include a lack of community consultation and consent, human rights abuses, and a disregard for social, economic and environmental impacts, particularly in contexts where governance and transparency of land transactions are weak^{clxxvi} — a trend popularly known as “land grabbing.”^{clxxvii}

Global agencies and academics are increasingly in agreement that unconstrained private finance is a key driver of deforestation and human rights abuse, not only by providing financing to companies engaged in problematic practices, but by providing them cover under the guise of “responsible” or “sustainable” finance. And, increasingly, financial institutions face material risks associated with such financing.

In the words of the UN Environment Programme: “Financial institutions are exposed to risks related to deforestation and forest degradation if companies they invest in or lend to are affected by biophysical, legal, market or regulatory risks linked to their impacts or dependencies on forest ecosystems. These risks can become material for a financial institution if one or a combination of these risks affects the costs, revenues or other financials of the company.”^{clxxviii}

Recent guidance from the U.S. Department of Labor clearly recognizes ESG considerations as a part of investors’ fiduciary duty: “ESG factors may have a direct relationship to the economic and financial value of [an] investment.” Further, the Department of Labor notes that “ESG issues are not merely collateral considerations or tie-breakers, but rather are proper components of the fiduciary’s primary analysis of the economic merits of competing investment choices.”^{clxxix}

“Through these deals, families and communities are losing their farms and forests, while farming and pastoral systems that produce food for local people are being wiped out to make way for industrial plantations producing food for export. Many of these land deals are happening in countries where food insecurity and access to land and water are already at critical points. The people who are dispossessed of their lands or affected by the new large-scale plantations are rarely consulted, as many of the deals are negotiated and signed between foreign investors and government officials behind closed doors.”



The UN Guiding Principles on Business and Human Rights

Following the development of the UN Guiding Principles on Business and Human Rights, the Organization for Economic Cooperation and Development (OECD) developed a series of working papers in which it clearly lays out that providers of financial services are “directly linked” to the adverse socio-environmental impacts caused by their investee companies and therefore bear responsibility for resolving them.^{clxxx}

“If an enterprise identifies a risk or is made aware of adverse impacts being directly linked to its operations, products, or services through its business relationships, it should seek to use its leverage to influence the entity causing the adverse impact to prevent or mitigate the impact and future impacts. This can be done by the enterprise itself or in co-operation with other entities, as appropriate.”^{clxxxi}

Investors with relatively small holdings or with holdings through index funds — both of which apply to TIAA in the case of its holdings in palm oil plantation companies — may argue that their leverage is too small to make a difference. But to this point, the OECD Guidelines are clear:

“A lack of leverage does not imply that an enterprise should not apply the recommendations of the Guidelines. The degree of leverage it has over its business relationship with the entity causing the adverse impact is useful in considering what it can do to persuade that entity to take action, but is not relevant to considering whether it should carry out due diligence and exercise any leverage it may have. It should.”^{clxxxii}

There should be no doubt then that institutional investors like TIAA have a fiduciary responsibility to address the ESG risks associated with land grabbing, forest destruction and forced displacement. What some investors question however, is whether these risks translate into financial risk for companies and their investors. A

recent study commissioned by the Indonesian Business Council for Sustainable Development (IBCSD) answers that question strongly in the affirmative.

The study, “The Cost of Conflict in Palm Oil in Indonesia,” calculated the financial losses to business associated with social conflicts in five plantations in Kalimantan and Sumatra and concluded that “the cumulative costs of social conflict are significant, undervalued and potentially pose a serious obstacle to productivity for companies, as well as imposing costs on communities and local government.”^{clxxxiii}

The study found that the tangible costs to palm oil businesses resulting from social conflict were as high as \$2.5 million USD in the cases studied, representing 51-88 percent of plantation operational costs, or 102-177 percent of investment costs on a per hectare per year basis. The study also found that intangible or “hidden” costs for businesses may be up to \$9 million USD, representing indirect losses associated with the risks of conflict recurring or escalating, reputational loss, and risk of violence to property and people.

The study attributed the largest costs to lost income from disrupted plantation operations and staff time diverted from other tasks to address conflict, and found that recurring social conflict tends to take place, and to incur the highest costs, during the production phase of plantations (i.e., years after land has been allocated). For investors seeking to minimize exposure to risks associated with social conflict, what this implies, at the very least, is a need to require robust disclosure by investee companies and projects before land is purchased and put into production, and at regular intervals as land is developed.

Another recent study, “Hidden Land, Hidden Risks? The need for improved corporate reporting of land holdings associated with palm oil production,”^{clxxxiv} by the Zoological Society of London (ZSL), looks at transparency in land holdings among the world’s largest palm oil companies (including those covered in this report). The analysis reveals that there is no clear and standard approach to reporting on land holdings — a problem that tends to mask potential environmental and social risks. The 50 companies assessed by ZSL hold a total of 8.6 million hectares of land, but only report on some 6.6 million hectares. A further 900,000 hectares — an area 12 times the size of Singapore — is reported but is of unclear use; 35 of the 50 companies fail to disclose information on areas not yet planted with oil palm; and 28 of 50 report inconsistent figures on their land holdings.

Ultimately, the report argues, investors should be driving transparency by requiring their investees to consistently and coherently disclose information in relation to their landholdings.

Responsible Investing? TIAA's ESG and farmland investment policies

TIAA publicly appears to take responsible investing very seriously – indeed, it has taken a leading role in promoting responsible investment in farmland. The company has \$17 billion in ESG-focused products, \$649 USD committed to responsible investment principles, and a social impact portfolio worth \$845 billion.^{clxxxv} It is a signatory to a series of international voluntary agreements, including the UN supported Principles for Responsible Investment (PRI), the Principles for Investment in Inclusive Finance, the Global Impact Investing Network, the Principles for Responsible Investment in Farmland, the Forum for Sustainable and Responsible Investment (USSIF) and the International Corporate Governance Network. TIAA also publicly recognizes the social and environmental risks associated with its investments in its ESG policy^{clxxxvi} and its Farmland Investment policy.^{clxxxvii} Yet it still has significant gaps in its policy and its practices on land rights and forests. These gaps mean that TIAA may continue enabling deforestation and land grabbing now and into the future.

TIAA's Farmland Investment Policy and its reporting on farmland investments specifically expresses the need to respect existing land and resources rights under the signage of the PRI and the Principles of Responsible Investment in Farmland:

“We are cognizant of concerns around key issues like ‘land grabbing,’ displacement of local farmers, and deforestation, and we believe our investment approach sets us apart in addressing these concerns.”^{clxxxviii}

Further, TIAA asserts that “Our core investment strategy is based on a partnership model focused on acquiring existing, high-quality farmland and identifying best-in-class local farmers who operate the farms via a leasing arrangement. In doing so, we facilitate the growth of local family operators and agribusinesses while also contributing capital (in the form of the purchase price) to the local market. By employing a comprehensive asset management and farm oversight program, we are able to assess and validate adherence to strict operating practices



and analyze potential capital investments that will support enhanced production and sustainability into the future.”

Like its previous reports, TIAA’s 2016 report on Responsible Investment in Farmland is an effort by TIAA to build transparency into its farmland investments, and takes pains to respond to concerns raised by NGOs^{clxxxix}. But the report maintains an assumption that farmland investment is a win-win for investors, farmers, and ecosystems – an assumption that is by no means grounded in reality, as the case of Brazil illustrates. To be fair, the report does address the Brazilian case, saying, “In countries such as Brazil, we continually re-evaluate and improve how we conduct due diligence to address any concerns while we balance the challenges associated with acquiring land in regions with legal and civil infrastructure that is still maturing.”

While the company appears to be indirectly addressing aspects of the land grabbing problem in Brazil by evaluating and improving its approach, it has not met or consulted with local stakeholders or other actors concerned about

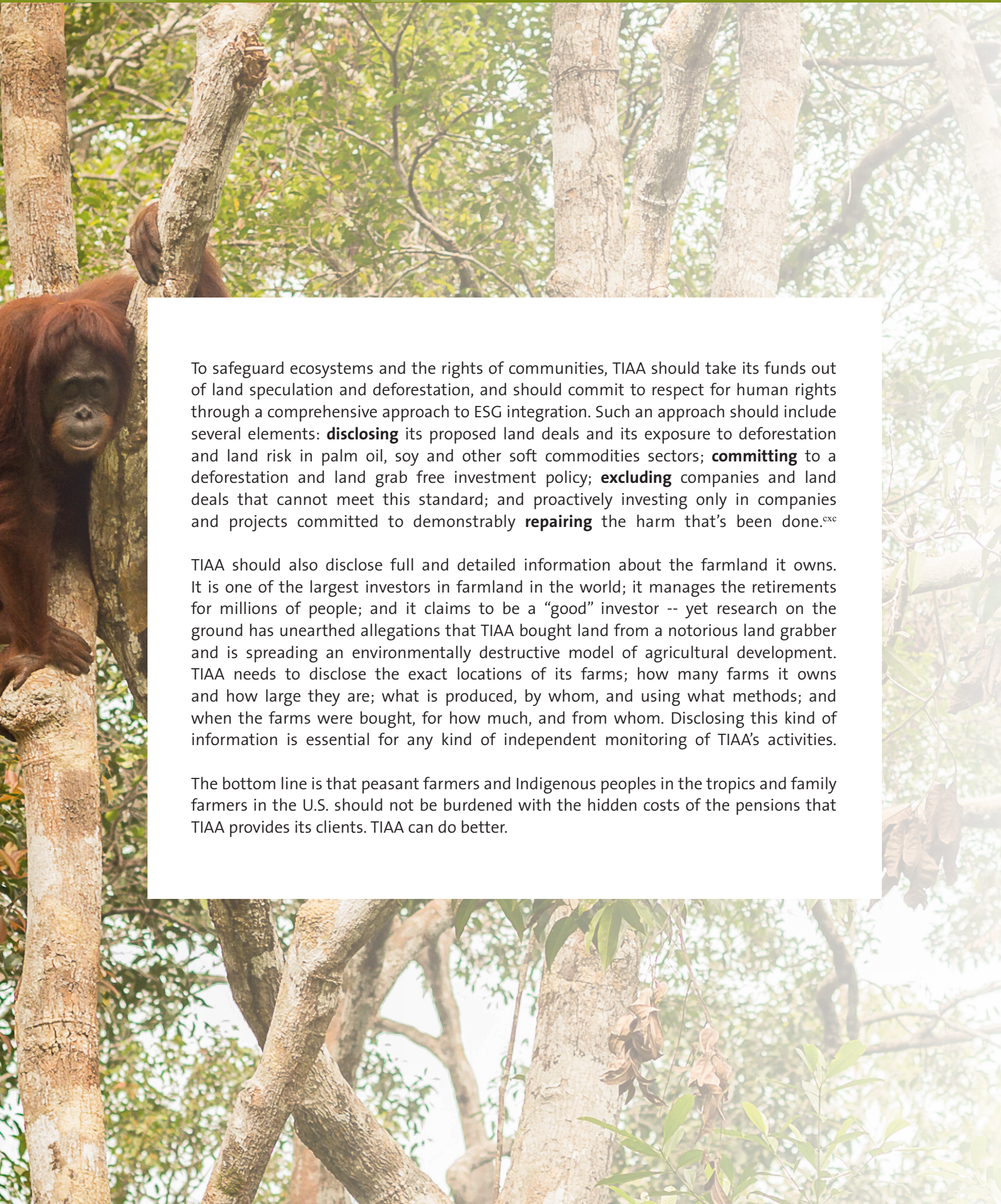
the perverse impacts of its land acquisitions. TIAA has also refused to provide any evidence that the land they purchased was acquired lawfully, that human rights norms were respected, and that their investments are not contributing to land grabbing.

Without disclosing the details of the farmland they own, it is impossible to verify their claims. By leading the trend of direct investments in farmland without taking into account the holistic impacts of this approach across agrarian economies, and without input from those potentially or actually harmed by its approaches, TIAA is continuing to set a dangerous precedent for pension funds across the globe.

Outside of its specific ESG-focused products, TIAA’s holdings in palm oil companies and its positions in energy and extractives illustrate that, even as TIAA boasts a leading approach to ESG, it is failing to prevent exposure to land grabbing and deforestation.



Conclusion and recommendations

A photograph of an orangutan clinging to a tree trunk in a lush forest. The orangutan is positioned on the left side of the frame, looking towards the camera. The background is filled with green foliage and tree trunks, creating a natural, serene environment. The image is partially obscured by a white text box on the right side.

To safeguard ecosystems and the rights of communities, TIAA should take its funds out of land speculation and deforestation, and should commit to respect for human rights through a comprehensive approach to ESG integration. Such an approach should include several elements: **disclosing** its proposed land deals and its exposure to deforestation and land risk in palm oil, soy and other soft commodities sectors; **committing** to a deforestation and land grab free investment policy; **excluding** companies and land deals that cannot meet this standard; and proactively investing only in companies and projects committed to demonstrably **repairing** the harm that's been done.^{exc}

TIAA should also disclose full and detailed information about the farmland it owns. It is one of the largest investors in farmland in the world; it manages the retirements for millions of people; and it claims to be a “good” investor -- yet research on the ground has unearthed allegations that TIAA bought land from a notorious land grabber and is spreading an environmentally destructive model of agricultural development. TIAA needs to disclose the exact locations of its farms; how many farms it owns and how large they are; what is produced, by whom, and using what methods; and when the farms were bought, for how much, and from whom. Disclosing this kind of information is essential for any kind of independent monitoring of TIAA's activities.

The bottom line is that peasant farmers and Indigenous peoples in the tropics and family farmers in the U.S. should not be burdened with the hidden costs of the pensions that TIAA provides its clients. TIAA can do better.

DISCLOSE

Opaque value chains in the palm oil sector and other agrocommodity sectors can make due diligence exceedingly difficult. Therefore, the first step is for TIAA to undertake regular disclosures of investments in land and agrocommodities and to require disclosure of key information from its investees, according to clearly established guidance, including when these investments are through passive index holdings. TIAA should also make it clear that investee companies and projects that fail to provide such disclosure will be excluded from its investment portfolios.

COMMIT

TIAA should commit to a deforestation free, land grab free investment policy in order to reduce exposure to ESG risk and drive change. The exact nature of the policy may require a tailored approach; however, there is abundant guidance available for the development and implementation of such a policy. One approach might consist of employing a screen to exclude companies with controversial ties to land grabbing and deforestation and ensuring that any indexed holdings the firm considers are also subject to such a screen. Whatever the approach, TIAA should consult with affected communities and representative civil society organizations in developing this policy.

EXCLUDE

TIAA currently holds investments in several companies that have been excluded from other funds, such as the Norwegian Sovereign Wealth Fund, due to sustainability risk. A robust deforestation free, land grab free investment policy will impact portfolio selection and should result in the exclusion of the most egregious agribusiness companies, as well as contested lands.

REPAIR

The UN Guiding Principles on Business and Human Rights require companies to provide “access to remedy,” but the challenge of doing this has yet to be taken up by the finance sector. TIAA has the opportunity to take leadership in the field by requiring its investee companies to provide remedy for past harms by implementing robust grievance mechanisms, committing to ecosystem restoration and, fundamentally, by putting land back into the hands of local communities and supporting models of agriculture that regenerate agroecosystems and build cultural resilience. In the broader context, repair implies shifting investments toward sectors that do as little harm and as much social good as possible.

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