

Vanguard Investment Stewardship Insights

Social risks and the rights of Indigenous peoples



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Vanguard publishes Investment Stewardship Insights to promote good corporate governance practices and to provide public companies with our perspectives on important governance topics.



Vanguard, as a fiduciary for our more than 30 million investors, has a responsibility to understand how a company's business activities that pose a risk to society may also pose a material risk to the long-term value of our funds. Incidents that have occurred within mining and other land-intensive industries illustrate the importance of companies understanding and mitigating the potential risks that can affect their communities, human rights, and society at large.

In May 2020, Rio Tinto, one of the world's largest mining companies, completed blasting at two rock shelters in the Juukan Gorge in Western Australia, an Aboriginal heritage site, during the expansion of an iron ore mine. The company obtained ministerial consent in 2013 to mine in the area. The rock shelters were some of Australia's most significant archaeological sites, believed to be 46,000 years old. Their destruction triggered widespread protests and public outrage. Amid the fallout, Rio Tinto's board of directors initiated an internal review of the matter, resulting in the withholding of company leaders' bonuses and, shortly afterward, the resignations of the company's CEO and the heads of its iron ore and corporate relations divisions. The Joint Standing Committee on Northern Australia also undertook a parliamentary inquiry and released an interim report recommending seven sets of actions to be taken variously by Rio Tinto, the Western Australian government, the Australian government, and all mining companies operating in Western Australia. The committee plans to publish a final report in 2021.

Engaging on social risks

After the Rio Tinto leadership resignations were announced, Vanguard's Investment Stewardship team engaged with company board members to discuss issues arising from the destruction at Juukan Gorge. We expressed concerns about the situation and about key oversight failures, including gaps in Rio Tinto's internal

practices for identifying, monitoring, and escalating the cultural significance of the site. We also noted a lack of information-sharing within the company and board and asked what steps the board was taking to ensure its greater understanding of and visibility into material social risks.

During our discussion, the board members acknowledged the need to reinforce cultural awareness and to give communities and heritage management the same priority and value as safety and environmental matters. They said the company recognized its governance gaps and was working to rebuild trust with Traditional Owners and implement measures to prevent future such occurrences. We will continue to engage with Rio Tinto on this matter and, at the company's next annual meeting, will look at the board's ongoing response and oversight changes implemented.

Rio Tinto is one of many mining companies operating in Australia. During calendar year 2020, we also held separate meetings with leaders and directors from BHP, Fortescue, and South32 to discuss the rights of Traditional Owners and cultural heritage protection. In each engagement, we sought assurances that the company's board oversees and takes responsibility for its social risks and takes appropriate measures to mitigate those risks and disclose them to the market. Our focus is on clarity of risk oversight. Social risks are complex, and companies can benefit by disclosing how they view and mitigate them.

We also had a productive conversation with a shareholder activist, the Australasian Centre for Corporate Responsibility, and gained an appreciation for its purpose and its resolutions for protecting Indigenous rights. We conveyed Vanguard's perspectives on long-term shareholder value creation and the importance of company boards taking responsibility and overseeing key risks to long-term value, including social risks.

Board oversight of social risks

A company's social risks can be assessed by how well it manages its relationships with stakeholders such as employees, customers, and the communities in which it operates. If managed poorly, social risks can manifest themselves as, for example, reputational, competitive, legal, or regulatory risks; can affect a company's social license to operate; and can erode long-term shareholder value. We expect boards to be fully engaged and knowledgeable about monitoring and governing such risks.

We believe that effective cultural heritage management begins by establishing good relationships with Traditional Owners and First Nations peoples. Constructive relationships are critical for boards and company leaders to effectively identify, monitor, and mitigate material risks that affect communities and culturally significant sites. In our discussions with mining companies, for example, we want to learn how they engage with and incorporate the views of local Indigenous groups when planning, exploring, and executing projects.

Vanguard also believes that company boards should promote a culture of risk oversight. We want to know the measures they are taking to continually review, challenge, and improve their risk oversight practices. Boards that work in this way can help to create an environment where all levels of a company feel empowered to identify and elevate risks and work to prevent social risks from becoming governance failures.

What we expect from companies on this matter

When Vanguard engages with company boards and management teams about cultural heritage management, we may ask the following questions:

- Are Indigenous rights and cultural heritage management present on your risk register? What other social issues do you consider material for your business?

- Does the board have the right skill set and relevant expertise to provide a key voice on the strategy and oversight of cultural and social issues?
- Are Indigenous heritage rights overseen by appropriate senior-level executives who can effectively escalate information and risks to the board?
- How do you determine the quality of data on heritage sites and their significance?
- Do you have established audit processes to continually evaluate the freshness of consent agreements? Do the views held at the time of the agreement still hold true today?
- If prior incidents have occurred, what additional controls have you implemented, and how do you gauge and disclose their effectiveness?

We expect companies and their boards to have effective risk oversight strategies in place so that established planning, policies, and practices—and not crises—identify material risks.

We also look for clear, decision-useful disclosures of material risks. We encourage companies to be candid in their reporting by identifying any gaps related to risk mitigation and actions being taken to address them. This type of open disclosure can help investors and other relevant stakeholders fully assess a board's ability to effectively monitor and govern material risks and to evaluate the social impact their policies and practices have on the communities in which they operate.

Vanguard recognizes that appropriate governance and oversight strategies for effective cultural heritage management is an important topic in regions beyond Australia. This matter will remain a focus of our future engagements as we monitor progress in the mining industry.