

#What does your bank finance?

Investing in Myanmar's military cartel

More than two years after the coup in Myanmar, and amid the military's repeated grave violations of international human rights and humanitarian law, several major players in France's finance sector continue to invest in companies that are directly linked with Myanmar's military. Some of the links between the investment of a number of French internationally operating banks and Myanmar's military were already exposed in 2021 by BankTrack and Justice For Myanmar. In 2023, our organisations updated this data and conducted additional research on ongoing investment by French financial institutions in companies that are linked to the Myanmar junta and its atrocities.

Key findings

- Five private French financial groups – Crédit Agricole, Groupe BPCE, BNP Paribas, La Banque Postale, Société Générale – and a public fund – Fonds de Réserve pour les Retraites – invest **more than 6 billion USD in companies linked to the Myanmar military cartel. More than 75% of these investments are related to fossil fuels.**
- **Crédit Agricole accounts for 4 billion USD** of these investments, including investment in **arms companies and companies that produce dual technology goods** in the telecommunications sector for surveillance purposes.
- **The Fonds de réserve pour les retraites**, a public fund, has more than 29 million USD of investments in these companies, of which more than **20% concern private companies carrying out telecommunications surveillance for the military junta.**

I. Context: A murderous military junta subjected to a web of sanctions, supported by a network of businesses

On February 1st 2021, Myanmar's military staged a coup to reimpose military rule, nullifying the results of the November 2020 elections, arresting, and detaining democratically elected members of parliament and illegally declaring a state of emergency. Since then, and while the coup is failing as the military lacks effective control throughout the territory, the junta has responded to nation-wide resistance by arresting more than 23,651 individuals and engaged in indiscriminate attacks, including airstrikes, that have targeted whole communities, schools and hospitals. The junta's campaign of terror has killed more than 3,736 individuals and displaced more than 1.5 million civilians. In order to hide these abuses, the military government is doing everything in its power to strictly control information. After the independent media were banned outright, at least 176 journalists have been arrested since the military coup and at least 71 are currently held behind bars in Myanmar - the highest number of journalists jailed per capita in the world, contributing to Myanmar's ranking of 173rd out of 180 countries in Reporters Without Borders' 2023 World Press Freedom Index.

Gross human rights violations are widespread and systematic, amounting to war crimes and crimes against humanity. Prior to the coup, an investigation was opened at the International Criminal Court (ICC) pertaining to the gravest crimes committed against the Rohingya and a case against Myanmar was brought at the International Court of Justice regarding violations of the Convention on the Prevention and Punishment of the Crime of Genocide. Since August 2019, the commission of serious international crimes and violations of international law by the military has been subject to a UN-mandated investigation. In February 2022, Nicholas Koumjian, the Head of the Independent Investigative Mechanism for Myanmar (IIMM), stated that the reports made since the coup "suggest that well over a thousand individuals have been killed in circumstances that may qualify as crimes against humanity or war crimes".

The Myanmar military's ongoing atrocities against the people of Myanmar since the coup has prompted national governments such as the United States, Canada, Australia and the United Kingdom, as well as the European Union, to sanction junta leaders, state-owned enterprises illegally under military control and companies linked to the military junta. France has condemned the coup and has since continued to call for respect for human rights and express its disapproval of the ongoing atrocities committed by the junta.

In October 2022, the Financial Action Task Force - the global money laundering and terrorist financing watchdog - added Myanmar to its blacklist, confirming the country as a high-risk jurisdiction with significant deficiencies in combating money laundering and terrorist financing.

A trend of exit and divestment from Myanmar

In respect of the international package of sanctions or in recognition of the fact that meeting the responsibility to respect human rights is not possible under the current circumstances in Myanmar, an increasing number of companies, including French ones, operating in various sectors have either exited the country completely or confirmed their intention to do so. In the oil and gas sector, French company TotalEnergies announced in January 2022 that it would exit its operations in Myanmar by July 2022, noting notably that the human rights and rule of law context continued worsening. Also in the energy sector, major players like Woodside Petroleum have announced their exit from the country,

as has French renewable power producer Voltaia. In the telecommunications sector, Norwegian operator Telenor also announced, in March 2022, that the situation in Myanmar rendered it impossible to continue operations. In the garment and footwear sector, several companies including Tchibo, Primark and Marks & Spencer have announced that they would no longer source from Myanmar in light of the lack of a human rights infrastructure needed to ensure responsible business conduct.

Some financial groups have taken ethical and responsible steps in view of the situation in Myanmar

As our research shows, BNP Paribas, while developing other problematic investments, has – like Norway's sovereign wealth fund Norges Bank Investment Management – divested from Bharat Electronics Limited (BEL) which sells arms to the military junta. The Netherlands-based ASN Bank divested from KDDI over human rights concerns in their Myanmar operations. These cases set examples for the financial institutions which still hold shares in companies linked to the Myanmar military.

II. Our methodology

Our research has focused on the relationship between French companies in the finance sector by virtue of their shares in companies linked to Myanmar's military. The companies in which they are shareholders fall into two separate categories

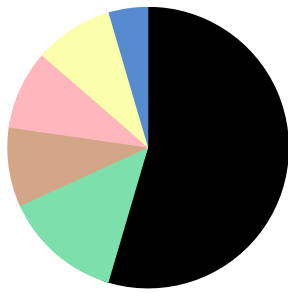
- **Category 1: Companies that have a direct and long-term commercial relationship with the Myanmar military or with companies controlled by the military predating the coup on 1 February 2021.** These include arms manufacturers Bharat Electronics Ltd (BEL) and AviChina Industry & Technology Company, military truck producer Sinotruk Hong Kong Ltd and diversified steel and energy conglomerate POSCO. This category also includes port operator Adani Ports and Special Economic Zone¹, global construction corporation Daiwa House Industry Co. Ltd, global hotel chains Hilton Worldwide Holdings Inc and Shangri-La Asia Ltd, and real estate company Tokyo Tatemono Co Ltd.
- **Category 2: Companies that have a direct commercial relationship with Myanmar State-owned economic enterprises that are under military control since the coup on 1 February 2021.**² These include Chevron Corporation,³ GAIL (India) Ltd, Oil and Natural Gas Corporation, KDDI Corp, Sumitomo Corp, PTT Exploration and Production PCL (PTTEP), Baker Hughes, China Oilfield Services Limited, Diamond Offshore Drilling, Halliburton, PTT Public Company Limited (PTT), Schlumberger (SLB) and Weatherford International. Most of these companies are in commercial partnership with the junta controlled Myanma Oil and Gas Enterprise (MOGE).

1. Adani Ports irresponsibly withdrew from Myanmar in May 2023, selling its business to Solar Energy Limited, and has refused to disclose its beneficial owners.

2. We have chosen to exclude ENEOS from our 2023 research because of their announced withdrawal from Myanmar. Nonetheless, the way they are divesting and their continued obligations remains a matter of concern. ENI has also been removed from this research because they are no longer active and were never in production.

3. Chevron has sold its 41,4 % stake in Yadana to MTI Energy, yet there remain major concerns on the way they are divesting and their continued obligations.

Focused Companies business sector



Fossil fuels
• 12



Arms and military equipment
• 3



Real estate
• 2



Telecommunication
• 2



Hotels
• 2



Port/logistics
• 1

The companies in these two categories were still present in Myanmar as of March 2023 – when the data was extracted – and their ties to Myanmar's military have been widely documented, investigated and reported, including by the [United Nations Fact-Finding Mission on Myanmar \(UN FFM\)](#) and credible investigative human rights organisations such as [Justice For Myanmar](#).

Our organisations have accessed shareholder data on financial institutions – including French internationally operating commercial banks – that, as of March 2023, held shares in the companies identified. **The data has been extracted by Profundo, an independent research organisation based in the Netherlands.⁴ It is important to outline that the figures do not reflect the variation of the shares' value.**

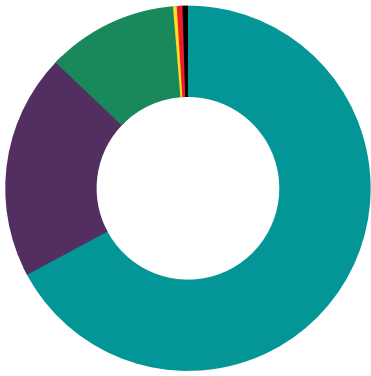
Eight additional companies (AviChina Industry & Technology Company, Baker Hughes, China Oilfield Services Limited, Diamond Offshore Drilling, Halliburton, PTT, Schlumberger, and Weatherford International) have also been added to those reviewed in 2021 by BankTrack and Justice For Myanmar. Falling in the same two categories of companies, they are included in the list detailed above.

Our research has focused on the post-February 2021 investments of five French commercial banks – Crédit Agricole, Groupe BPCE,⁵ BNP Paribas, La Banque Postale, Société Générale, as well as Fonds de Réserve pour les Retraites, a publicly owned, state-funded agency with a mandate to invest and optimise returns on money entrusted to it by the public authorities to finance the French pension system. This category of financial actors, by virtue of their investments, has substantial leverage over the companies in this research and are therefore key for ensuring corporate respect for human rights. Customers of these institutions should feel that they can trust their financial services partners. In times when human rights are eroding at global scale, investing in a responsible manner is essential to building this trust.⁶

4. The data has been provided by Profundo upon request of Info Birmanie. Profundo is an independent research organisation based in the Netherlands that analyses, amongst other, international commodity chains and the financial sector by relying on a broad array of research techniques, ranging from desk research and financial modelling to interviews with experts and stakeholders as well as field research. Profundo has identified shareholder data for all of the companies identified as being linked to Myanmar's military. The data is up to date as of March 2023.

5. Groupe BPCE operates in the retail banking and insurance fields in France via its two major networks, Banque Populaire and Caisse d'Épargne, along with Banque Palatine, Oney and Crédit Coopératif. It also pursues its activities worldwide with the asset & wealth management services provided by Natixis Investment Managers and the wholesale banking expertise of Natixis Corporate & Investment Banking : [Groupe BPCE structure: organ. chart and 4 core business lines](#)

6. As has been noted by the Organisation for Economic Cooperation and Development (OECD) in its [authoritative guide for how institutional investors](#) should and can respect human rights throughout their investment activities: "Investors, even those with minority shareholdings, may be directly linked to adverse impacts caused or contributed to by investee companies as a result of their ownership in, or management of, shares in the company causing or contributing to certain social or environmental impacts".



French financial institutions' shareholdings in companies linked to the Myanmar military cartel

Crédit Agricole	4 092,80	La Banque Postale	19,90
Groupe BPCE	1 216,3	Société Générale	30,70
<i>Caisse d'Épargne, Banque Populaire, Crédit Coopératif, Oney...</i>		Fonds de Réserve pour les Retraites	29,10
BNP Paribas	706,60		<i>in million \$USD</i>

III. The findings in a nutshell

The data indicates that **Crédit Agricole, Groupe BPCE, BNP Paribas, La Banque Postale, Société Générale, and Fonds de Réserve pour les Retraites all hold shares in companies linked to Myanmar's military junta.**⁷ The commercial banks typically hold shares via subsidiary funds and asset managements.

As of **March 2023, their shares amounted to a total of more than 6 billion USD, including more than 75% directly linked to fossil fuels.**

Breakdown of findings by financial institution

Following the 2021 exposure of their investments associated with the Myanmar military, these groups were publicly alerted to the fact that the companies identified were – directly or indirectly – supporting the military junta.⁸ Despite this, some of the institutions have kept their investments, while others have even increased their funds in the companies with ties to the military.

Crédit Agricole *"Acting every day in the interest of our customers and society"*

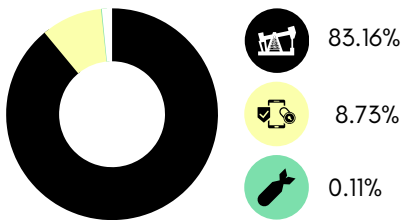
As of March 2023, among the French institutional investors that are the focus of this research, **Crédit Agricole is by far the largest investor in companies with ties to Myanmar's military junta, with holdings totalling 4 billion USD. That represents more than 60 % of the total investments of the six targeted investors in companies linked to the junta. Crédit Agricole's investment in companies in categories 1 and 2 has also increased significantly since 2021.**

By March 2023, Crédit Agricole's shareholdings in the eight additional companies (AviChina Industry & Technology Company, Baker Hughes, China Oilfield Services Limited, Diamond Offshore Drilling, Halliburton, PTT, Schlumberger, Weatherford International) identified as part of the expanded research in 2023 reached 1.6 billion USD.

7. The list of companies linked to the Myanmar military junta is not exhaustive, and it is likely that the six French institutions that have been the focus of this research likely own shares in additional companies with ties to the junta.

8. Specifically, all five commercial banks addressed in this paper – Crédit Agricole, Banque Postale, Groupe BCPE, Société Générale and BNP Paribas – were alerted already in 2021 to the fact that they were investing in companies that had direct or long-term relationships with the Myanmar military or military-controlled business prior to February 1st 2021, or with companies that had direct commercial relationship with Myanmar state-owned economic enterprises under full military control since then.

Crédit Agricole +4 092 million USD



Available shareholder data also confirms that Crédit Agricole had invested more than 4 million USD in companies in the arms and military equipment sector, including companies that have supplied conventional arms and military hardware to the Myanmar military after February 2021: **Bharat Electronics Ltd and AviChina Industry & Technology**. In January 2023, these two companies were excluded by Norway's sovereign wealth fund from its portfolio due to the unacceptable risk that the companies were selling weapons to Myanmar. In July 2021, Nordea Bank also placed Bharat Electronics Ltd on its exclusion list for exporting arms to Myanmar.

Crédit Agricole's investments in companies linked to the junta take place in spite of the bank's stated commitment "to act every day in the interest of (its) customers and the society" and the fact that the Bank has placed "environmental, social and societal issues" at the heart of the Group's 2022 strategic project.

Groupe BPCE

Caisse d'Epargne, Banque Populaire, Crédit Coopératif, Oney...

"Because our activity, our size, our influence and our cooperative values come with responsibilities and give us the means to act"

Groupe BPCE⁹, the second largest banking group in France, pursues a full range of banking activities, including through asset management and investment in companies associated with the Myanmar military junta.

Comparative analysis of shareholder data from 2021 and 2023 confirms that, despite having been alerted to its investments in military-linked companies in 2021, the bank has not divested its investments from the companies flagged in 2021. To the contrary, Groupe BPCE **has increased some of its investment** : it has invested 282 million USD in the 8 new companies added to the research in 2023. **BPCE's total investments represent 1.2 billion USD, with 58 % of its investments directly linked to fossil fuels.**

Groupe BPCE

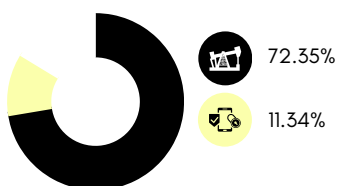
Caisse d'Epargne, Banque Populaire, Crédit Coopératif, Oney...

+1 216 million USD



BNP Paribas *"We are committed to meeting the challenges of today and tomorrow"*

BNP Paribas +706 million USD



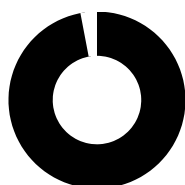
BNP Paribas, "a pioneer in responsible investment since 2006" in its own words, **has divested from the Indian arms manufacturer Bharat Electronics Limited (BEL)**. However, since the 2021 report, it has increased its investments in companies both in category 1 and category 2. **Its investments have notably increased in some companies, like Hilton Worldwide Holdings Inc and Tokyo Tatemono Co Ltd and Chevron Corp. It has limited its divestment to Bharat Electronics Ltd (BEL) and Sumitomo Corp.**

⁹. Groupe BPCE operates in the retail banking and insurance fields in France via its two major networks, Banque Populaire and Caisse d'Epargne, along with Banque Palatine, Oney and Crédit Coopératif. It also pursues its activities worldwide with the asset & wealth management services provided by Natixis Investment Managers and the wholesale banking expertise of Natixis Corporate & Investment Banking : [Groupe BPCE structure: organ. chart and 4 core business lines](#)

BNP Paribas also holds shares worth 248 million USD in the additional enterprises identified since 2021 as being linked to the Myanmar military. Of the total 706 million USD worth of investment in 2023, 72% of BNP Paribas' money went into fossil fuel sector companies.

Société Générale *"Beyond words, we are concretely committed to social, environmental and economic issues"*

Société Générale +30 million USD



97.07%

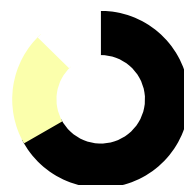
As one of Europe's leading financial services groups, Société Générale, publicly emphasizes its leading role in helping build greener and more inclusive development models and enabling the emergence of new drivers of sustainable growth, noting that social responsibility is at the heart of the bank's social purpose. Shareholder data from March 2023 confirms that Société Générale **has decreased its investments significantly since 2021, with remaining shareholding** in Hilton Worldwide Holdings Inc. and Chevron Corporation totalling 0.9 million USD and 0.2 million USD respectively in 2023.

However, its investment by shareholding in the eight additional companies with ties to the junta identified since 2021 totalled 29.6 million USD. Société Générale's total investment in military linked companies is therefore 30.7 million USD.

La Banque Postale *"Today La Banque Postale shares the dreams and requirements of its generation"*

Despite la Banque Postale's confirmation of its commitment to ensure a "just transition" by including social and environmental targets at the heart of its governance, **the bank still holds investments totalling 20 million USD in military-linked companies, of which 12.7 million USD is in companies that had already been flagged in 2021** as being linked to the military junta in Myanmar. **68% of la Banque Postale's investments is in the fossil fuel sector.**

La Banque Postale +19 million USD



68.34%



19.6%

Fonds de Réserve pour les Retraites - FRR *"Embody responsible management"*

Fonds de Réserve pour les Retraites +29 million USD



59.45%



21.31%

The investment policy of the Fonds de Réserve pour les Retraites highlights the fund's role to optimize returns on the investments it makes as prudently as possible with a view to promote balanced economic, social and environmental development. Nevertheless, **according to the 2023 data, the fund has invested 29 million USD in companies associated with the Myanmar military.** 25.5 million USD was invested in companies that had already been flagged as being linked with the military in BankTrack and Justice For Myanmar's report in 2021.¹⁰ **59 % of Fonds de Réserve pour les Retraites's investment was directly linked to the fossil fuel sector.**

10. The Fonds de Réserve pour les Retraites was not included in the 2021 research.

Case studies in irresponsible investment



The majority of investments are in companies involved in the fossil fuel industry in Myanmar

The overwhelming majority of investments in companies linked to the Myanmar military identified by our research concerns fossil fuel finance. In Myanmar, the oil and gas sector is controlled by the junta through the Myanmar Oil and Gas Enterprise (MOGE), a state-owned enterprise under control of the junta and has been sanctioned by the EU. MOGE is responsible for the junta's single largest source of revenue, financing its increasing and intensifying violent attacks against the people of Myanmar, which amount to war crimes and crimes against humanity. Most of the companies listed in category 2 have direct or indirect commercial links to MOGE, either through partnerships to extract and export fossil gas, or to provide services to oil and gas operations that MOGE is part of. Since the military's coup, global fossil fuel corporations including POSCO and PTT have continued to extract gas, and in some cases further develop offshore projects, with the support of multinational oilfield service companies. By doing business in the oil and gas sector in Myanmar, these businesses are complicit in ensuring funds keep flowing to the murderous military junta.

The data in our research fits into a bigger picture: In a recent report, BankTrack and partners outline that banks from six countries dominate fossil fuel finance and that France is one of them. BankTrack highlights that “despite their net zero language, banks’ policies could be doing more to align with global climate commitments”, because “to keep the world within 1.5°C of warming and to avoid the most devastating harms of climate chaos, fossil fuel expansion must end immediately. Each dollar that banks put toward new fossil fuel projects and the companies behind them is incompatible with climate stability and violates their own climate commitments. Continued financing of a boom-and-bust cycle of fossil fuel economy will lock the world into energy insecurity and unthinkable harms for generations to come.”

UN Secretary-General António Guterres’s statement on the Intergovernmental Panel on Climate Change (IPCC) 2022 Report must be emphasised: “Fossil fuels are a dead end – for our planet, for humanity, and yes, for economy.” Referring to the IPCC Report, the French Minister in charge of the Energetical Transition, Agnès Pannier-Runacher, has recently called on the oil and gas companies “to reinvent themselves, to pull out from fossil fuel energy because they have no future.”

Telecommunications companies enabling junta surveillance



Japanese telecommunication company KDDI and its partner, Sumitomo Corporation – in which Crédit Agricole, Groupe BPCE, BNP Paribas, Banque Postale and Fonds de Réserve pour les Retraites hold shares – continue to do business with Myanmar’s military junta through their joint operation with Myanmar Posts and Telecommunication (MPT).

MPT is a pillar in the junta's creation of a “digital dictatorship”, to increase its control over the people of Myanmar through propaganda campaigns in media and social media networks, as well as electronic surveillance and internet shutdowns. MPT supports the junta with capabilities to monitor calls and locate users, backed by spyware purchased from Israel following the military’s genocide against the Rohingya, even though no legal framework was in place at the time to prevent misuse of interception technology.

The fact that KDDI and Sumitomo Corporation have continued to jointly operate MPT shows serious failings of their responsibilities under international law as well as under the UN Guiding Principles and the OECD Guidelines.

In September 2021, KDDI and Sumitomo Corporation expressed “deep concern” about spyware in Myanmar, and stated that they “are not subject to direct instructions from the regulatory authority with regard to interception based on the telecommunications laws of Myanmar. Neither are the companies in a position to acknowledge the instructions issued by the authority or the details of any other facts.” The companies’ statement failed to outline the steps they would take to end their direct connection to the junta’s severe human rights violations, in accordance with their international human rights responsibilities. In February 2021, the Netherlands-based ASN Bank divested from KDDI over human rights concerns in their Myanmar operations, while the Danish pension fund P+ has placed KDDI under observation.

Truck manufacturer supplying vehicles to move junta troops

Crédit Agricole has also invested in Sinotruk, a company that has supplied military trucks to the junta since February 2021. Fleets of Sinotruk vehicles have been deployed in the ongoing violent repression and lethal crackdowns on anti-coup protests, civil society and independent journalists by junta troops. Extensive photo and video evidence of the deployment of Sinotruk vehicles – the HOWO truck model – to execute the crackdown were published on social media, in Myanmar media and in a Süddeutsche article on 28 March 2021. This includes armed soldiers being transported to protest sites in Sinotruk vehicles, soldiers shooting at protesters with slingshots and air rifles from these vehicles, and arbitrarily detained protesters being taken away in these vehicles.

The investment in companies making dual-use items, which include goods, software and technology that can be used for both civilian and military applications, should be subject to particular vigilance from financial institutions, particularly when they are in business with dictatorial regimes. **Crédit Agricole’s investment in Sinotruk shows that vigilance has not been enough applied, suggesting serious human rights due diligence failings.**



Indian arms company supporting the Myanmar military

Four Indian companies linked to the Myanmar military are identified by our research, including Bharat Electronics Limited (BEL), a state-owned company that has sold military equipment to the junta since the coup.

India is a major provider of arms and revenue to the Myanmar military, and BEL is part of India’s attempts to cosy up to the junta. A recent UN Special Rapporteur report explains: “*Since the coup, entities within India, including state-owned entities, have shipped at least \$51 million USD of arms, raw materials, and associated supplies to the Myanmar military and known Myanmar arms dealers. A total of 22 unique suppliers based in India shipped arms, dual-use supplies, manufacturing equipment, and raw materials to the Myanmar military.*”

In May 2023, the UN Special Rapporteur on the situation of human rights in Myanmar had already highlighted that *“in July 2021, Indian state-owned Bharat Electronics Limited exported a remote-controlled weapons station (RCWS) / air defence weapon station to Myanmar according to export data.”*¹¹ The Rapporteur’s latest report adds that *“additional research found that shipments continued from India to Myanmar, including state-owned Bharat Electronics’ transfer of the remote controlled weapons station (RCWS) / air defence weapon station up to September 2022. Further research also identified \$28 million USD of shipments direct to the Myanmar military related to a coastal radar surveillance system and \$5.2 million USD of unspecified equipment sent from Bharat Electronics at the end of 2021. The Special Rapporteur also received information indicating that state-owned Bharat Dynamics, one of India’s ammunition and missile systems manufacturers, received over \$7 million USD in payments for unspecified equipment from the Myanmar military since the coup. Given the nature of Bharat Dynamics products, the Special Rapporteur is concerned about the potential impact of these shipments on civilian populations.”*

It is striking to note that while BNP Paribas and Banque Postale have divested from BEL since 2021, Crédit Agricole has started to invest in it, even though BEL’s links with the junta have been made public and communicated to the bank.

While France and India’s bilateral relationship covers defence, [Info Birmanie](#), [Sherpa](#), [Justice For Myanmar](#) and [Reporters Without Borders](#) have publicly questioned the partnerships of French defence group Thalès with BEL, notably noting that the two companies set up a joint-venture named BEL Thales Systems Limited (BTSL) in 2014.

IV. French institutional investors have failed to respect human rights and prevent harms in Myanmar

The revenues that Myanmar’s junta earns from domestic and foreign business deals, including through activities of current recipients of investment by French financial institutions, enables it to continue to carry out gross violations of human rights with total impunity. As shareholders in the listed companies, the finance institutions indirectly invest in, and enable, the Myanmar military’s atrocities by providing the military with the economic means needed to purchase arms and aviation fuel, and in some cases, access to arms and equipment the junta uses in its terror campaign.

Beyond indirectly providing revenue for the junta, the investments of French commercial banks and the French pension fund are not aligned with international standards requiring companies, including institutional investors, to respect human rights by identifying and addressing risks of human rights violations linked to their activities and business relationships. Our analysis below concludes that it also remains highly questionable whether these groups have acted in accordance with their legal obligations under French law on Duty of Care.

11. § 94 page 29, UN Human Rights Council Fifty-third session, 19 June–14 July 2023 ["The Billion Dollar Death Trade: The International Arms Networks that Enable Human Rights Violations in Myanmar."](#)

These investments under the 2017 French Duty of Care law

The 2017 Duty of Care Law applies to any company having its head office in France which, at the end of two consecutive financial years, employs at least 5,000 employees by itself and in its direct or indirect subsidiaries whose head offices are also located in France, as well as to any company having its head office in France and employing at least 10,000 employees itself or in its direct or indirect subsidiaries regardless of where their head offices are located.

It places a positive obligation on companies to identify risks of violations of human rights and fundamental freedoms, devise appropriate measures to reduce such risks and respond to violations that have occurred. Importantly, the law requires companies to identify these types of risks not only with regard to their own activities, but also to the activities of directly or indirectly controlled companies, subcontractors and suppliers with whom a commercial relationship is established. The law prescribes companies within its scope to establish and implement publicly available annual vigilance plans for which they can be held accountable by French courts.

In terms of legal structure, France's major private banks are public limited companies (Sociétés Anonymes), and, with over 5,000 employees, are therefore subject to the 2017 Duty of Care Law. With regard to serious human rights and environmental abuses, the activities of banks that present the greatest risk are their corporate and investment banking and asset management activities.

Of the five commercial banks covered by our research, four had, by 2023, adopted the vigilance plans required by law : Crédit Agricole, Groupe BPCE, BNP Paribas, Société Générale. In light of the published plans, it remains highly questionable whether due diligence has been conducted on the investments in companies with ties to the Myanmar military junta.

If the institutions have conducted any due diligence, it is unclear whether this due diligence has been constantly updated to reflect the changing context in Myanmar following the military's coup in February 2021 and the widespread and systematic atrocities that have followed. It also remains unclear what measures, if any, the banks and the pension fund have devised and implemented to reduce risks of violations. Measures should include engaging recipients of their investment with ties to the junta over concerns of complicity in human rights abuses, including the large-scale imprisonment of journalists and other measures to restrict media freedom.

The negotiation on the EU Corporate Sustainability Due Diligence Directive:¹² questionable advocacy of the French delegation to exclude the banking sector

Under this future EU directive, companies would be legally obliged to conduct human rights and environmental due diligence in relation to their value chains. France has been reported to lobby the European Commission and EU member states to push for a narrow scope of the law, only addressing supply chains – sourcing of products – and excluding a broader value chain scope that would also consider how companies' products and services end up being used.

12. Corporate Sustainability Due Diligence Directive, currently being negotiated by the EU under its "ordinary legislative procedure". Under this procedure, the directly elected European Parliament, representing the people of the Union, and the Council, representing the governments of member states, adopt legislation jointly, on the basis of a proposal by the European Commission. The "European Commission Proposal for a directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937" was released in February 2022. The Council adopted a negotiating position ("general approach") on the directive in December 2022, indicating their position on the directive. On May 1st 2023, the European Parliament voted its position. The co-legislators (European Commission, European Parliament and the Council) are expected to enter negotiations for a final common text to be adopted by the EU.

For the banks and the pension fund covered in this paper, this would mean that their due diligence would be concerned with matters such as the rights of their employees and the way in which the paper cups they drink from have been sourced, rather than to consider risks that their investment enables potential war crimes and crimes against humanity in Myanmar.

On June 1st 2023, the European Parliament voted its position regarding this directive and included the financial sector, retaining the criteria of the value chain to determine the scope of the directive. Yet, there is no guarantee that the directive which should be adopted next year will finally include the financial sector. "The EU members of Parliament will have a lot of work to do to maintain it because the EU Council is against its inclusion, notably because of a push from France" warns Olivier Guérin, Reclaim Finance's advocacy officer.

The effective application of the French Duty of Care Law is also at stake. Excluding the financial sector in the EU directive may impact the scope of the law, which is not accompanied by sufficient guidance by the government notably in relation to which companies it applies to : despite several requests made by civil society and members of parliament to the Ministry of the Economy and Finance, no complete list of companies subject to the 2017 Duty of Care Law has yet been published.

The EU directive could lead to condoning harmful investments by these institutions in companies with poor human rights track records, including in contexts such as Myanmar. Banks might not be held liable for human rights violations that happen through business activities financed by their investments. This would enable the Myanmar military to continue to earn revenues from foreign business deals permitted by the investments of French institutional investors.

The French Pension Fund should lead by example in respecting human rights when investing

The Fonds de Réserve pour les Retraites is a publicly owned, state-funded agency. Operating as a public pension plan, it is a statutory program administered by the French government. As a long-term investor, the Fund is said to encourage the "development of sustainable finance".

In light of increasing expectations for investor responsibility to respect human rights, pension funds have an important role to play given the sheer size of the assets that they control, and they also tend to be subject to additional public and government scrutiny.

In November 2016, the European Union passed a law mandating pension funds to consider environmental, social and governance risks when making investment decisions. The Fonds de Réserve pour les Retraites is a public administrative establishment and has a responsibility to respect human rights linked to its investment activities. In addition, the OECD (Organisation for Economic Co-operation and Development) Guidelines for Multinational Enterprises make clear that their scope of application extends to private, state and mixed ownership multinational enterprises and to enterprises in all sectors of the economy. As a state-owned company, the Fonds de Réserve pour les Retraites is expected to lead by example on business and human rights and should take urgent action to address negative human rights impacts by its investees.

The investments in light of international standards on responsible business conduct

Both the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises apply to the French institutions that have been identified in this research. The UN Guiding Principles on Business and Human Rights provide the practical terms for how companies can know and show that they respect human rights through the proactive process of due diligence. They apply *“to all business enterprises, both transnational and others, regardless of their size, sector, location, ownership and structure.”* As has been formally clarified by the UN Office of the High Commissioner for Human Rights (OHCHR), the Guiding Principles apply to commercial banks and other entities in the financial sector and to any company or commercial vehicle from any other sector that may be a client of, or enter into a business relationship with, a bank. Similarly, in an official statement, OHCHR has confirmed that for companies in the finance sector, the Guiding Principles apply to all types of modalities of investment, including where banks or other institutions in the sector act as shareholders. These standards are also reflected in the OECD Guidelines for Multinational Enterprises, to which France adheres, as has been elaborated in official guidance by the OECD. Specifically, the OECD has developed sector-specific guidance for responsible business conduct in the finance sector including for institutional investors.

The UN Guiding Principles and OECD Guidelines equally apply to financial institutions and actors, such as commercial banks, retail banks, investment banks, rating agencies, financial service providers and institutional investors. In fact, National Contact Points have accepted several OECD cases related to financial institutions' role in human rights abuses and environmental harm of their investee companies, showcasing an already established expectation for financial institutions to address harm in their investment chain. To address the risks of harms to human rights associated with their investment portfolios and potential investments, **institutional investors must, according to these standards, use leverage to influence investee companies that cause human rights harms.** Knowing and showing that risks of human rights harms are accounted for requires active engagement by the financial institutions with the companies in which they invest, which should be applied throughout the entirety of the investment cycle. This includes making choices about investing in the first place, or continuing or ending an investment relationship with companies. A decision to divest should be considered when it is impossible to mitigate and end the harm.

With ongoing credible documentation and reporting at the UN of the human rights crisis in Myanmar, **Crédit Agricole, Groupe BPCE, BNP Paribas, La Banque Postale, Société Générale and Fonds de Réserve pour les Retraites must have known that their investment in companies, including companies in the arms sector, linked to the Myanmar junta take place in a context in which the military is committing repeated grave violations of international human rights and humanitarian law. By keeping investing in these companies these groups are indirectly supporting the junta's indiscriminate attacks against civilians.**

Leverage of action: responsible exit

In some cases, disengagement from client relationships may be unavoidable. Both the UN Guiding Principles on Business and Human Rights and the OECD Guidelines refer to disengagement as an option for companies as part of their efforts to seek to address adverse human rights risks and respond to impacts that have occurred.

The Guiding Principles note that: *“If the business enterprise has leverage to prevent or mitigate the adverse impact, it should exercise it. And if it lacks leverage there may be ways for the enterprise to increase it...There are situations in which the enterprise lacks the leverage to prevent or mitigate adverse impacts and is unable to increase its leverage. Here, the enterprise should consider ending the relationship... The more severe the abuse, the more quickly the enterprise will need to see change before it takes a decision on whether it should end the relationship.”*

The OECD’s negotiated 2019 Guidance for Responsible Business Conduct also contains valuable additional points on how a company should consider disengagement. The guidance notes that *“any plans for disengagement should also take into account how crucial the supplier or business relationship is to the enterprise, the legal implications of remaining in or ending the relationship, how disengagement might change impacts on the ground, as well as credible information about the potential social and economic adverse impacts related to the decision to disengage.”*

In the case of Myanmar, human rights violations are endemic and the risks of investing in companies with ties to the military junta are well known as sustaining the junta financially has also enabled it to attempt to gain control, and continue purchasing arms, military hardware and aviation fuel used to commit atrocities. The companies in which the French institutional investors subject to the research hold shares are well known for their ties to the junta - these ties have been widely documented and reported. The commercial banks have also been alerted to these ties as early as July 2021. Many have nonetheless decided to maintain or develop new investments in such companies and seemingly not sought to exercise leverage over their actions. If leverage has been applied, it appears this leverage had no effect on the companies.

Where the financial institutions covered in this paper decide to divest, if they have contributed to human rights violations together with their investees, then exiting the relationship does not extinguish the responsibility to contribute to remedy. In addition, if disengagement should be responsible and if despite the preventive measures take disengagement itself nevertheless causes adverse impacts, then the institutions are responsible for providing remedies for those impacts to the extent of their contributions.

Divestment from the companies cited in this report will not absolve the financial institutions from their previous indirect contribution to human rights harms together with their investees. Nevertheless, after more than two years of continuous human rights violations in Myanmar - indirectly and directly supported by these companies- and a constant failing to address this issue by the financial institutions, divestment may be the most responsible action left.

V. Our demands

As the research has confirmed, French institutional investors should be considered as being contributing to violations in Myanmar by virtue of their investment in companies with direct links to Myanmar’s military.

To financial institutions

- Given the longstanding ties between **the companies in category 1** and the Myanmar military, the French institutions identified as shareholders should **divest immediately in a responsible manner from these companies.**
- For those companies in **category 2**, with a direct commercial relationship with state owned enterprises that came under military control following the staged coup, banks and other investors were expected, since 2021 when ties were exposed, to **engage with these companies to ensure they immediately take specific actions** under international standards on business and human rights. **If the institutional investors have engaged with companies in category 2 and the companies have not suspended their operations on projects that are funding the junta, then the institutional investors should divest their shares in these companies. If they have not yet engaged with these companies, then they should urgently do so and divest if sufficient progress is not made for the investees to end their support for the junta.**

To the French government

- Ensure that the **public fund "Fonds de Réserve pour les Retraites"** has no direct or indirect investment in companies linked with the Myanmar military.
- **Encourage French companies and investors with connections to Myanmar to do enhanced human rights due diligence and ensure they are not providing financial resources or other forms of support to the junta and military conglomerates.**
- Raise concerns **over arms sales to the Myanmar junta within its bilateral relationship with India - which includes defence** - as *"India's continuing transfer of materials used in surveillance equipment and artillery as well as, probably, missiles—all manufactured by state-owned entities—arguably runs afoul of its obligations under customary international law and international humanitarian law."*¹³
- **Give the Duty of Vigilance Law full practical effect in France regarding companies in the finance sector.** Not doing so would not be in line with France's repeated condemnation of the coup and the atrocities that followed, while the military junta's income from domestic and foreign - including French - business transactions allow it to commit gross human rights violations with impunity.
- **Ensure that the future EU Directive does not undermine the responsibilities of companies in the finance sector** to conduct due diligence on their investment activities.

13. § 104 page 30, UN Human Rights Council Fifty-third session, 19 June-14 July 2023 ["The Billion Dollar Death Trade: The International Arms Networks that Enable Human Rights Violations in Myanmar."](#)

French financial institutions' shareholdings in companies linked to the Myanmar military cartel, in million USD

Companies / French financial institutions		Business sector	Crédit Agricole	Groupe BPCE (Caisse d'Épargne, Banque Populaire, Crédit Coopératif, Oney...)	BNP Paribas	La Banque postale	Société Générale	Fonds de Réserve pour les Retraites
Category 1: Direct link and/or long-term relationship with the military								
	Bharat Electronics Ltd		2,90					
	Adani Ports and Special Economic Zone Ltd		2,80					
	Daiwa House Industry Co Ltd		31,90	2,30	3,00	1,00		5,30
	Hilton Worldwide Holdings Inc		290,30	495,00	98,40	1,40	0,90	
	Posco		14,30	1,90	0,10			
	Shangri-La Asia Ltd		0,30					0,30
	Sinotruk Hong Kong LTD		0,60					
	Tokyo Tatemono Co Ltd		2,40	0,10	13,90			
	Sub total		345,50	499,30	115,40	2,40	0,90	5,60
Category 2: Direct relationship with Burmese state-owned enterprises								
	Chevron Corp		1 740,00	429,00	261,30	6,20	0,20	13,70
	GAIL (india) Ltd		3,50			0,20		
	Oil and natural Gas corporation Ltd		4,50					
	KDDI Corp		339,20	4,70	80,10	3,90		6,20
	PTT Exploration and Productions PCL		11,70		1,20			
	Sumitomo Corp		17,90	0,80				
	Sub total		2 116,80	434,50	342,60	10,30	0,20	19,90
3. New companies								
Cat 1	AviChina Industry & Technology Company		0,90					
	Baker Hughes		464,10	23,00	70,40	2,10	5,60	2,00
	China Oilfield Services Limited		28,80					
	Diamond Offshore Drilling			0,30			0,30	
Cat 2	Halliburton		182,30	99,50	64,10	2,10	0,80	
	PTT		8,30					
	Schlumberger		946,10	83,70	114,10	3,00	22,50	1,60
	Weatherford International			76,00			0,40	
	Sub total		1 630,50	282,50	248,60	7,20	29,60	3,60
	Total		4 092,80	1 216,30	706,60	19,90	30,70	29,10
	Percentage in fossil fuels sector		83,16	58,65	72,35	68,34	97,07	59,45
	Percentage in telecommunications sector		8,73	0,45	11,34	19,60	0,00	21,31
	Percentage in arms and military equipment sector		0,11	0,00	0,00	0,00	0,00	0,00
Total investments to March 2023			6 095,40			This table shows the amount, in millions of US dollars rounded up to the next decimal place, that each bank and its asset management subsidiary, hold in shares in each of the companies listed above. The data was extracted by Profundo in March 2023.		
Percentage of total investments in fossil fuels sector			76,93					
Percentage of total investments in telecommunications sector			7,43					

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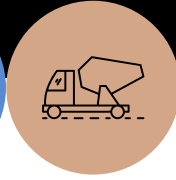
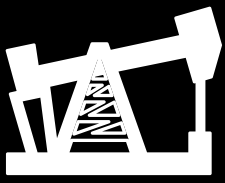
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#What does your bank finance?

Investing in Myanmar's military cartel

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