

TO:

NOEL QUINN, CHIEF EXECUTIVE OFFICER
8 CANADA SQUARE
E14 5HQ
LONDON
UNITED KINGDOM

SUBJECT:

HSBC'S FINANCIAL TIES TO HUMAN RIGHTS VIOLATIONS IN US IMMIGRATION DETENTION
FACILITIES RUN BY CORECIVIC AND GEO GROUP

20 MAY 2022

Dear Mr. Quinn,

We are writing to express our concerns regarding your bank's financial ties with private detention companies CoreCivic and GEO Group. These companies run several immigration detention facilities across the United States where numerous human rights violations have been recorded and are still ongoing. Through its continued financial engagement with CoreCivic and GEO Group, HSBC is linked to the adverse impacts of these companies and may be in breach of its responsibilities as outlined in the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights.

The human rights violations at CoreCivic and GEO Group facilities – including sexual, physical, and verbal abuse; punitive use of solitary confinement; unsanitary conditions; denial of basic necessities; medical neglect; and lack of access to legal assistance – are well-known and have been widely reported over many years.¹ Those violations amount to breaches of international law, including of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the 1951 Convention Relating to the Status of Refugees, and the Convention Against Torture. Additionally, in contravention of the Forced Labour Convention, CoreCivic and GEO Group force detained migrants to perform uncompensated labour under threat of solitary confinement; physical restraint; suspension of attorney and family visitation; deprivation of necessities like food, water, and hygiene products; and negative interference with ongoing asylum cases.²

Under the OECD Guidelines for Multinational Enterprises (the Guidelines) and the UN Guiding Principles on Business and Human Rights (UNGPs), banks and investors have clear responsibilities that extend to the impacts of the companies they finance. Enterprises – including banks – should 'avoid causing or contributing to adverse impacts [...] through their own activities, and address such impacts when they occur', and should 'seek to prevent or mitigate an adverse impact where they have not contributed to that impact, when the impact is nevertheless directly linked to their operations, products or services by a business relationship'.³

Further guidance for the financial sector made available by the OECD makes it clear that shareholdings can be interpreted as a business relationship under the Guidelines, hence that 'investors, even those with minority shareholdings, may be directly linked to adverse impacts caused or contributed to by investee companies as a

¹ See, e.g., Human Rights First (April 2022), 'I'm a Prisoner Here': Biden Administration Policies Lock Up Asylum Seekers; Texas Law Immigration Clinic and Grassroots Leadership (March 2021), Cruelty and Corruption: Contracting to Lock Up Immigrant Women for Profit at the Hutto Detention Center; Taylor Koehler (2021), Arbitrary & Cruel: How U.S. Immigration Detention Violates the Convention against Torture and Other International Obligations; ACLU, NIJC, and Human Rights Watch (2020), Justice-Free Zones: U.S. Immigration Detention Under the Trump Administration; Human Rights Watch et al. (June 2018), Code Red: The Fatal Consequences of Dangerously Substandard Medical Care in Immigration Detention.

² See, e.g., Owino v. CoreCivic, Inc., No. 17-CV-01112, 2020 WL 1550218, at *21 (S.D. Cal. Apr. 1, 2020); Novoa v. GEO Grp., Inc., Complaint for Declaratory and Injunctive Relief and Damages, No. 17-02514 (filed Dec. 19, 2017).

³ OECD (2011), OECD Guidelines for Multinational Enterprises, p. 20 (11), (12).

result of their ownership in, or management of, shares in the company'.⁴ In addition, banks can *contribute* to or be *directly linked* to an adverse impact caused by a client or an investee company through lending and underwriting services.⁵

Our research indicates that HSBC has been involved in lending to GEO Group and CoreCivic since at least 2013, and currently has shareholdings in both CoreCivic and GEO Group. We have identified the following instances of financial involvement:

- Current ownership of about 329,000 shares of GEO Group;⁶
- Current ownership of about 30,000 shares of CoreCivic;⁷
- Loan to CoreCivic in 2013, and GEO Group in 2014.⁸

In light of the above, HSBC is *directly linked* to the adverse human rights impacts arising from the activities of CoreCivic and GEO Group in US immigration detention facilities. The direct link is established through the bank's business relationship with CoreCivic and GEO Group, as defined by its shareholdings in the companies and previous lending. HSBC may also be *contributing* to adverse human rights impacts, depending on the extent to which it 'may encourage or motivate an adverse impact', the extent to which it 'could or should have known about the adverse impact or potential for adverse impact,' and the degree to which any of its activities "mitigated the adverse impact or decreased the risk of the impact occurring."⁹

We are writing to you to bring these issues to your attention, and to call on HSBC to take all measures expected under the Guidelines to ensure the impacts are remediated. In addition, we request a meeting to discuss such measures, including meaningful ways HSBC is using and may use its leverage. We remind HSBC that the Guidelines go so far as to call for divestment "as a last resort after failed attempts at preventing or mitigating severe impacts; when adverse impacts are irremediable; where there is no reasonable prospect of change; or when severe adverse impacts or risks are identified and the entity causing the impact does not take immediate action to prevent or mitigate them."¹⁰

We would be grateful to receive a response from you by June 10, 2022, via email and to organise a call to discuss these matters further.

Sincerely,

Anna Joseph
Coalition for Immigrant Freedom, Policy Counsel
Ajoseph@coalitionfreedom.org

Ryan Brightwell
BankTrack, Campaign Lead Banks and Human Rights
ryan@banktrack.org

⁴ OECD (2017), Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises, p. 35.

⁵ OECD (2019), Due Diligence for Responsible Corporate Lending and Securities Underwriting: Key considerations for banks implementing the OECD Guidelines for Multinational Enterprises, p. 46 (Example B).

⁶ GEO Group Ownership Summary, accessed via FactSet by Coalition for Immigrant Freedom on May 12, 2022.

⁷ FactSet, CoreCivic Ownership Summary, accessed via FactSet by Coalition for Immigrant Freedom on May 12, 2022.

⁸ GEO Group Company Loans, 2013-2021, accessed via Eikon by SOMO on February 18, 2022.

⁹ See OECD (2018), OECD Due Diligence Guidance for Responsible Business Conduct, p. 70.

¹⁰ *Id.* at 31.