SO SUE ME

Canadian banks' greenwashing might make legal action unavoidable

March 2023

GREENPEACE

SO SUE ME

A GREENPEACE CANADA REPORT

With support by the Greenpeace Canada Education Fund

Greenpeace Canada Contributors
Authors: Nola Poirier, Priyanka Vittal

This report was first published in March 2023 and was redesigned with no change to content in November 2023.
Redesign by Arnab Majumdar

GREENPEACE

GREENPEACE CANADA EDUCATION FUND

EXECUTIVE SUMMARY

The big five Canadian banks are still providing billions—and billions—of dollars to fossil fuel companies. Since the Paris Climate Agreement came into force in 2016, these five banks (RBC, Scotiabank, TD, BMO, and CIBC) have continued to provide massive fossil fuel loans and investments (1), and have allowed their funding to go towards fossil fuel expansion (2). In 2016, the five banks together provided $101 billion USD and in 2021, their funding totalled $131 billion USD (3). This is despite seven years of making public and investor-focussed announcements about their climate actions and commitments, and a warning from the International Energy Agency that new fossil fuel expansion must stop immediately if we are to limit global heating (4). All of the big five are in the top 20 global banks financing fossil fuel expansion, and two of them (RBC and Scotiabank) are among the top ten (5).

As the impacts of climate change worsen and marginalized communities are disproportionately affected (6), Big Oil is getting richer (7), and the public is becoming more attuned to the wide gap between financial institutions' climate pronouncements and their actions. While Canadian banks paint themselves as corporate climate leaders, they continue to fund fossil fuel expansion, despite the fact that fossil fuel emissions are the greatest driver of climate change (8). But when climate science and global net-zero commitments don't convince banks to take action, what recourse do harmed communities, clients, investors and the public have against these financial behemoths?

Globally, the failure of banks to meaningfully follow through on their climate commitments has pushed governments and civil society to take legal action to hold banks accountable. Given the stark discrepancy between the climate pledges and policies of all five of Canada's big banks, it is possible, even likely, for legal action to gain momentum here. In Canada, there are only a few mechanisms to hold corporate bodies accountable, but the greenwashing, regulatory, and shareholder lawsuits being brought against companies around the world may be indicative of what's to come — and offer a powerful tool to force banks to put their money where their mouth is.

The tables below highlight this disparity for the two worst Canadian banks—RBC and Scotiabank (9) —and demonstrate the failure of these banks to take the actions they claim to be taking.

CLIMATE ACTION: LOTS OF TALK, LITTLE WALK

RBC and Scotiabank have both acknowledged climate change as one of the most pressing issues of our time (10) and the key role of financial institutions in tackling it (11). Some of their statements have been aspirational, printed in glossy annual reports. Other statements have been straightforward and explicit in outlining actions to meet their commitments, such as: tying the bank to UN-mandated net-zero emissions goals through global commitments including the Glasgow Finance Alliance For Net Zero (GFANZ) (12), tracking their progress through Environmental and Social Governance (ESG) reports, and developing impact measurement frameworks. Even reading just a few examples of their declarations would likely impress upon investors and the public that these banks are taking meaningful action.

The contradiction between what the banks claim to care about, and where they are putting their money has been well documented (13), but a quick look at some of the climate statements of these two banks, alongside their funding of the biggest driver of the climate crisis—the fossil fuel industry (14) —reveals that they have made little progress on climate action in the area where it counts most.

Year	What they said	What they did (15)
2016	"Our social and environmental initiatives and investments will deliver a positive and lasting impact to shape the future." (16)	Funded **102** fossil fuel companies Totalling **$29,864,540,941 USD**
2017	"RBC's Climate Change Position Statement affirms that we ... [w]ill have an important role to play in supporting an orderly and socially inclusive transition to a low carbon economy, as government actions cannot succeed without support and partnership from the private sector." (17)	Funded **124** fossil fuel companies Totalling **$38,829,210,156 USD**
2018	"We believe strongly that the financial system should be at the forefront of contributing to a healthier planet, helping to lay the foundations for a more sustainable path towards a low-carbon economy." (18)	Funded **130** fossil fuel companies Totalling **$38,564,003,008 USD**
2019	"Our ability to finance innovation in the decades ahead, create the technologies that will power the 21st century and help transform the economy to a cleaner one depends on the policy and business decisions made today." (19)	Funded **132** fossil fuel companies Totalling **$35,945,491,275 USD**
2020	"RBC believes climate change is one of the most pressing issues of our time, and we have an important role to play in supporting the transition to a low-carbon economy." (20)	Funded **100** fossil fuel companies Totalling **$19,268,227,329 USD**
2021	"RBC will continue to contribute meaningfully to reduce and eliminate GHG emissions from economic activity." (21)	Funded **135** fossil fuel companies Totalling **$38,757,115,917 USD**
2022	"Global plans to drastically reduce greenhouse gas emissions to net-zero by 2050 require the largest change to our economies in our lifetime, and one that the Royal Bank of Canada (RBC®) is fully committed to supporting." (22)	2022 funding figures TBA (23).

Scotiabank®

Year	What they said	What they did (24)
2016	"A better future needs a healthy planet. By setting emission reduction targets and taking action to meet them, we seek to reduce our impact on climate change." (25) "At Scotiabank, we recognize that a better, more prosperous future is intrinsically linked to the well-being and health of our planet, and we are committed to reducing our impact on the environment." (26)	FFunded **70** fossil fuel companies Totalling **$20,809,554,021 USD**
2017	"Businesses have an opportunity to help create a better future. We make investments in sustainable solutions and lend in a way that mitigates social and environmental risk." (27)	Funded **74** fossil fuel companies Totalling **$25,866,924,585 USD**
2018	"By financing sustainable solutions that support the transition to a low-carbon economy, setting an internal price on carbon emissions and factoring climate change-related risks and opportunities into lending and investment decisions, we are helping lay foundations that will sustain us for decades to come." (28)	Funded **89** fossil fuel companies Totalling **$29,014,079,118 USD**
2019	""Scotiabank has taken leading positions on climate change, diversity and inclusion, and the promotion and safeguarding of human rights" (29) "Scotiabank supports the principles of the Paris Agreement." (30)	Funded **91** fossil fuel companies Totalling **$27,007,270,409 USD**
2020	"Scotiabank has redoubled its efforts to enable and capitalize on the shift to a low carbon future through its sustainable finance activities and to effectively manage climate-related risks." (31)	Funded **81** fossil fuel companies Totalling **$16,243,719,126 USD**
2021	"How we choose to bank impacts the world around us, from individual communities, to our broader society, to the natural environment. That is our purpose – to be there, for every future – as a force for good." (32)	Funded **79** fossil fuel companies Totalling **$30,402,496,033 USD**
2022	"We believe climate change is one of the most pressing issues of our time." (33) "As an international financial institution, we have both the responsibility and opportunity to act, while also enabling others for every future." (34)	2022 funding figures TBA (35).

ARE THEY... GREENWASHING?

The incongruity between what banks are claiming and what they are funding raises the question of greenwashing. Many banks are quick to highlight awards they have received for their "sustainable practices" (36), and as proof of their commitments, they will feature the international commitments of bodies they are signatories to or abide by, including the Net Zero Banking Alliance (NZBA) (37), the Equator Principles (38), and the UN's Principles for Responsible Investment (PRI) (39). However, without the requirement of NZBA members to align with the United Nations Race to Zero criteria, the efficacy of these industry-led alliances remains to be seen (40). As well, Reclaim Finance and others have reported on the contradictory expansion of financial support for major oil and gas companies by the NZBA's 20 largest members (41). On February 6, 2023, founding member GLS Bank decided to leave the NZBA (42), citing concerns about fellow signatories' continued support of oil and gas development in Africa.

The big five Canadian banks have web pages designed to advertise their climate commitments with images of nature and renewable energy that talk about climate ambitions and actions. But, while they may be taking some steps toward addressing climate change, these actions do not compare to their robust fossil fuel funding. For example, while RBC's webpage on climate features an image of wind turbines (43), RBC's renewable energy share only amounts to a meagre 1% (44) of its energy funding, with the other 99% going into fossil fuels (45).

Government bodies globally and domestically are starting to take action on greenwashing and hold banks and other financial institutions accountable for their statements (46). Experts, law firms, academics, and insurance providers, among others have been speculating about the legal risks to banks, not only of climate change itself, but also the duties of bank directors in terms of effective oversight, management of climate risks, exposure to litigation, and reputation (47).

Government enforcement actions and civil suits alleging greenwashing are on the rise through a myriad of different laws, including securities regulations, consumer protection laws, and advertising standards, as well as fraud and misrepresentation statutes. In Canada, we are starting to see a lot of discourse around greenwashing and ESG, and the potential of climate litigation against financial institutions as a "when" scenario, not an "if" (48). While greenwashing cases have yet to be addressed through civil lawsuits in Canada, we are starting to see other legal (legislative or enforcement) mechanisms being used while legislation, courts, and regulators prepare themselves for what is to come.

CONSUMER PROTECTION

In Canada, the Competition Bureau offers some legal bases for challenging greenwashing practices (49). The Competition Bureau is an independent law enforcement agency set up to advocate for and protect Canadian consumers while fostering a competitive marketplace for Canadian business. They enforce the *Competition Act, Consumer Packaging and Labelling Act, Textile Labelling Act* and *Precious Metals Marking Act*, and take action when business is not carried out in ways that are truthful, fair, and legal. One of the ways they work to protect and promote competition is by ensuring truth in advertising (50).

Competition law in Canada has been used to successfully prosecute greenwashing claims against large corporations like Keurig and Volkswagen/Audi. In 2019, Ecojustice and the UVic Environmental Law Clinic filed a complaint with the Bureau over Keurig Canada's claims regarding the recyclability of its single-use coffee pods (51). As well, in 2016, the Competition Bureau participated in a proposed Canadian class action settlement agreement that Volkswagen reached with consumers of certain 2.0 litre diesel vehicles (52). This settlement provided buyback and restitution payments to those consumers totalling up to $2.1 billion—one of the largest consumer settlements in Canadian history.

And the spotlight may be turning to banks. On April 21, 2022, Ecojustice and Stand.earth, along with six members of the public, filed a complaint about RBC's alleged misleading advertising related to the bank's commitments on climate action while continuing to finance fossil fuel development (53). On September 29, the Competition Bureau notified Ecojustice that the inquiry had commenced.

We all lose if banks abandon their climate commitments instead of meeting them. But the timeline for climate action necessitates near-term purposeful action, not years of lip-service. And for that, we need accountability and compliance. The growing attention on greenwashing offers hope that the Canadian government will monitor banks' claims more closely, and hold them to their promises (54).

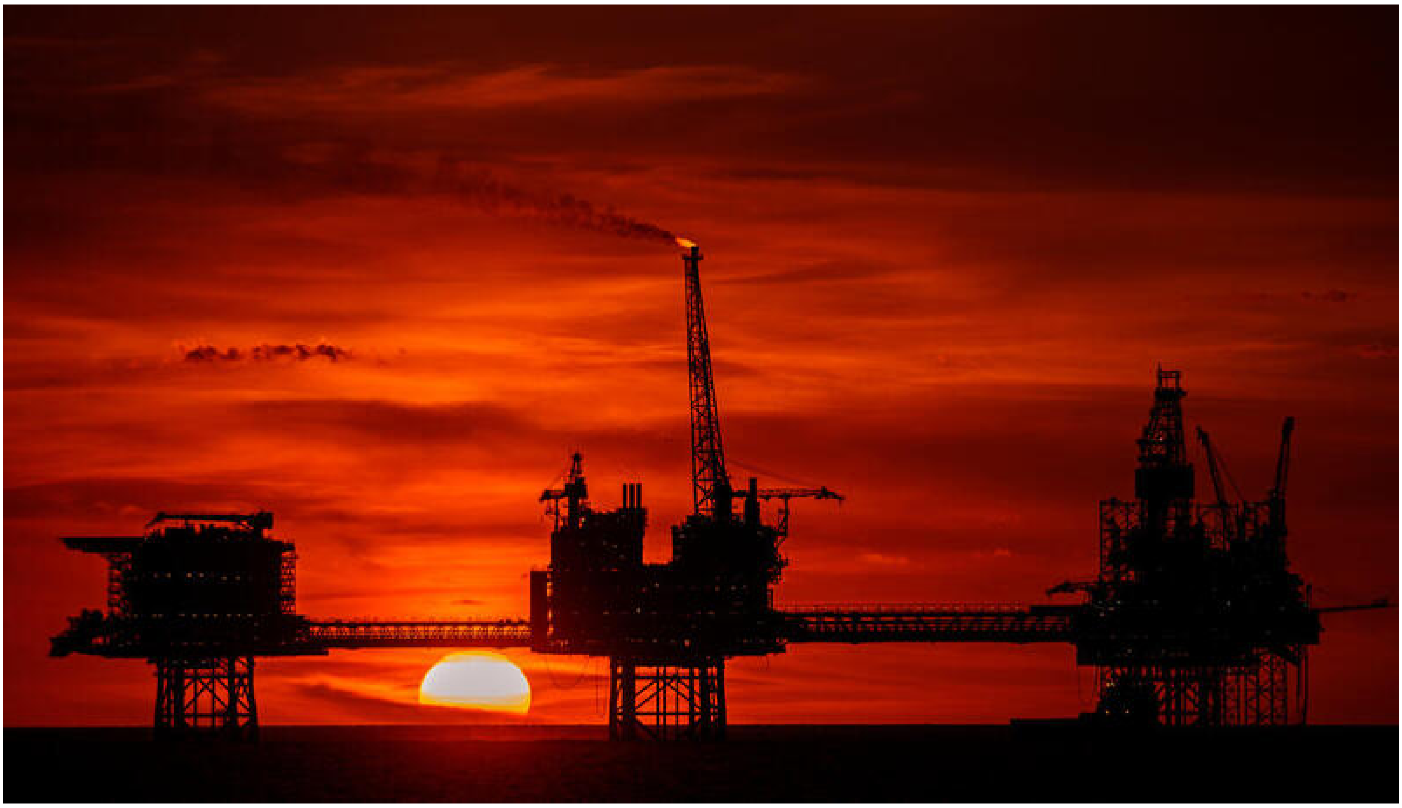
SECURITIES REGULATION

Compared to its US and EU counterparts, securities law in Canada is not nationally regulated nor is there a robust advertising regulation or a singular securities regulatory body like the US Securities and Exchange Commission (SEC). Each province and territory has a Securities Commission or office that administers the respective province's securities legislation. Canada also has informal umbrella organizations or coordinating bodies that regulate particular segments of the financial services industry, leading to the characterisation that securities regulation in Canada consists of a "patchwork of legislation, regulations, rules, instruments, and policies" (55).

In the context of banks, there are two relevant organizations (besides provincial regulators): the Canadian Securities Administrators (CSA), and New Self Regulatory Organization (New SRO) (56). The CSA is the overarching umbrella organization of Canada's provincial and territorial securities regulators (57). CSA policies, called "National Instruments", are binding—although enforcement is conducted on an individual basis by each province or territory. Unfortunately, the CSA's proposed National Instrument on climate change risk disclosure (58), which would introduce specific disclosure requirements regarding climate-related matters for most public companies in Canada, has yet to be finalized. Promisingly, investors have expressed clear interest in strengthening the proposed national instrument and have called for stronger climate related disclosure (59).

New SRO "oversees all investment dealers, mutual fund dealers and trading activity on Canada's debt and equity marketplaces" in order to protect investors (60). Under securities legislation and regulation, banks who buy and sell securities (such as bonds and stocks) are considered Investment Dealers and are required to comply with New SRO (61). All of Canada's national banks are Dealer Members, and thus need to comply.

The rules for banks include provisions that bar them from issuing correspondences containing untrue statements, omissions of a material fact, or that use unrepresentative statistics to suggest unwarranted or exaggerated conclusions, and are detrimental to the interests of the public, New SRO, or its Dealer Members (62). New SRO is able to enforce these rules through investigations and hearings, and is able to charge fines and impose terms or conditions on the penalized Dealer Member. To our knowledge, no successful misrepresentation claim regarding greenwashing has been brought through New SRO or CSA procedures to date. However, that may change in light of the increased and long overdue focus on the climate change disclosures of financial and investment institutions.



GLOBAL CONTEXT

Globally, legal regulations are providing an increasing number of strategies to hold banks accountable, whether through the traditional court system or through national regulatory bodies across different areas of law. Regulatory tools are being used successfully in the US and Europe where there are stronger consumer protection laws and advertising standards compared to Canada. Canadian banks that operate in other jurisdictions may be held accountable via regulatory mechanisms in those areas.

US regulations

In March of 2021, the US SEC, announced its creation of a new Climate and ESG Enforcement Task Force, mandated to proactively identify ESG-related misconduct in disclosures, investments, and compliance efforts (63). In this short time, we are already seeing complaints rolling in and enforcement handed out. As part of the SEC's commitment to crack down on misleading claims by managers of ESG funds, the SEC announced in May 2022 that it charged the BNY Mellon Investment Adviser, Inc. for misstatements and omissions about ESG considerations in investment decisions for certain mutual funds that it managed. BNY Mellon agreed to pay a $1.5 million USD penalty (64). Later that same year, the SEC charged Goldman Sachs Asset Management for failing to follow its own ESG policies and procedures when researching and deciding which companies to include under investment funds. Without admitting or denying the findings, Goldman Sachs consented to a cease-and-desist order, censure, and a $4 million USD penalty (65).

In February 2023, Global Witness submitted a complaint to the SEC, accusing Shell of inflating its overall investment in renewables by including some of its gas-related investments in the figures. The fossil fuel giant is claiming to spend 12% of its annual expenses on "Renewables and Energy Solutions," however Global Witness revealed that it spent only 1.5% (66). In addition to exercising its enforcement powers, the US SEC is expected to release several climate-friendly policies in 2023, including its final draft of binding policies that would mandate scope 1, 2, and 3 targets and emissions for US-listed companies (67). This would be a significant step toward increasing public transparency and accountability across all sectors. Furthermore, the big five Canadian banks would be affected by these policies, as they are all listed on the New York Stock Exchange and active in the US market.

EU regulations

Paralleling the US SEC's crackdown on greenwashing, the European Securities and Markets Authority (ESMA) published its Sustainable Finance Roadmap for 2022-2024 which outlined three strategic priorities for its sustainable finance work, notably "tackling greenwashing and promoting transparency" (68). This goal has manifested in part through a recent joint review of greenwashing in ESG investments, alongside the European Banking Authority (EBA) and European Insurance and Occupational Pensions Authority (EIOPA) (69). An in-progress report on the panel's findings is expected in May 2023, and the final report in 2024.

There has also been an increasing wave of litigation regarding the financial services industry's greenwashing in Europe. After a series of whistle-blower investigations and a subsequent raid (70) by German prosecutors, Deutsche Bank's asset management unit DWS is now being sued by consumer group Verbraucherzentrale Baden-Württemberg (71). The suit argues that DWS misrepresented its involvement with the coal industry in its ESG Climate Tech Fund marketing materials, which allegedly held contradictory statements such as claiming to invest 0% into coal projects while also reporting that funds could include companies that made up to 15% of their total revenue in coal. This civil suit, in conjunction with the potential regulatory fines DWS may owe (72), sends banks a strong message that consumers are attentive and will not be silent in the face of greenwashing and potentially misleading advertisement.

In France, NGOs Oxfam, Friends of the Earth, and Notre Affaire à Tous are using "vigilance law" to hold BNP Paribas (tenth biggest global fossil fuel funder since the Paris Agreement) (73) to account (74). Under this corporate duty, large companies are given three months to comply and produce a vigilance plan that outlines its strategy to identify, prevent and mitigate risks to human rights and the environment. Failure to comply opens companies up to civil liability, which could permit the three NGOs to sue BNP Paribas for damages.

Under this regime, companies may also be fined 10 million euros for non-compliance (75). The NGOs have expressed their intent to commence the civil suit if BNP Paribas does not comply within the three-month period that began on October 26, 2022. On February 23, 2023, the three NGOs announced they would sue BNP Paribas over its support of fossil fuels and for its substantial contribution to climate change (76).

UK regulations

In the UK, the Advertising Standards Authority (ASA) received 45 complaints over HSBC's poster campaign leading up to COP26 (77). The two adverts in question featured HSBC's commitment to "provide up to $1 trillion in financing and investment globally to help [their] clients transition to net zero," and their initiative to "plant two million trees which will lock in 1.25 million tonnes of carbon over their lifetime." The ASA found that the statements were misleading and ordered HSBC to remove the posters, pointing to how the bank misled consumers by materially omitting significant information about its contributions to carbon dioxide and greenhouse gas emissions. The ASA acknowledged that average consumers would not know that HSBC was significantly financing investments into carbon-intensive industries, but had they known, it would significantly affect consumers' understanding of the ads' overall message; therefore, this information ought to have been made clear on the posters (78).

CONCLUSION

Unfortunately, banks have not responded to the climate science and taken meaningful and immediate action themselves. In fact, given the continuing gap between the climate promises of the big five Canadian banks and their billions of dollars in fossil fuel funding ($131,312,280,379 USD in 2021) (79), it is clear that while scientific evidence, global coalitions, and civil society have pushed banks to make commitments, that pressure hasn't yet driven them to keep their commitments. Legal tools offer another possible means for stakeholders and the public to hold banks to account.

Global greenwashing cases signal the type of legal action we may see in Canada in response to the wide gap between what banks say and what they do. While legal tools are starting to be used, and civil society has brought cases to the fore, in Canada to date there are no known criminal enforcement, civil lawsuits, or provincial regulatory mechanisms that have been exercised to address complaints from investors. However, it's likely that the momentum of lawsuits will build as new precedent is established and with increased attention on climate hypocrisy.

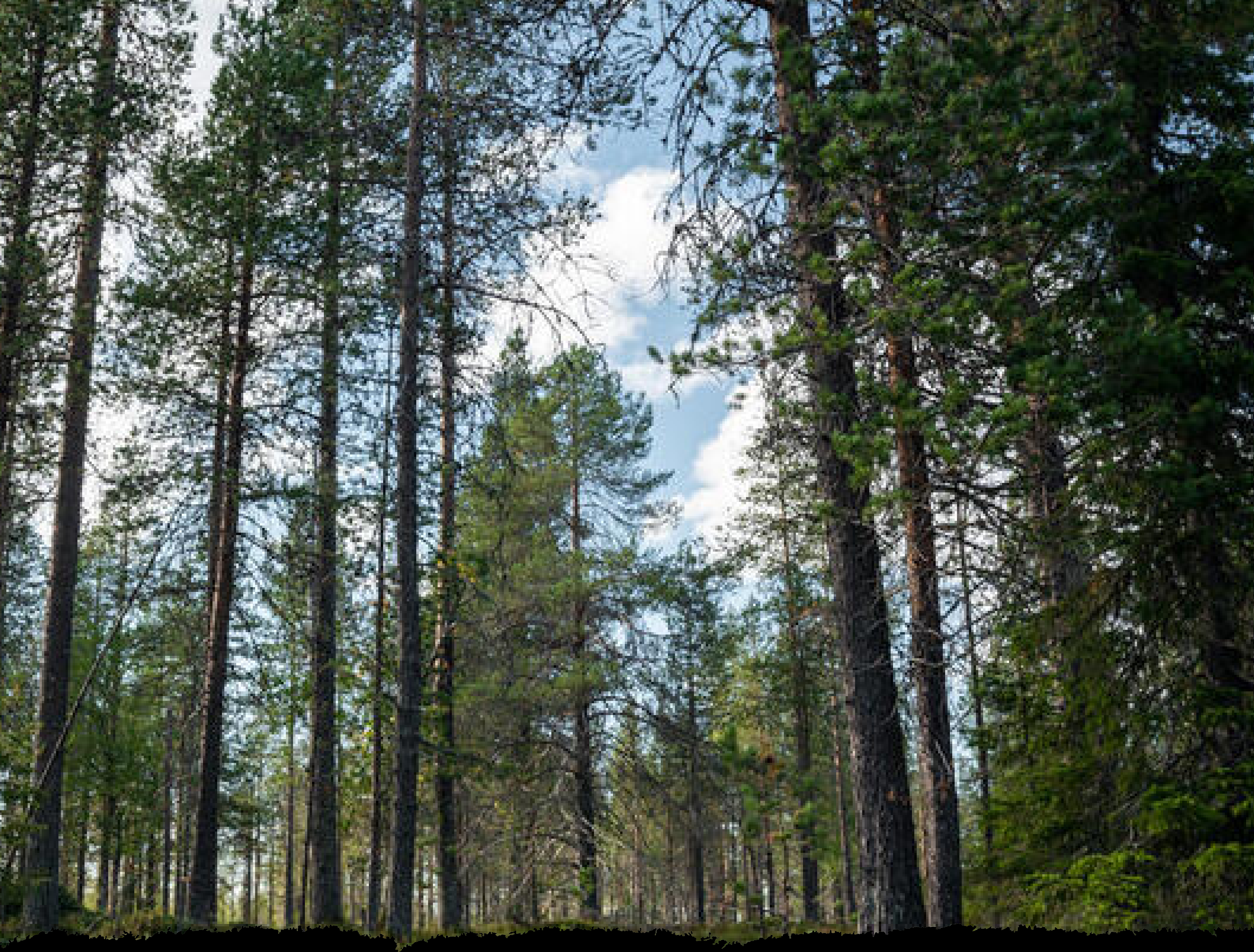
Canadian banks have said, "the financial system should be at the forefront of contributing to a healthier planet..." (80) and financial institutions "have both the responsibility and opportunity to act" (81), but their ledgers don't seem to reflect this wisdom. The climate clock is ticking. It's critical that banks take the actions they are claiming to be taking. RBC says, "we believe taking action now is imperative" (82) and we agree. The question is, what will it take for them to do so?

NOTES

1 Rainforest Action Network, BankTrack, Indigenous Environmental Network, Oil Change International, Reclaim Finance, Sierra Club, and Urgewald "Banking on Climate Chaos: 13th annual Fossil Fuel Finance Report" 2022.
2 Reclaim Finance. "Throwing Fuel on the Fire," January, 2023. Pages 15 and 43. See also: The Guardian. "Banks still investing heavily in fossil fuels despite net zero pledges—study." Jan 17, 2023. www.theguardian.com/environment/2023/jan/17/banks-still-investing-heavily-in-fossil-fuels-despite-net-zero-pledges-study
3 Data compiled for these five banks from: Rainforest Action Network, BankTrack, Indigenous Environmental Network, Oil Change International, Reclaim Finance, Sierra Club, and Urgewald "Banking on Climate Chaos:13th annual Fossil Fuel Finance Report" 2022.
4 International Energy Agency. "Net Zero by 2050: A Roadmap for the Global Energy Sector" May 2021. Accessed Feb 6, 2023: www.iea.org/reports/net-zero-by-2050 A Roadmap for the Global Energy Sector
5 Rainforest Action Network, BankTrack, Indigenous Environmental Network, Oil Change International, Reclaim Finance, Sierra Club, and Urgewald "Banking on Climate Chaos: Fossil Fuel Finance Report 2022. Page 8. www.ran.org/wp-content/uploads/2022/03/BOCC_2022_vSPREAD-1.pdf
6 US Environmental Protection Agency news release. "EPA Report Shows Disproportionate Impacts of Climate Change on Socially Vulnerable Populations in the United States." Accessed Feb 14: www.epa.gov/newsreleases/epa-report-shows-disproportionate-impacts-climate-change-socially-vulnerable
7 Evans, Pete. CBC News online. "Big Oil walks back climate pledges as earnings show 2022 was their most profitable year ever." Feb 8, 2023. Accessed Feb 14 at: www.cbc.ca/news/business/big-oil-profits-climate-1.6739808
8 IPCC. Climate Change 2022 Mitigation of Climate Change. Working Group III Contribution to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change. Page 10.
9 There is also a wide gap between the pledges and policies of BMO, TD and CIBC, but they were not included here for space considerations.
10RBC - 2021 ESG Report, pg. 13 - "Climate Change" at top right quadrant (most important to stakeholders and to RBC); Scotiabank - 2016 Corporate Social Responsibility Report, pg. 12 "climate change"
11 See, for example, RBC, 2018 ESG Report, page. 5 "[w]e believe strongly that the financial system should be at the forefront of contributing to a healthier planet."
12 Glasgow Financial Alliance for Net Zero website. www.gfanzero.com/
13 For example: Rainforest Action Network, BankTrack, Indigenous Environmental Network, Oil Change International, Reclaim Finance, Sierra Club, and Urgewald 13th annual Fossil Fuel Finance report, "Banking on Climate Chaos'" and Greenpeace Canada. "Racing To Zero? Canadian Banks' Dubious Net Zero Commitments" 2022.
14 UN website. "Climate Change – Science – Causes and Effects." Accessed Feb 9, 2023. www.un.org/en/climatechange/science/causes-effects-climate-change
15 All figures from Rainforest Action Network, BankTrack, Indigenous Environmental Network, Oil Change International, Reclaim Finance, Sierra Club, and Urgewald 13th annual "Banking on Climate Chaos" report. 2022. Page 8
16 RBC Annual Report 2016. Page 4.
17 RBC FY2017 Climate Change Position & Disclosure Statement. Page 2
18 RBC Environmental, Social and Governance (ESG) Performance Report & Public Accountability Statement 2018. Page 5
19 RBC Environmental, Social and Governance (ESG) Performance Report & Public Accountability Statement 2019. Page 59.
20 RBC Environmental, Social and Governance (ESG) Performance Report & Public Accountability Statement 2020. Page 61.
21 2021 Task Force on Climate-related Financial Disclosures (TCFD) Report, pg. 10
22 RBC Climate Blueprint. Feb 2022 (originally published Nov. 2019, updated Feb 2022). Page 1.
23 The 14th annual Banking on Climate Chaos Fossil Fuel Funding report comes out March 31. Note that the bank funding figures for 2022 may be lower because the oil companies have accrued so much profit they can self-finance.
24 All figures from Rainforest Action Network, BankTrack, Indigenous Environmental Network, Oil Change International, Reclaim Finance, Sierra Club, and Urgewald 13th annual "Banking on Climate Chaos" report. 2022. Page 8
25 Scotiabank. 2016 Corporate Social Responsibility Report. Page 12.
26 Scotiabank. 2016 Corporate Social Responsibility Report. Page 34.
27 Scotiabank Corporate Social Responsibility Report 2017. "Building the Economy of Everyone." Page 31.
28 Scotiabank 2018 Sustainable Business Report. Page 37.
29 Scotiabank 2019 2019 Environment, Social and Governance (ESG) Report. Page 8.
30 Scotiabank 2019 2019 Environment, Social and Governance (ESG) Report. Page 16.
31 Scotiabank 2020 Environment, Social And Governance (ESG) Report. Page 4.
32 Scotiabank 2021 Environment, Social And Governance (ESG) Report. Page 3.
33 Scotiabank website. "Climate Commitments.". Accessed Feb 7, 2023. www.scotiabank.com/ca/en/about/responsibility-impact/climate-commitments.html
34 Scotiabank website. Climate Change Centre for Excellence. Emphasis theirs. Accessed Feb 7, 2023. www.scotiabank.com/ca/en/about/responsibility-impact/climate-commitments/climate-change-centre-of-excellence.html
35 The 14th annual Banking on Climate Chaos Fossil Fuel Funding report comes out March 31. Note that the bank funding figures for 2022 may be lower because the oil companies have accrued so much profit they can self-finance.
36 "BMO Earn Most Sustainable Bank Award," January 25, 2023 https://www.atmmarketplace.com/news/bmo-earns-most-sustainable-bank-award/; "Scotiabank's sustainable finance work recognized by 2022 Euromoney Awards" July 14, 2022. https://www.scotiabank.com/ca/en/about/perspectives.articles.impact.2022-07-euromoney-awards.html; "TD Bank Group ranked among top sustainability companies in the World by the Dow Jones Sustainability Index" December 12, 2022. https://stories.td.com/ca/en/news/2022-12-12-td-bank-group-ranked-among-top-sustainability-companies-in-t
37 Net-Zero Banking Alliance website. Accessed Feb 7, 2023: www.unepfi.org/net-zero-banking/
38 Equator Principles website. Accessed Feb 7, 2023: https://equator-principles.com/
39 Principles for Responsible Investment website. Accessed Feb 7, 202: www.unpri.org/
40 National Observer, "Do bank directors have a legal obligation to get real on climate?" Nov 1, 2023 www.nationalobserver.com/2022/11/01/analysis/do-bank-directors-have-legal-obligation-get-real-climate; The Globe and Mail "Mark Carney's Fraying Green Banking Alliance Highlights the Risks of Voluntary Measures," October 24, 2022. www.theglobeandmail.com/business/commentary/article-mark-carney-green-banking-voluntary-measures/

41 Reclaim Finance. "Throwing Fuel on the Fire," January, 2023. Pages 9 and 22.
42 Bloomberg: GLS Bank decided to leave the NZBA: www.bloomberg.com/news/articles/2023-02-06/green-banks-are-starting-to-leave-net-zero-industry-group
43 RBC website. Accessed Feb 2023: www.rbc.com/community-social-impact/environment/index.html
44 Reuters. "Bank funding for renewables stagnates vs oil and gas." Jan. 24, 2023. www.reuters.com/business/sustainable-business/bank-funding-renewables-stagnates-vs-oil-gas-report-2023-01-24/
45 Banktrack. Renewables Briefing. Jan. 24, 2023. Page 3. Accessed Feb 13, 2023: www.banktrack.org/download/background_briefing_just_7_of_global_banks_energy_financing_goes_to_renewables_new_data_shows/230124_background_briefing_renewables_data.pdf
46 Norton Rose Fulbright "Greenwashing Disputes on the Rise" April 2022. www.nortonrosefulbright.com/en/knowledge/publications/e87c69e7/greenwashing-disputes-on-the-rise; Clyde & Co, "Regulators will take a tougher stance on Greenwashing." Dec. 19, 2022 www.clydeco.com/en/insights/2023/01/regulators-will-take-a-tougher-stance-on; Financial Post, "Competition Bureau opens investigation into RBC over climate claims" October 12 2022 at: https://financialpost.com/fp-finance/banking/competition-bureau-opens-investigation-into-rbc-over-climate-claims
47 Law360, "Canadian banks need to start thinking about how to manage climate risk, report says." October 25, 2022. www.law360.ca/business/articles/40628/canadian-banks-need-to-start-thinking-about-how-to-manage-climate-risk-report-says
48 Clyde&Co report. "Climate litigation will gather pace in Canada," Dec. 19, 2022. Accessed Feb 6, 2023 at: www.clydeco.com/en/insights/2022/12/climate-litigation-will-gather-pace-in-canada; and Christie A. McLeod, Amanda Cutinha. "Greenwashing in Canada: Enforcement and trends for 2023" Jan. 19, 2023. Miller Thomson. Accessed Feb 6, 2023 at: www.millerthomson.com/en/publications/communiques-and-updates/mt-biosphere/january-19-2023/greenwashing-canada-enforcement-trends-2023/
49 Competition Bureau Canada, "Be on the lookout for greenwashing" Jan 26, 2022; Competition Act, section 52(1) false or leading misrepresentations.
50 Competition Bureau website "Our Organization" Accessed Feb 7, 2023: https://ised-isde.canada.ca/site/competition-bureau-canada/en/how-we-foster-competition/our-organization
51 See full complaint: https://ecojustice.ca/wp-content/uploads/2022/01/Ecojustice-and-University-of-Victoria-Environmental-Law-Centre-Application-for-Inquiry-into-Keurig-Canada-Inc.pdf; Competition Bureau's news release Jan 6, 2022: www.canada.ca/en/competition-bureau/news/2022/01/keurig-canada-to-pay-3-million-penalty-to-settle-competition-bureaus-concerns-over-coffee-pod-recycling-claims.html; and Environmental Defence. Jan 7, 2022 https://environmentaldefence.ca/2022/01/07/statement-keurig/.
52 Competition Bureau press release. Dec 19, 2016. Accessed Feb 6, 2023: www.canada.ca/en/competition-bureau/news/2016/12/volkswagen-audi-pay-up-2-1-billion-consumers-15-million-penalty-environmental-marketing-claims.html; Competition Bureau Backgrounder Dec 19, 2016. Accessed Feb 6, 2023: https://ised-isde.canada.ca/site/competition-bureau-canada/en/how-we-foster-competition/education-and-outreach/news-releases/volkswagen-and-audi-environmental-claims-case-vehicles-affected-20-litre-engine.
53 Ecojustice legal complaint. "Application for inquiry regarding the Royal Bank of Canada's apparent false and misleading representations about action on climate change while continuing to finance fossil fuel development" June 10, 2022 https://ecojustice.ca/wp-content/uploads/2022/07/2022-06-10-Complaint-to-Competition-Bureau-re_-RBC-climate-representations-Final.pdf; and Ecojustice case timeline, accessed Feb 11, 2023 at https://ecojustice.ca/case/investigating-royal-bank-for-misleading-advertising-on-climate-action/.
54 For example, Global Alliance for Banking Values: "7 ways to tell if your bank is greenwashing" Oct 17, 2022. Accessed Feb 7, 2023: www.gabv.org/long-read/how-to-tell-if-your-bank-is-greenwashing/
55 Osler, Hoskin & Harcourt, "Securities Litigation Review, Third Edition: Canada" 2017. Page. 1
56 This new body is the result of a recent merger between the Investment Industry Regulatory Organization of Canada (IIROC) and the Mutual Fund Dealers Association (MFDA).
57 CSA website. "About Us." Accessed Feb 7, 2023 at www.securities-administrators.ca/about/
58 This refers to the Proposed National Instrument 51-107 Disclosure of Climate-related Matters currently in development, which has concluded its public comment phase and is anticipated to be issued this year. Goal 4.1, pg. 8 at www.securities-administrators.ca/wp-content/uploads/2022/10/2022_2025CSA_BusinessPlan.pdf;
59 Canadian Lawyer Mag. "Investors want securities regulators to strengthen climate-related disclosure requirements" Mar. 29, 2022. www.canadianlawyermag.com/practice-areas/esg/investors-want-securities-regulators-to-strengthen-climate-related-disclosure-requirements-report/365329. Note: Particularly controversial was the proposed "comply or explain" approach in the initial version, which would allow issuers to either disclose their emissions or provide reasons for omitting to do so. According to the Canada Climate Law Initiative (CCLI), the majority of public submissions promisingly called for the CSA to reject this framework and require mandatory disclosure of scope 1 and 2 emissions, which would align with global regulatory efforts – including the US SEC's approach.
60 New Self-Regulatory Organisation website. Accessed Feb 9, 2023. https://www.newselfregulatoryorganizationofcanada.ca/
61 New SRO carries out its regulatory responsibilities under Recognition Orders from the provincial securities commissions that make up the CSA. New SRO is subject to oversight and regular operational reviews by CSA members.
62 Corporation Investment Dealer and Partially Consolidated Rules. January 1, 2023. Interim Rule 3600, Page 156 (on pdf).
63 US SEC press release. "SEC Announces Enforcement Task Force Focused on Climate and ESG Issues" March 4, 2021. www.sec.gov/news/press-release/2021-42
64 US SEC Press release. May 23, 2022. "SEC Charges BNY Mellon Investment Adviser for Misstatements and Omissions Concerning ESG Considerations." www.sec.gov/news/press-release/2022-86
65 US SEC Press release. Nov 22, 2022. "SEC Charges Goldman Sachs Asset Management for Failing to Follow its Policies and Procedures Involving ESG Investments." www.sec.gov/news/press-release/2022-209
66 Global Witness Press release. Feb 1, 2023. "Shell faces groundbreaking complaint for misleading US authorities and investors on its energy transition efforts." www.globalwitness.org/en/campaigns/fossil-gas/shell-faces-groundbreaking-complaint-misleading-us-authorities-and-investors-its-energy-transition-efforts/
67 Responsible Investor "SEC to prioritise climate change disclosure, shareholder proposal exclusions in 2023" Feb 1, 2023. www.responsible-investor.com/sec-to-prioritise-climate-change-disclosure-shareholder-proposal-exclusions-in-2023/
68 ESMA, Sustainable Finance Roadmap 2022-2024

69 ESMA Press Release. Nov. 15, 2022 "ESAs launch joint Call for Evidence on greenwashing" www.esma.europa.eu/press-news/esma-news/esas-launch-joint-call-evidence-greenwashing; See also Tim Quinson, Bloomberg Jan. 11, 2023.: "What's the Legal Definition of Greenwashing?" www.bloomberg.com/news/articles/2023-01-11/what-s-the-legal-definition-of-greenwashing-green-insight#xj4y7vzkg
70 Reuters. "German officials raid Deutsche Bank's DWS over 'greenwashing' claims" May 31, 2022. www.reuters.com/business/german-police-raid-deutsche-banks-dws-unit-2022-05-31/
71 Reuters "Deutsche Bank's DWS sued by consumer group over alleged greenwashing" Oct 24, 2022. www.reuters.com/business/finance/deutsche-banks-dws-sued-by-consumer-group-over-alleged-greenwashing-2022-10-24/
72 Bloomberg Law. "Deutsche Bank's DWS May Be Facing Greenwashing Fines, CEO Says" Feb 2, 2023. https://news.bloomberglaw.com/banking-law/deutsche-banks-dws-may-be-facing-greenwashing-fines-ceo-says; See also EuroNews. "DWS CEO: cannot rule out paying fines in greenwashing case" Feb 3, 2023. www.euronews.com/next/2023/02/03/dws-results
73 Rainforest Action Network, BankTrack, Indigenous Environmental Network, Oil Change International, Reclaim Finance, Sierra Club, and Urgewalds 13th annual Fossil Fuel Finance report, "Banking on Climate Chaos." League Table.
74 Oxfam France, Friends of the Earth France, and Notre Affaire à Tous, Press release. "Climate NGOs take unprecedented legal action against number one European financier of fossil fuel expansion, BNP Paribas" Oct 26, 2022. www.oxfam.org/en/press-releases/climate-ngos-take-unprecedented-legal-action-against-number-one-european-financier
75 French Corporate Duty of Vigilance Law (English translation). European Coalition of Corporate Justice, 2016. Accessed Feb 13, 2023: https://respect.international/french-corporate-duty-of-vigilance-law-english-translation/
76 BankTrack. French NGOs take BNP Paribas to court in world's first climate lawsuit against a commercial bank," Feb 23, 2023. Accessed Feb 23, 2023: https://www.banktrack.org/article/french_ngos_take_bnp_paribas_to_court_in_world_s_first_climate_lawsuit_against_a_commercial_bank
77 The Guardian: "Watchdog bans HSBC climate ads in fresh blow to bank's green credentials" Oct 19, 2022. www.theguardian.com/business/2022/oct/19/watchdog-bans-hsbc-ads-green-cop26-climate-crisis
78 ASA Ruling. Accessed Feb 6, 2023: www.asa.org.uk/rulings/hsbc-uk-bank-plc-g21-1127656-hsbc-uk-bank-plc.html
79 Data compiled for these five banks from: Rainforest Action Network, BankTrack, Indigenous Environmental Network, Oil Change International, Reclaim Finance, Sierra Club, and Urgewald "Banking on Climate Chaos: 13th annual Fossil Fuel Funding Report. 2022.
80 RBC Environmental, Social and Governance (ESG) Performance Report & Public Accountability Statement 2018. Page 5
81 Scotiabank website. Climate Change Centre for Excellence. Accessed Feb 7, 2023. www.scotiabank.com/ca/en/about/responsibility-impact/climate-commitments/climate-change-centre-of-excellence.html
82 RBC. Net-Zero Report 2022. Page 5.



GREENPEACE