



# Tailored Risk: Evaluating Gildan's Human Rights Infrastructure

Gildan (TSX: GIL) Investor Brief

AGM Date: May 28<sup>th</sup>, 2024

## Key Points

### San Miguel Factory Closure

2,700 primarily female workers were left jobless, with many unable to access medical certification and care for occupational illness.

### Safety Concerns and Gender-Based Violence

Significant security challenges in Honduras contribute to a more dangerous work environment. Female workers face heightened risks, including of sexual violence. Corporate responsibility for worker safety extends beyond the workplace.

### Compliance

Gildan's actions raise questions about compliance with Honduran labour law, FLA benchmarks and international labour standards.

### Responsibility to Respect Human Rights

While Gildan emphasizes compliance with local labour laws, the UNGPs require businesses to go beyond legal requirements to address human rights risks comprehensively.

Gildan is a vertically integrated apparel manufacturer with company-owned brands like American Apparel® and licensed brands like Under Armour® and New Balance®. Gildan operates 28 facilities globally, owning facilities in Nicaragua, Dominican Republic, Bangladesh and Honduras, and dedicated contractors in Haiti, El Salvador, Guatemala, Honduras, and Nicaragua, and contractors in China, Mexico and India.

Recent events surrounding the closure of a Gildan sewing factory in Honduras have raised questions about the company's human rights risk infrastructure. Safety risks including gender-based violence during transportation to and from work add to these concerns.

The shareholder proposal submitted by BCGEU asks the board to prepare a report assessing the effectiveness of Gildan's existing human rights risk infrastructure, in alignment with Gildan's human rights commitments, as it relates to (i) the failure to relocate workers following the closure of a Honduran sewing factory in Choloma, and (ii) employee health and safety (both on the job and during travel to and from the workplace).

This reasonable request would provide investors with crucial information to evaluate risk management and mitigation efforts. Investors are encouraged to vote in favor of the proposal at the upcoming Annual General and Special Meeting on May 28, 2024.

## Security situation in Honduras

Gildan has historically been one of Honduras' largest private sector employers, having operated assembly for export plants (called maquilas) since 1997. 30 per cent of Gildan's global operating facilities are located in Honduras, and historically Choloma was Gildan's largest global manufacturing hub, producing 60 per cent of its product.<sup>1</sup>

Honduras is considered a high-risk jurisdiction with a difficult security situation in general terms. The Canadian government advises against travel to the country due to concerns related to gang activity, violence including sexual assault, and concerns for women's safety.<sup>2</sup>

Honduras has the highest rate of femicide in Latin America according to the UN Economic Commission for Latin America and the Caribbean.<sup>3</sup> The UN Special Rapporteur on Violence against Women has previously found that Honduras had a 95 per cent impunity rate for sexual violence and femicide crimes.<sup>4</sup> A UN report estimated the economic costs associated with violence and harassment against women at \$1.5 trillion USD.<sup>5</sup>

The president of the union of San Miguel Gildan was killed in Choloma along with her son and three other union leaders in a mass shooting that occurred on June 25, 2023.<sup>6</sup> The shooting occurred four days after the San Miguel factory closure was announced. While no linkage between the mass shooting and the closure of the factory has been established, it has been alleged that the murders may have been linked to false rumours that the union was responsible for the closure.<sup>7</sup>

<sup>1</sup> <https://us.fashionnetwork.com/news/Gildan-expands-manufacturing-capacity-in-honduras-with-new-site,869614.html>

<sup>2</sup> <https://travel.gc.ca/destinations/honduras>

<sup>3</sup> <https://reliefweb.int/report/world/femicidal-violence-figures-latin-america-and-caribbean-preventing-femicides-obligation-states-and-persistent-challenge-region-bulletin-no-2-november-2023>

<sup>4</sup> <https://www.ohchr.org/en/statements/2014/07/special-rapporteur-violence-against-women-finalizes-country-mission-honduras-and>

<sup>5</sup> <https://www.unwomen.org/en/news/stories/2016/9/speech-by-lakshmi-puri-on-economic-costs-of-violence-against-women>

<sup>6</sup> <https://www.business-humanrights.org/en/latest-news/honduras-four-union-leaders-among-13-killed-in-shooting>

<sup>7</sup> <https://www.business-humanrights.org/en/latest-news/honduras-four-union-representatives-killed-after-false-rumors-linking-them-to-announcement-that-gildan-textile-plant-in-san-miguel-would-be-closed>

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There have been historic documented murders of other union leaders including Gildan union leaders<sup>8</sup>, and the International Labour Organization's (ILO) Committee of Experts on the Application of Conventions and Recommendations (CEACR) has expressed concerns about anti-union violence in Honduras in general terms:

The Committee expresses grave concern at the persistent allegations of numerous acts of anti-union violence and also at the very small number of cases relating to the murders of members of the trade union movement which have resulted in judicial convictions.<sup>9</sup>

## Expedited closure of Honduran sewing facility

On June 21, 2023, Gildan announced the closure of its San Miguel sewing facility in Choloma, affecting 2,700 workers, primarily women. The closure began on July 31, 2023 and was completed by September 7, 2023. The facility produced apparel under the Gildan, Alstyle, American Apparel, and Comfort Colors brands<sup>10</sup> as well as licensed collegiate apparel by Fanatics, Lakeshirts, Lo + Jo Brands, MV Sport, New Agenda, and Onward Capital.<sup>11</sup>

The closure announcement came after the January 2023 Supreme Court of Justice of Honduras ruling in favour of five Gildan San Miguel workers who had been dismissed by Gildan San Miguel, S.A. in 2017. The Honduran Supreme Court ruled that Gildan had unjustly dismissed workers and violated their labour rights. The court ordered the workers' reinstatement along with back pay.<sup>12</sup> While Gildan cites changing market conditions in its decision to shutter the San Miguel factory, workers reportedly believe the closure was in response to efforts to support worker health, safety and labour rights.<sup>13</sup>

Given the timing of the closure, many workers were unable to access medical disability certification from the Honduran Institute of Social Security (IHSS) prior to the closure, as a workspace evaluation was required. This left many workers unable to access medical and rehabilitation services.

Disclosure of the factory closure agreement is important for transparency and verifying legal compliance. Gildan was ordered

by the Secretary of Labour and Social Security's Accountability Office to disclose the factory closure agreement reached between the union and Gildan. When Gildan refused, the Secretary of Labour and Social Security opened a sanctioning process against the company.<sup>14</sup>

## Fair Labor Association (FLA) compliance

The Fair Labour Association expects affiliated companies to adhere to Compliance Benchmarks and make improvements when standards are not met.

According to Compliance Benchmark ER.15.3, employers cannot demand workers sign any declaration as a condition of receiving severance pay or other legal benefits from the company and shall not threaten to withhold benefits if workers do not sign. During the San Miguel closure, workers had to sign a termination agreement with Gildan and a payment letter to access severance. The payment letter required workers to waive any right of action against the factory and parent company. This waiver restricted workers' rights to resolution if issues are found with the severance payment calculations or other grievances.

ER.32.6 establishes that employers must give workers the opportunity to transfer to other plants they own in the country with a comparable salary and make every effort to hire personnel at other facilities in the country. Gildan San Miguel workers were not offered alternate employment. When personnel cuts are inevitable, FLA Compliance Benchmark ER.32.4 maintains that a company must develop and implement a plan to mitigate the negative effects of changes on workers and their communities with the aim of avoiding or minimizing layoffs.

## Closure of Star facility

In 2019 Gildan closed its Star facility in El Progreso, Honduras. In connection with such closure, Gildan offered to relocate all affected employees to other facilities in Honduras.

Gildan stated:<sup>15</sup>

With regards to the dismissal of employees at the Star facility, we met with employees in July 2017 to inform them of our intention to lay off 350 employees because we were changing the product-mix produced based upon business needs. At that time, all employees were offered to relocate to another facility in Honduras. We were pleased that the large majority of employees relocated to the other facility.

<sup>8</sup> <https://www.solidaritycenter.org/report-documents/anti-union-violence-in-honduras>

<sup>9</sup> [https://ilo.primo.exlibrisgroup.com/discovery/delivery/41ILO\\_INST:41ILO\\_V2/1266929950002676](https://ilo.primo.exlibrisgroup.com/discovery/delivery/41ILO_INST:41ILO_V2/1266929950002676) Page 154

<sup>10</sup> [https://gildancorp.com/media/uploads/global/plugin/bbcopie\\_de\\_gildan\\_publicly\\_dis-closed\\_locations-november\\_2022\\_update.xlsx](https://gildancorp.com/media/uploads/global/plugin/bbcopie_de_gildan_publicly_dis-closed_locations-november_2022_update.xlsx)

<sup>11</sup> <https://www.workersrights.org/communications-to-affiliates/tragedy-in-honduras/#:~:text=Gildan%20employees%20and%20union%20leaders,evening%20of%20Saturday%2C%20June%2024>

<sup>12</sup> [https://assets.nationbuilder.com/bcgeu/pages/896/attachments/original/1714411086/cassation\\_court\\_ruling\\_reinstatement\\_worker\\_jan17\\_spa\\_94\\_.pdf?1714411086](https://assets.nationbuilder.com/bcgeu/pages/896/attachments/original/1714411086/cassation_court_ruling_reinstatement_worker_jan17_spa_94_.pdf?1714411086)

<sup>13</sup> <https://www.codev.org/urgent-actions/codemuh>

<sup>14</sup> [https://assets.nationbuilder.com/bcgeu/pages/896/attachments/original/1714446655/Pages\\_from\\_Informe\\_Transparencia\\_Gildan\\_social\\_security.pdf?1714446655](https://assets.nationbuilder.com/bcgeu/pages/896/attachments/original/1714446655/Pages_from_Informe_Transparencia_Gildan_social_security.pdf?1714446655)

<sup>15</sup> [https://www.business-humanrights.org/documents/3649/Response\\_to\\_Business\\_and\\_Human\\_Rights\\_Centre\\_Mar2018\\_ENG.pdf](https://www.business-humanrights.org/documents/3649/Response_to_Business_and_Human_Rights_Centre_Mar2018_ENG.pdf)

# Tailored Risk: Evaluating Gildan’s Human Rights Infrastructure

Gildan also relocated workers in the 2023 closure of a US yarn manufacturing plant. Gildan did not relocate the approximately 2,700 workers impacted by the San Miguel closure, citing market forces.

## Worker injury

San Miguel Gildan workers reported concerns regarding working conditions, high production targets, workplace harassment as well as concerns with safety and occupational injury and illness. Workers have indicated they fear reprisal for speaking out.

Among the approximately 2,700 workers affected by the San Miguel closure, roughly 400 workers had occupational illnesses or injuries sustained at work for Gildan. Workers cite high productivity goals and long working hours in the factory as causes for their workplace illnesses and injuries. Without continued employment, these injured workers lost access to medical and rehabilitation services and are unable to apply for disability pensions.

Worker advocates have asked for injured workers to be rehired by Gildan so that they will be able to access medical and rehabilitation services or be eligible for disability pensions. To date, none of these workers have been rehired. By contrast, in the closure of Gildan’s Star facility, Gildan made several commitments to workers to honour in-process medical certifications before IHSS, pay all indemnity due to occupational disease and relocate workers to other factories pending availability of jobs.<sup>16</sup>

The San Miguel closure has caused significant impacts, particularly on disabled workers. Workers have reported high levels of anxiety and that their workplace-sustained injuries have left them with a high level of dependency at home. Women are reportedly unable to perform basic home duties including child work or housework and have been unable to secure alternate employment. This has fed a cycle of impoverishment for women and their families and has promoted some to attempt to immigrate to the US, or members of their family to leave their home or country.

## Concerns with embedded overtime

As in many of Gildan’s facilities, the workers of Gildan’s San Miguel factory reported schedules consisting of four days of work of 11.5-hour shifts, with three or four days off. The work hours are 7:00am to 6:30pm and 6:30pm to 6:00am. Work was organized in teams with high production goals, and workers are allegedly rewarded or penalized for failing to meet targets. Workers were reportedly encouraged to take additional shifts to fulfill Gildan’s production goals at San Miguel. While daily work hours may technically be compliant with Honduran labour law, it is well documented that hours of work are a major cause of work-related illnesses or injury.<sup>17</sup>

Gildan maintains that overtime is voluntary, however the proponent submits that Gildan only provided return transportation to communities at the end of the 11.5-hour shift. This gave workers no effective choice to not perform overtime. The Ethical Trade Initiative recommends transportation be available at the end of the “regular” workday so that workers may elect to leave the facility.<sup>18</sup>

A Fair Labour Association investigation of Gildan’s now-closed operations in Mexico found that Gildan used work schedules that did not comply with law. Investigators wrote, “this facility has implemented a work schedule to meet production requirements that does not meet legal requirements.”<sup>19</sup> An investigation into Gildan operations in China found violations of work hours and overtime.<sup>20</sup> And at Gildan operations in Haiti, despite an 8-hour workday, production quotas were allegedly established for an 9.5-hour workday, meaning workers worked unpaid overtime.<sup>21</sup>

## 2023 independent external factory assessment

In a 2023 independent factory assessment at one of Gildan’s Honduran factories, violations included improper social insurance payment, failure to provide legally required childcare, missing ergonomic procedures and a lack of training, and no retrenchment process. Further, the 11-hour shift schedule was not documented in the internal rules handbook and investigators found additional safety and health violations that required attention.

The FLA evaluators also found that medical evaluations were used to determine if workers were pregnant.<sup>22</sup> Similar allegations were also noted in a 2021 factory assessment.<sup>23</sup> This practice appears to violate Gildan’s Social and Sustainable Compliance Guidebook policy on discrimination (Pregnancy and Employment Status).

## Heightened risk during travel to and from the workplace

A Globe and Mail report highlights the issue of gender-based violence in Honduras.<sup>24</sup> Honduras has Latin America’s highest femicide rate<sup>25</sup>, with a woman killed every 23 hours.<sup>26</sup>

<sup>18</sup> <https://www.ethicaltrade.org/eti-base-code/6-working-hours-are-not-excessive>

<sup>19</sup> [https://fla.fairfactories.org/fla\\_files/pdf\\_files/AN0000000372\\_2019.pdf](https://fla.fairfactories.org/fla_files/pdf_files/AN0000000372_2019.pdf)

<sup>20</sup> [https://fla.fairfactories.org/fla\\_files/pdf\\_files/AN0000000636\\_2020.pdf](https://fla.fairfactories.org/fla_files/pdf_files/AN0000000636_2020.pdf)

<sup>21</sup> [https://fla.fairfactories.org/fla\\_files/pdf\\_files/AN0000000511\\_2017.pdf](https://fla.fairfactories.org/fla_files/pdf_files/AN0000000511_2017.pdf)

<sup>22</sup> [https://fla.fairfactories.org/fla\\_files/pdf\\_files/2399.pdf](https://fla.fairfactories.org/fla_files/pdf_files/2399.pdf)

<sup>23</sup> [https://fla.fairfactories.org/fla\\_files/pdf\\_files/1859.pdf](https://fla.fairfactories.org/fla_files/pdf_files/1859.pdf)

<sup>24</sup> <https://www.theglobeandmail.com/world/article-women-of-honduras-find-little-refuge-and-even-less-justice-in-a-surge/>

<sup>25</sup> <https://oig.cepal.org/en/indicators/femicide-or-feminicide>

<sup>26</sup> <https://derechosdelamujer.org/comunicado-honduras-el-pais-mas-peligroso-para-ser-mujer-en-america-latina/>

<sup>16</sup> [https://www.fairlabor.org/wp-content/uploads/2021/09/gildan-star-tpc-report\\_final\\_english\\_91819.pdf](https://www.fairlabor.org/wp-content/uploads/2021/09/gildan-star-tpc-report_final_english_91819.pdf)

<sup>17</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6617405/>

# Tailored Risk: Evaluating Gildan's Human Rights Infrastructure

The Women's Human Rights Observatory found that a woman was violently killed every 23 hours.<sup>27</sup>

Gildan discloses it provides bus transportation to and from facilities:

Support to Balance Work, Life, and Daily Needs: At most of our manufacturing facilities, we provide free transportation for each working shift. Buses contracted by Gildan are stationed in different locations in the communities where we operate. At the end of each shift, buses provide transportation from our facilities to various drop-off locations.<sup>28</sup>

Gildan's shift scheduling requires employees to travel at night or early in the morning, raising safety concerns among female workers, including reports of sexual abuse. In jurisdictions with challenging security situations, an employer's responsibility extends beyond the workplace to employee transportation, especially where security is an issue. As per the UNGPs and ILO, Gildan's responsibility is clear given transportation is provided as part of the work arrangement.<sup>29,30</sup> It is also clear given the provision of transportation for night shift workers is mandatory in Honduras.

Nighttime travel in Honduras is dangerous and made worse since Gildan delivers workers to drop off points on major highways as opposed to taking them directly to their homes. This means that workers are traveling to and from their communities early in the morning and late at night, exposing them to physical risks, including the risk of sexual violence.

According to the ILO Occupational Safety and Health Convention, 1981 (No. 155), the term "workplace" covers all places where workers need to be or to go by reason of their work and which are under the direct or indirect control of the employer (Art. 3(c)).

And, while not ratified by Honduras, the International Labour Organization (ILO) Convention 190 (C190), the Violence and Harassment Convention, 2019, calls on governments to implement laws, policies and collective bargaining agreements that prohibit, prevent and address violence and harassment at work. C190 applies to violence and harassment occurring, "linked with or arising out of work," including when commuting to and from work. Canada implemented C190 in 2023.<sup>31</sup>

In its response in the circular, Gildan writes that it has a "zero-tolerance policy against harassment within our facilities including any

harassment of a sexual nature", in addition to grievance mechanisms and resolution options for workers including an anonymous hotline. In response, workers disclose that they did not feel able to raise concerns with Gildan through any means or that these options were safe. Not only is sexual abuse an incredibly sensitive issue in Honduras with stigma attached to reporting and a culture of impunity, workers allegedly feared retaliation for speaking out. The culture of fear of speaking out is exemplified during the facility closure when members of CODEMUH were allegedly harassed and blamed for the closure of the factory for speaking out about work-related injuries.

## Gildan's human rights oversight

In its Human Rights Policy<sup>32</sup>, Gildan commits to upholding and respecting human rights as established by the UNGPs. In other disclosure, Gildan describes its human rights assessment processes.<sup>33</sup>

And, in multiple areas of controversy, including treatment of workers in connection with the San Miguel facility closure, workplace safety, high number of workers with work-related injuries, and the use of overtime, Gildan repeatedly points out that its actions are compliant with Honduran labour law.

Shift, the leading center of expertise on the UNGPs, states plainly that compliance with local law may not be sufficient to meet the expectations of the UNGPs.<sup>34</sup>

The UNGPs require businesses to think beyond compliance with local law:<sup>35</sup>

Internationally recognized human rights are, therefore, relevant for business beyond mere compliance with the law. The actions of business enterprises can affect people's enjoyment of their human rights either positively or negatively. Indeed, experience shows that enterprises can and do infringe human rights where they are not paying sufficient attention to this risk.

International business and human rights practitioners have highlighted Rio Tinto's actions at the Juukan Gorge in 2020 as an example of where a compliance with local law standard can lead to adverse human rights consequences which subject the company to heightened reputational and other risks:<sup>36</sup>

The Juukan Gorge case shows that companies may be eager to publicise their awareness of adherence to international soft law principles, but that they are slow, reluctant or unwilling to fully institutionalise such principles. For instance, the UNGP guidance

<sup>27</sup> <https://derechosdelamujer.org/comunicado-honduras-el-pais-mas-peligroso-para-ser-mujer-en-america-latina/>

<sup>28</sup> [https://gildancorp.com/media/uploads/sustainability\\_reports/b2020\\_esg\\_report\\_final\\_en.pdf](https://gildancorp.com/media/uploads/sustainability_reports/b2020_esg_report_final_en.pdf)

<sup>29</sup> [https://gildancorp.com/media/uploads/sustainability\\_reports/bgildans\\_2022\\_esg\\_report.pdf](https://gildancorp.com/media/uploads/sustainability_reports/bgildans_2022_esg_report.pdf)

<sup>30</sup> [https://ilo.org/dyn/normlex/en/?p=NORMLEXPUB:55:0::NO::P55\\_TYPE,P55\\_LANG,P55\\_DOCUMENT,P55\\_NODE:SUP,en,P155/Document](https://ilo.org/dyn/normlex/en/?p=NORMLEXPUB:55:0::NO::P55_TYPE,P55_LANG,P55_DOCUMENT,P55_NODE:SUP,en,P155/Document)

<sup>31</sup> <https://www.canada.ca/en/employment-social-development/news/2023/01/minister-oregan-ratifies-c190-the-first-ever-global-treaty-on-ending-violence-and-harassment-in-the-world-of-work.html>

<sup>32</sup> [https://gildancorp.com/media/uploads/policies/bgildans\\_global\\_human\\_rights\\_policy.pdf](https://gildancorp.com/media/uploads/policies/bgildans_global_human_rights_policy.pdf)

<sup>33</sup> [https://gildancorp.com/media/uploads/policies/bgildans\\_social\\_and\\_sustainable\\_compliance\\_guidebook.pdf](https://gildancorp.com/media/uploads/policies/bgildans_social_and_sustainable_compliance_guidebook.pdf)

<sup>34</sup> <https://shiftproject.org/resources/ungps101/pillar-2-of-ungp-respect/>

<sup>35</sup> <https://www.ungpreporting.org/resources/the-ungps/>

<sup>36</sup> <https://www.ibanet.org/Rio-Tinto-Juukan-Gorge-legal-compliance>

# Tailored Risk: Evaluating Gildan's Human Rights Infrastructure

highlights the pitfalls of companies tying their human rights due diligence practices to domestic hard law principles only.

The responsibility to respect human rights is not, however, limited to compliance with such domestic law provisions. It exists over and above legal compliance, constituting a global standard of expected conduct applicable to all businesses in all situations. It therefore also exists independently of an enterprise's own commitment to human rights. It is reflected in soft law instruments such as the Guidelines for Multinational Enterprises of the OECD. There can be legal, financial and reputational consequences if enterprises fail to meet the responsibility to respect. Such failure may also hamper an enterprise's ability to recruit and retain staff, to gain permits, investment, new project opportunities or similar benefits essential to a successful, sustainable business. As a result, where business poses a risk to human rights, it increasingly also poses a risk to its own long-term interests.

Gildan repeatedly points to its compliance with local Honduran law, but it has failed to demonstrate how its actions surrounding the factory closure and workplace safety (both on the job and during transportation) are in compliance with the UNGPs.

## Expectations of Canadian business operating abroad

The Canadian Responsible Business Conduct (RBC) strategy promotes responsible business practices by Canadian companies operating abroad. It advocates adherence to international standards and guidelines including as the UN Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises and the International Labour Organization's Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration) which focuses on decent work. In it, the Canadian government committed to enacting legislation to, among other things, ensure that Canadian businesses operating abroad do not contribute to human rights abuses.

Canada's National Contact Point (NCP) promotes the OECD guidelines, while the Canadian Ombudsperson (CORE) promotes the implementation of both the UNGPs and the OECD Guidelines.

## Gildan leadership controversies

Gildan's leadership controversies have taken many turns in the past six months, and Gildan is now considering offers to purchase the entirety of the company. When such leadership controversies originated, Gildan's board disclosed concerns with the previous CEO's management style, including a level of disengagement. These revelations undermine investor confidence in Gildan's assessment and mitigation of human rights risks.

In closing, the closure fallout, safety challenges and occupational injury, compliance issues, and gender-based violence risks at Gildan underscore why the request for a report assessing the effectiveness of Gildan's existing human rights risk infrastructure is reasonable and would provide investors important information to understand how risks are being managed and mitigated. Such a report could build trust with stakeholders, enhance brand loyalty, create long term business sustainability, and ensure Gildan is able to achieve its vision of Making Apparel Better®.

We invite you to vote in favour of our resolution at the May 28<sup>th</sup> Annual General and Special Meeting (AGM)

**Vote FOR  
the BCGEU Shareholder  
Proposal at  
the Gildan AGM  
on May 28, 2024**

**Proxy cut-off date:** 10 am EDT May 24, 2024

**Voting Information:** Proposal is available in Appendix D on page 106 of the management information circular. Voting information is available on page 8. [https://gildancorp.com/media/uploads/global/plugin/bgildan\\_-\\_en\\_2024\\_circular\\_-\\_for\\_filing.pdf](https://gildancorp.com/media/uploads/global/plugin/bgildan_-_en_2024_circular_-_for_filing.pdf)

**NOTE:** This is not a solicitation of authority to vote your proxy. Please DO NOT send us your proxy card; BCGEU is not able to vote your proxies, nor does this communication contemplate such an event. BCGEU urges shareholders to vote FOR its shareholder proposal at Gildan following the instructions provided on management's proxy mailing and BLUE proxy.