



First Nations  
**FINANCIAL  
MANAGEMENT  
BOARD**

**CONSEIL  
DE GESTION  
FINANCIÈRE** des  
Premières Nations

# THE NEED TO MARRY ECONOMIC RECONCILIATION WITH SOCIAL RECONCILIATION

A RESPONSE TO BRITISH COLUMBIA'S DRIPA ACTION PLAN

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## About the FMB

The First Nations Financial Management Board (FMB) is pleased to provide its feedback on the Government of British Columbia's Draft Action Plan for the *Declaration on the Rights of Indigenous Peoples Act*.

The FMB is an Indigenous-led institution founded under the *First Nations Fiscal Management Act* (FNFMA) and based in West Vancouver, B.C. The FNFMA development was led by Squamish, Westbank, and Kamloops First Nations with the political support of the First Nations Summit. The FNFMA was created as a model for a new relationship with Canada and the provinces, creating the financial oversight that is needed to build and maintain government confidence in Indigenous governments and the fiscal sharing that is critical to Reconciliation.

The FMB exists to support First Nations governments in building greater administrative and financial capacity. We do this by supporting them in developing financial laws and practices that meet the highest international standards and establishing planning procedures to move away from personality-based decision making to process-based decision making. We also have a broad purpose to assist First Nations in the development, implementation, and improvement of financial relationships with financial institutions, business partners and other governments, to enable the economic and social development of First Nations.

We work with over 315 First Nations across Canada, including 110 First Nations in British Columbia, that have opted to work with us. These First Nations are a 'coalition of the willing' of First Nations that entrust FMB to seek a new path forward for economic and social development backed by strong financial management and reporting systems. FMB's core values are integrity, responsiveness to the needs of First Nations, and continued relevance through innovative programing and policy engagement.

Our work is important in assisting First Nations to exert their right to self-determination, as acknowledged in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

## Introduction

The B.C. Government has put together a substantive and detailed Draft Action Plan that will advance the objectives of Declaration on the Rights of Indigenous Peoples Act (DRIPA).

Much of the Draft Action Plan currently focuses on enabling First Nations to have more say in how their communities operate, to have healthier communities, and to have more fairness in the justice and child welfare systems. These are very important reforms.

However, FMB, like Premier Horgan, believes that Economic Reconciliation is core to Reconciliation. The Action Plan must be expanded to include specific actions to breathe life into Economic Reconciliation.



FMB is uniquely positioned to recommend these actions, given its focus on economic development and its Indigenous staff's experience in accounting, finance, securities and economic development.

The FMB's submission will focus on how B.C. can improve its draft Action Plan to better marry the social and economic aspects of the Declaration to truly enable First Nations to exercise their rights to self-determination. The pages that follow provide:

- an overview of the importance of Economic Reconciliation,
- recommendations for improving the itemized actions in the Government of British Columbia's Action Plan, and
- recommendations for actions that are not identified in the Action Plan that should be added.

Overall, Reconciliation will necessarily require a wealth transfer and a willingness to share power. This will require Indigenous-led oversight frameworks like FMB which will manage risk and support those First Nations who need help developing capacity.

At a high level our recommendations include:

- Requiring a reconciliation action plan for each part of government (including departments, agencies, commissions, Crown corporations, etc.) and annual reporting to the B.C. Legislature specifically and solely on the progress made by each part of the government to implement their action plan. Accountability is key and lack of performance should have real consequences to public service leadership and appointees. First Nations should have ongoing input on the Reconciliation standards and reporting on Indigenous inclusion.
- Developing an "Indigenous government account" for revenue sharing in British Columbia from gaming revenue or royalties, federal government transfers and possibly tax revenues.
- Working with First Nations to develop more Indigenous business professionals, trades people and opportunities in First Nations communities.
- Using the government's balance sheet for loan guarantees or other kinds of risk-sharing (and reward-sharing) with First Nations.
- Providing First Nations the advice and support they need to evaluate their participation in natural resource and other large projects by increasing B.C.'s funding of the First Nations Major Projects Coalition and providing long-term, stable funding and/or statutory funding.

- Supporting aggregation among First Nations for service delivery by Indigenous-led organizations (e.g. health, housing, education), for creating Indigenous businesses (e.g. regional or tribal development corporations, particular for targeting government procurement and major projects), and for evaluating and investing in resource development, infrastructure, etc.
- Including Indigenous peoples and issues in the work of the British Columbia Securities Commission, and in particular, ensuring the BCSC's regulation of corporate diversity and ESG (Environment, Social and Governance) standards for investment include Indigenous agreement and incorporate Canadian Indigenous perspectives and values, rather than simply following along with international standards which do not incorporate Indigenous consultation or perspectives. Generally, the BCSC must not blindly adopt Canadian Securities Administrators (CSA) proposed legislation or guidance that affects Indigenous peoples without consultation with Indigenous peoples.
- Amending the *B.C. Business Corporations Act* to require Indigenous inclusion reporting for reporting issuers.
- Considering the creation of an Indigenous non-profit credit union, insurance, and mutual fund company with a mandate to increase financial accessibility for Indigenous people.
- Changing the mandate of British Columbia Investment Management Corporation (BCI) to embrace Reconciliation, specifically to permit BCI to manage money on behalf of Indigenous governments, trusts, and social enterprises and to consider Reconciliation in its investment decision-making.
- Creating an Indigenous Development Bank or Agency designed to provide affordable financing and technical assistance to drive infrastructure investment and major project finance.

*“[DRIPA] is an important step toward true and lasting reconciliation, where we build a robust and sustainable economy by working together, and create economic and social opportunities for Indigenous peoples, communities across B.C., business and industry.” – Premier John Horgan*

For millennia, Indigenous Nations managed their lands, people, and economies, creating trading networks that spanned the continent.

However, through the federal government’s unfair treaty process, or through the failure of the treaty process in most of British Columbia to result in settlements for most areas of the province, and the enactment of the *Indian Act* of 1876, Indigenous peoples of Canada were prohibited in the ability to govern their people and lands and to manage their economies. With dismissive interpretation of Indigenous and treaty rights by political representatives and Canadian courts throughout the 20th century, the Indigenous intent to share the land and its bounty instead became an appropriation of the land and a subjugation of Indigenous peoples.

For centuries, corporate Canada and its capital markets have benefitted from the reduction and infringement of Indigenous rights and title, and the intentional prevention of Indigenous participation in the economy. Some settlers became rich; most Indigenous people lived in poverty.

Capital flowed to industries and corporations with no regard to Indigenous rights because financial legislation and regulation did not measure or consider its impact. The system was set up to ignore Indigenous peoples.

Now, with the evolution of jurisprudence recognizing the rights of Indigenous people, the work of the Truth and Reconciliation Commission, the Inquiry into Missing and Murdered Indigenous Women and Girls, the discovery of Indigenous children’s unmarked graves in reserves around Canada, and the adoption of DRIPA in B.C. and the United Nations Declaration of the Rights of Indigenous Peoples in federal legislation, Canadians are realizing that the old way was wrong, and that Reconciliation is needed.

Reconciliation means “Nothing about us, without us”—that Indigenous peoples are consulted in the development of legislation that affects them. Economic legislation is no different.

Ultimately, Reconciliation must include a sharing of the wealth and a sharing of power, as was intended in the treaties.

## FMB Responses to specific sections of the Action Plan

### FMB Response to Section 1: *Self-Determination and Inherent Right of Self-Government*

- FMB supports the “*Co-develop with Indigenous peoples a new distinctions-based fiscal relationship and framework that supports the operation of Indigenous governments, whether through modern treaties, self-government agreements or advancing the right to self-government through other mechanisms. This work will include collaboration with the Government of Canada.*”

FMB believes that the fiscal relationship between First Nations and other levels of government must be broader than just program transfers and should include:

- Sustainable, predictable, and adequate fiscal transfers from government to First Nation governments to permit long term planning for infrastructure and service delivery and the capitalization of transfers through borrowing under First Nations Finance Authority.
- The recognition of the rights for First Nations to determine their own tax policies across a wide range of potential tax revenue streams including the option to share PST revenues and vacating of the taxation of and on reserve land.
- Consideration of a mechanism to share corporate income taxes.
- Creation of a mechanism for modern treaty nations for collecting personal income tax that does not deter economic development.
- Sharing of federal transfers to B.C. in areas such as health.

There should be consistent and regular reporting to the B.C. legislature on the progress that is being made on the development and implementation of this framework.

- FMB Supports the “*Co-develop and implement new distinctions-based policy frameworks for resource revenue sharing and other fiscal mechanisms with Indigenous peoples.*” (1.5)

To achieve distributions of revenues to all First Nations in B.C. the government must create a provincial “Indigenous government account” that would receive from the province a portion of revenues from resource revenue royalties, specific taxes like “FACT” taxes (Fuel, Alcohol, Cannabis and Tobacco) on reserve, gaming or other similar revenues, and personal and corporate taxes and then redistribute them on an agreed upon distribution formula across First Nations. The formula could include a heavier weighting for under-developed First Nations that would not directly benefit from direct taxation or other economic development.

British Columbia should also create regulatory room for First Nations to have access to gaming licenses to be able to fully participate in the gaming economic opportunity. Indigenous-owned energy generation should be given a preferential rate by BC Hydro/the BC Utilities Commission.

- FMB agrees with the need to “*Enhance treaty implementation infrastructure for effective and fully resourced implementation of responsibilities related to treaties across government. This will include a comprehensive approach to educating public servants about treaty rights and obligations.*” (1.6)

In order to undo years of colonial education, the educational approach must be much more than a short lecture, and instead a multi-day event, including an empathy-building module like the KAIROS blanket exercise. This goal needs to be further supported by the hiring and promotion of more Indigenous civil servants within all levels of the Government of British Columbia, who can lead civil servants in their Reconciliation journey. Civil servants must understand that government should recognize and not extinguish Indigenous rights.

- FMB supports the call to “*Demonstrate a new and more flexible funding model and partnership approach that supports First Nations to plan, design and deliver mental health and wellness services across a full continuum of care and to address the social determinants of health and wellness.*” (1.7)

The funding model that is established must not only be flexible but have long term predictable levels of funding to facilitate proper planning and the financing of necessary capital purchases.

The FNFMB could be a resource for helping to bring prudent financial management and governance to non-profits, including in healthcare.

## FMB Response to Section 2. *Title and Rights of Indigenous Peoples*

- FMB strongly supports the plan to “*Create a dedicated secretariat to coordinate government’s reconciliation efforts and to ensure new legislation and policies are consistent with the Declaration Act.*” (2.1)

To ensure that this secretariat has the capacity to advance Indigenous Economic Reconciliation, we recommend that the composition of the secretariat include both Indigenous people and non-Indigenous people who represent Indigenous interests. A range of professions should be represented in the secretariat including lawyers, businesspeople, and economic development experts that are able to analyze systemic bias and barriers across the economic landscape, including land and land tenure, corporate and securities, resource development, tax, financial institutions, education, and



government contracting law and policy. Indigenous participation should include a cross-section of status and non-status Indians, First Nations residents from Nations within and without B.C., Metis, and Inuit. Policy and legislation that is developed by semi-autonomous policy institutions (such as the British Columbia Securities Commission) must also be vetted by the secretariat.

Further, the secretariat should be able to publicly communicate to the B.C. legislature whether or not they endorse any proposed legislation that would affect Indigenous peoples and why.

- FMB recognizes the need to “*Engage with First Nations in matters related to the sustainable management of water including, for instance, the development of the Watershed Security Strategy and associated Watershed Security Fund.*” (2.8)

FMB encourages British Columbia to look at models for achieving water security in other jurisdictions. For instance, FMB is working with the Atlantic First Nations Water Authority as they establish both the delivery and management systems necessary to reliably, provide clean drinking water to all their member communities.

- With respect to the need to “*Advance reconciliation discussions on historical road impacts and road accessibility with First Nations on reserve, treaty and title lands.*” (2.13)

FMB recommends the Government of British Columbia support calls for the federal government to create the First Nations Infrastructure Institute (FNII) as a new institution under the *First Nations Fiscal Management Act* and provide it with appropriate levels of funding. The FNII would provide First Nations with support to assess and plan for infrastructure needs, from the planning and financing stage, through building, operating, and maintaining, to winding up.

## FMB Response to Section 3. *Ending Indigenous-specific racism and discrimination*

### General response

In the words of Premier Horgan, “Reconciliation is not just words, reconciliation is action.”

For too long (and over five mandate letters), Crown agencies, corporations, departments and branches have done little to implement Reconciliation and appear to have ignored their mandate letters to incorporate UNDRIP and the Truth and Reconciliation Commissions Call to Action number 57 into what they do. The bureaucracy is not successfully implementing the government’s direction. Service Plans developed in response to the mandate letters do not include Reconciliation goals and do not measure Reconciliation efforts. This needs to change and leadership must be held to account.

Every Crown department, agency and corporation should be required to:

- Include Reconciliation in their Service Plans and measure results.
- Specifically, develop an Indigenous Reconciliation Action Plan with measurable results including measuring Indigenous headcount by each level in the organization and implementing Indigenous procurement initiatives.
- Report on the progress of that Reconciliation Action Plan in their Annual Reports and update the Reconciliation Action Plan every third year.
- Base management compensation, promotion, and reward on execution on the Reconciliation Action Plan.

Response to specific measures in section 3

- There is a strong need to “*Provide essential training across the B.C. public service and other public institutions and corporations to build foundational competence and understanding of the rights of Indigenous peoples, the UN Declaration, the Declaration Act, Indigenous history, treaties, Indigenous specific racism, the dynamics of proper respectful relations and meaningful reconciliation.*” (3.1)

FMB both supports this action and sees the need for this training to be in-depth, multi-day, ongoing, and comprehensive. It is especially important that senior leadership be taught to empathize and to challenge their own cognitive dissonance, and be provided with an opportunity to consider existing Reconciliation frameworks and to develop their own institution-specific framework for incorporating Reconciliation into action in their department, agency or corporation.

- Yes, the Government of British Columbia should “*Establish and pursue targets for Indigenous representation in the public sector, including at senior levels.*” (3.2)

FMB believes that these targets would be best achieved if they were made part of the performance management incentives for senior civil servants. There must be a five-year goal to include Indigenous representation on every agency, professional regulatory board, policy board, Crown corporation or tribunal and in senior management of those bodies. A program to recruit and promote Indigenous ADMs and DMs should be established. All this must be reported on to the Legislature.

- FMB expresses its strong support for Action 3.10

*“Seek legislative amendments to add Indigenous identity as an enumerated ground in the B.C. Human Rights Code.”*

- FMB recognizes the need for Action 3.13 “*Advance the collection and use of disaggregated demographic data, guided by Indigenous data governance, and support the establishment of an Indigenous-governed and mandated regional data centre and alignment with the Data Governance Strategy.*”

We recommend that this work be linked with national efforts that Indigenous organizations are making, including the First Nations Information Governance Centre. Further, B.C. should keep itself informed of developments in the partnership between Statistics Canada, FMB, the Tulo Centre of Indigenous Economics, the First Nations Tax Commission, and the Bank of Canada to address a data gap in Indigenous Government financial statistics within the Canadian Government Finance Statistics program. Respect for data sovereignty should be a cornerstone of this effort.

- FMB believes that increased mentorship opportunities are essential for the success of Economic Reconciliation. 3.15: “*Review, evaluate and improve B.C.’s Indigenous Youth Internship Program.*”

FMB encourages B.C. to ensure that Indigenous youth internship opportunities are available across a very wide range of occupations and vocations. FMB frequently notes that there is an insufficient pipeline of Indigenous youth gaining skills and experience in business and STEM, including in the engineering, accounting, business, and financial sectors. Government should work with Crown corporations like B.C. Hydro and large government contract vendors (e.g., accounting firms, facilities management firms, engineering firms) to set mandatory benchmarks for internships. In particular, for professions that require apprenticeship or articling as a gateway to certification (e.g., lawyers, accountants, engineers, and geoscientists), government departments and agencies should create set-aside programs for Indigenous graduates to be able to “get articles”. These programs must be part of the department/agency/Crown corporation’s Reconciliation Action Plan and reported on in the Legislature.

## FMB Response to Section 4. *Social, cultural, and economic well-being*

### General Response

To facilitate the economic aspects of reconciliation a larger Indigenous professional, managerial, and scientific workforce is needed. Overall, the Action Plan needs to include more measures to support the growth of this workforce.

**FMB recommends:**

- Dedicated funding for Junior Achievement B.C. to create and deliver business education programs specifically for Indigenous high school students including mentorship from Indigenous business role models.
- Dedicated programs to increase numerical literacy and STEM in Indigenous schools and bridge courses for graduates to build numerical literacy.
- Increased bursaries and programs for Indigenous business and engineering/applied science education in colleges and universities, supported by a focus on hiring of more Indigenous faculty.
- For regulated professions like law and accounting, the B.C. government should investigate whether remote communities would be better served by new licensing regimes. (For example, the creation of an Indigenous legal professional category with a scope of writing and interpreting Indigenous laws and interpreting the laws of Canada and B.C. as they pertain to Indigenous peoples who could act as an Indigenous government lawyer (developing Indigenous laws) and notary; also, creating more flexibility on experience and articling requirements)
- Funding for the AFOA and its Certified Aboriginal Financial Manager program, which creates a pathway for Indigenous bookkeepers.

**Response to specific measures in section 4**

- FMB believes that a focus on generating more Indigenous graduates with business, engineering and trades credential must be a major focus for action 4.5:  
  
*“Co-develop, with Indigenous post-secondary and skills training partners, a framework for Indigenous post-secondary education and training, including: revising and expanding the Aboriginal Service Plan program to all 25 public post-secondary institutions; prioritizing Indigenous representation on public post-secondary institution boards; and ensuring adequate and culturally appropriate housing for Indigenous post-secondary students.”*
- FMB supports action 4.6 and recommends that it be backed by appropriate and predictable funding from both levels of government to the First Nations Health Authority.

*“Continue to strengthen and evolve the First Nation health governance structure in B.C. to ensure First Nations are supported to participate as full and equal partners in decision making and service delivery at local, regional and provincial levels, and engage First Nations and the Government of Canada on the need for legislation as envisioned in the tripartite health plans and agreements.”*

- As with other actions, it is essential that 4.12 provide long term, predictable funding that can support both operational and capital needs.

*“Co-develop a B.C.-specific fiscal framework, in consultation with Indigenous peoples, to support Indigenous jurisdiction over child and family services.”*

- The ability of First Nations to access long term, affordable capital will be essential for the success of 4.19. The housing should be built and financed and operated by Indigenous-run institutions. The FMB could assist with the financial, governance and accounting capacity development.

*Build more housing for Indigenous peoples both on- and off-reserve and pursue new federal contributions.*

The B.C. government can support modern treaty First Nations’ ability to make capital investments in housing, by calling on the Federal government to make amendments to the *First Nations Fiscal Management Act* to allow modern treaty First Nations to borrow against capital project funding.

- FMB is pleased to see Actions 4.28 and 4.29 in the Plan.

*Provide funding to assist Indigenous tourism businesses that have been financially impacted by the COVID-19 pandemic in order to further support recovery of the Indigenous tourism sector in B.C.*

*Establish new investments in Indigenous tourism in B.C.*

Improved transportation access to remote First Nations will improve their ability to participate in the tourism sector.

Further the B.C. government can also support modern treaty First Nations ability to make capital investments to support tourism activities, by calling on the Federal government to make amendments to the *First Nations Fiscal Management Act* to allow modern treaty First Nations to participate and benefit from the act the way other First Nations are able to.

Additionally, many First Nations tourism activity including gaming. The B.C. Government should work with First Nations so that they have access to a portion of the gaming licenses.

- FMB supports Action 4.30 and again notes the significant shortage of Indigenous Peoples with business and financial training, including book-keeping.

*“Provide funding and strengthen partnerships for the delivery of community-based skills training and post-secondary education programs to enable more Indigenous people to upgrade their skills, obtain credentials and secure employment.”*

- FMB is pleased that Action 4.31 recognizes the importance of good data to make good financial decisions. FMB will be working with its sister organization, the First Nations Tax Commission, for both organizations to gain authorization through legislation to collect and disseminate more First Nations economic data. We note that there is no reliable data on the number of Indigenous professionals and professional regulatory bodies could be mandated to collect that data.

*Working with Indigenous partners, develop economic metrics to help evaluate progress as reconciliation is advanced. The baseline data will begin to address the persistent gap in Indigenous-specific economic metrics and through this co-designed effort, build a comprehensive set of data to measure Indigenous economic well-being and track progress over time.*

- FMB supports Action 4.32 and wishes to highlight the need for quality, high speed internet access in all First Nations communities as a necessary element for participation in the modern economy.

*Prioritize and increase the number of placements for Indigenous peoples and other groups currently under-represented in B.C.'s technology sector.*

This effort could be further supported by investigating the possibilities of creating tax incentives for high tech firms to locate their businesses in First Nations communities and to hire Indigenous STEM students. The government should require Crown corporations like B.C. Hydro to report on initiatives to hire and retain Indigenous engineers.

Further, B.C. could work with interested First Nations to house on-reserve STEM campuses and programs offered by public post-secondary institutions, both teaching and research, combined with business parks, to create a business accelerator environment on urban reserves. High schools could also have programs located on the campus to introduce Indigenous students to the opportunities of STEM.

- FMB supports Action 4.36 and believes it can be complimented and strengthened by the creation of a government account that collects and shares both resource revenues and revenues from FACT taxes among participating First Nations (Fuel, Alcohol, Cannabis and Tobacco)

*Advance a collaborative approach to cannabis-related governance and jurisdiction between First Nations and the Province that reflects common objectives to protect youth, prioritize public health and safety, strengthen First Nations governance capacity and secure economic benefits for First Nations.*

- FMB supports Action 4.38 *Review existing provincial mandates to enhance treaty and self-governing Nations' fiscal capacity to deliver services to their citizens.*

FMB encourages British Columbia to look at models in other jurisdictions for achieving Indigenous service delivery. For instance, FMB is working with the Atlantic First Nations Water Authority on its financial governance model as they establish both the delivery and management systems necessary to reliably provide clean drinking water to all their member communities. FMB could provide similar governance capacity to other services delivered on reserve. We strongly recommend aggregating service delivery across several First Nations, with the consultation and agreement of First Nations, into one service provider.



## Specific Recommendations on Economic Reconciliation

### First Nations Engagement and Reporting to the Legislature

The Action Plan that British Columbia has put together is wide ranging and thorough. It is important that, once finalized, that this plan is realized. The Action Plan calls on the B.C. government to create several new institutions including a new Indigenous Secretariat. The ability of these institutions to affect change will in large part be determined by how central they become to the regular operations of government.

**FMB recommends that the Action Plan propose legislation that would compel the B.C. government to engage and make use of the new institutions, particularly the Indigenous Secretariat, that are identified in the plan.**

**There should be an annual reporting to the B.C. Legislature on the progress made by the government to implement the Action Plan. This reporting must be separate from simply having sections on implementation of the Action Plan in tabled reports from ministries, crown agencies and crown corporations.**

### Lobbyist Exemptions for First Nations Policy Organizations

In order to encourage the sharing of information and policy ideas, we suggest that section 2 of the *Lobbyist Transparency Act* be amended to exempt federal First Nations policy organizations such as the FMB and the First Nations Tax Commission. In particular, the FMB under the *First Nations Fiscal Management Act* section 48 has a purpose to “provide advice, policy research and review and evaluative services on the development of fiscal arrangements between First Nations’ governments and other governments” and such an exemption would allow us to meet our purposes.

### Reconciliation in Financing

Unlike other levels of government or public institutions, First Nation governments face additional limitations that inhibit their ability to access capital. Property cannot be used as collateral. Infrastructure deficits are common and access to affordable loans are rare. These barriers discourage both public and private investment. The high cost of capital has prevented First Nations from participating in major projects in their traditional territories. Many First Nation development corporations are unable to develop economies of scale.



British Columbia should consider using its balance sheet for loan guarantees or other kinds of risk-sharing (and reward-sharing) with First Nations, particularly for major projects.

FMB recommends that B.C. create an Indigenous Development Bank or Agency designed to provide affordable financing and technical assistance to drive infrastructure investment and major project finance, particularly in natural resources or developments of rights of way-related projects. Such a development bank could work closely with the First Nations Major Projects Coalition.

FMB recommends B.C. increase its support to the First Nations Major Projects Coalition (FNMPC). FNMPC plays a key role in resource development by providing First Nations the advice and support they need so they can take their Indigenous rights and title and do the due diligence required to see how they can implement projects instead of rejecting them because of a lack of capacity. They have developed environmental stewardship frameworks and helped First Nations advance some important projects within their traditional territories. There are thirty-five First Nations now participating in the FNMPC.

FMB also recommends that B.C. create a First Nations Venture Fund with a mandate to provide investment and management advice to Indigenous governments and their venture businesses targeting strategic industries like civil construction, remediation, land and fire management services, transportation, facilities management, and natural resources extraction services. Of particular focus, the Fund should incent the aggregation of Indigenous-owned businesses into provincial, regional, or tribal council scale businesses to create economies of scale and businesses that could be competitive for government procurement contracts and major projects contracting.

## Supporting Economic Aggregation

As British Columbia First Nations vary significantly in physical size, population, planning capacity and access to resources, it must be recognized that basic economics will compel First Nations to partner with each other for both service delivery and the seizure of economic opportunities. The choice to partner and aggregate must always be left to individual First Nations, but aggregations, including tribal, regional or pan-First Nation partnerships for government service delivery and tribal, regional or pan-First Nation business joint ventures to take advantage of equity investment or procurement opportunities coming from natural resource projects, should be supported.

FMB recommends that the Ministry of Finance and the Ministry of Indigenous Relations and Reconciliation work together to develop a plan on how B.C. can support Aggregation of services, infrastructure projects and economic ventures.

## Reconciliation in Securities Regulation

The British Columbia Securities Commission (BCSC) plays a uniquely important role in the province in the creation of economic regulations and policies that regulate business and investment, ensuring free and fair capital markets and creating investor confidence. However, Indigenous people do not yet see themselves reflected in the boardrooms of Canada, or in the finance industry, or, in fact, at the BCSC or other financial regulators.

In fact, according to the Government of Canada (<https://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs08998.html>), for *Canada Business Corporations Act* corporations that were reporting issuers in 2020 (i.e., public companies):

- Indigenous persons hold 0.3% of board seats among the 403 distributing corporations that disclosed diversity information (the same percentage for both venture and non-venture issuers)
- Indigenous persons hold 0.2% of senior management positions among the 403 distributing corporations that disclosed diversity information
- Indigenous persons hold **none** of the senior management positions among the 160 venture issuers and 0.3% of senior management positions among the 243 non-venture issuers

Yet, Indigenous people make up almost 6% of the total population of B.C. (and almost 5% nationally).

**This is a 20 to 30 times under-representation.**

Indigenous governments have at least \$20 billion of assets under management with registrants. Yet, there are only a dozen Indigenous CFA charter holders in North America. We can name only a handful of senior Indigenous finance executives or asset managers. We are aware of only one staff member across all the Canadian Securities Administrators who is Indigenous.

**This lack of representation does not create Indigenous confidence in capital markets.**

Due to lower levels of education and lack of familiarity with the capital markets, Indigenous peoples and governments are also much more vulnerable to mis-selling and fraud. The BCSC has spent considerable resources in investor education reaching out to many ethnic and religious communities in many languages with advertising and print media—but not to Indigenous peoples.

Clearly, there is work for the British Columbia Securities Commission (BCSC) to do on Indigenous Reconciliation.

Since 2017, mandate letters of the Government of British Columbia and its Ministers, including those to the BCSC, have required the incorporation of UNDRIP and the Truth and Reconciliation Commission (TRC) into mandates. However, there has been no apparent action.

We are concerned that an agency with broad powers to create regulations on the capital markets must have greater engagement with Reconciliation. In particular, with leadership on ESG and diversity being driven by the Ontario Securities Commission, we worry that an American approach to these issues will be adopted, ignoring Indigenous Reconciliation.

We recommend the following actions in order for the BCSC to advance reconciliation:

- Government should set aside at least one seat on the Board of BCSC for an Indigenous person and the BCSC should ensure that at least one seat on Self-Regulatory Organizations (SROs) (e.g. Mutual Fund Dealers Association, IIROC) is set aside for an Indigenous person.
- The BCSC and SROs should implement a hiring, retention, and promotion plan for Indigenous peoples at all levels in the organization with goals and targets similar to the BlackNorth Initiative, reflecting the 6% Indigenous population of B.C. (or, for SROs, 5% of Canada), which must be represented in the regulation of its financial markets. This is consistent with what the OSC has targeted with respect to Black Canadians.
- The BCSC must not simply rubber stamp the adoption of OSC-led CSA legislation or policy and must instead critically review all CSA proposed legislation and guidance for compliance with DRIPA and Reconciliation.
- The BCSC should create an Office of Reconciliation with a mandate to:
  - develop and report on the Reconciliation Action Plan
  - ensure Indigenous representation internally
  - educate BCSC staff and board members on Reconciliation and the history of Aboriginal peoples in accordance with Call to Action 57 of the Truth and Reconciliation Commission
  - consult with Indigenous peoples on the development of legislation that may affect them (as required under DRIPA) and seek counsel from thought-leading Indigenous institutions like the Reconciliation and Responsible Investment Initiative, NATOA, First Nations Major Projects Coalition and FMB on how securities legislation can embrace Reconciliation
  - work with the proposed Secretariat in vetting of legislation and policy for consistency with DRIPA
  - work with Indigenous peoples to advance economic Reconciliation within the remit of securities regulation

- promote the inclusion of Indigenous people in the finance and investment industries and the adoption of Call to Action 92 of The Truth and Reconciliation Commission and the adoption of Reconciliation Action Plans by market participants.
- educate Indigenous peoples and governments on the capital markets and investor protection.
- In consultation with Indigenous peoples, BCSC must consider whether special suitability requirements, duties or proficiency should apply to registrants dealing with Indigenous peoples or governments, due to vulnerabilities including the need for First Nation capital to be invested in and last in perpetuity and Indigenous unfamiliarity with capital markets due to residential schools and systemic racism, and due to a need to consider Indigenous values in the investment process. BCSC should also investigate if any systemic barriers to access to advice exist for Indigenous people or governments.
- To promote confidence in capital markets and encourage the provision of information that investors need to measure risk of issuers not having Indigenous social license, reporting issuers must report in their prospectuses and continuous disclosure on Environmental Social and Governance (ESG) matters related to Reconciliation and DRIPA, including, but not limited to
  - Diversity statistics for Indigenous board members, senior management, and staffing
  - Recognition of Indigenous rights, including whether the issuer commits to apply UNDRIP and/or seek free, prior, and informed consent
  - Effects of development on Indigenous communities and efforts to mitigate
  - Cumulative environmental effects
  - Indigenous contracting and procurement
  - Indigenous training and education
  - Indigenous ownership and economic participation
- Broker dealers, portfolio managers, and investment fund managers of a certain size doing business in or selling into British Columbia must publicly report diversity statistics for Indigenous board members, senior management, and staffing.
- The BCSC must consult with Indigenous peoples on the creation of a requirement to have an Indigenous board seat on all reporting issuers, broker dealers, portfolio managers, and

**investment fund managers doing business in or selling into British Columbia above a certain size or listed on a major exchange or whose funds are listed.**

## The Importance of ESG to Reconciliation

Responsible investing or ESG (Environmental, Social, Governance) investing prioritizes the impact a business has on the environment and society, and how well it is governed, along with traditional financial performance, in evaluating whether to invest.

Currently, there are no unified standards for ESG, although many international organizations have proposed standards some of which are used by the investment industry.

With the urgency to address climate change, suddenly, international standard setting bodies are now rushing to adopt ESG standards that have been developed without Indigenous consultation. IOSCO (The International Organization of Securities Commissions), International Financial Reporting Standards (IFRS) Foundation / International Accounting Standards Board, and CFA Institute are international bodies for setting standards for securities, accounting, and investment managers. Their current drafts of international ESG standards do not adequately include Indigenous Reconciliation principles.

We anticipate that these international standards will be set within the next few months to a year, and we anticipate that Canadian regulators, and in particular, the Canadian Securities Administrators, including the BCSC, will be tempted to adopt them without considering Canada and British Columbia's obligations to Indigenous peoples.

**Canadian regulators, including the BCSC, adopting international ESG standards is not Reconciliation.**

**Any ESG policy and legislation must be “made in Canada” with input and consultation with Indigenous peoples.**

Some Canadian ESG advocates refer not to ESG, but to ESGI—“I” for Indigenous. Canadian investors are looking to incorporate UNDRIP in investment decisions and are demanding ESGI transparency from issuers. Investors recognize the risks of issuers not receiving free, prior and informed consent (FPIC) from affected communities—stalling of a project for years in litigation and protest, increasing the cost of capital and raising systemic risk in the capital markets. Good Canadian ESGI standards will create greater transparency, and increased efficiency in capital flows. Corporate compliance with Truth and Reconciliation Commission Call to Action 92 and UNDRIP by Corporate Canada, will also lead to lower cost of capital, including tighter credit spreads, lower costs of insurance, and lower banking costs.

Ultimately good ESGI Standards will assist corporations to do business in British Columbia with First Nations and will allow First Nations to make quicker decisions whether they participate in potential natural resource development projects because there will be better disclosure and higher ESG standards.

**The B.C. Government should make the incorporation and promotion of high quality ESGI Standards a key element of the province's economic strategy.**

All ESGI Standard development should include consultation with Indigenous governments, peoples, experts, and organizations—they cannot be simply adopted from EU, US, or international standards

- For investment products that market themselves as Environmental, Social and Governance Standards (ESG) compliant, there must be prescriptive standards that ensure that the ESG claim is full, true, and plain and based on objective standards. UNDRIP and Reconciliation principles must be included in the definition of ESG and any reporting requirements. ESG in British Columbia should instead be referred to as “ESGI”—including Indigenous Reconciliation disclosure and metrics.
- Proxy advisory firms advise pension plans and investment funds, collectively the largest investors in the capital markets, about how to vote their shares. Proxy advisory firms have immense power and influence in deciding whether or not companies and boards are held to account on ESGI, including diversity. Proxy advisory firms must comply or explain why they have not included Indigenous Reconciliation as a factor in their proxy voting recommendations, including for Indigenous board diversity and ESGI-related voting, or be regulated to do so. Proxy advisory firms should also implement an Indigenous Reconciliation plan including diversity targets.
- ESG rating agencies likewise have immense influence on how investors, both institutional and retail, decide on which fund or company to invest in. In the absence of international ESG standards, they are essentially making the rules of what defines an ESG fund. ESG rating agencies must be required to comply or explain why they have not included Indigenous Reconciliation as a factor in their ESG ratings, or be regulated to do so. ESG rating agencies should also implement an Indigenous Reconciliation plan including diversity targets.
- Similarly, the Canadian Investment Funds Standards Committee (CIFSC) will determine the definition of a “Responsible Investment” (RI) fund (i.e., ESG fund) for categorization codes for the investment industry. They will define what ESG means and the BCSC would permit these codes to be included in prospectus, continuous disclosure and marketing material in the ordinary course. The CIFSC has communicated it will align with the finalization of CFA Institute’s *ESG Disclosure Standards for Investment Products*, an international standards process that has not incorporated Indigenous consultation or Indigenous definitions for ESG, for defining RI Fund Identification Framework. (FMB has submitted comments to the CFA Institute on the lack of Indigenous consideration in its framework.  
<https://www.cfainstitute.org/-/media/documents/code/esg-standards/esg-consultation-paper-comment-first-nations-financial-mgmt-board-and-reconciliation-responsible.ashx>)



This is another example of blindly applying international standards in British Columbia's capital markets with no consultation with or consideration of Indigenous peoples. CIFSC must create a "made in Canada" approach to the definition of Responsible Investment fund working with Indigenous peoples. In the alternative, as a *de facto* ESG standard-setter, CIFSC should be regulated as a Self-Regulatory Organization (SRO) by the BCSC and have Indigenous Reconciliation requirements listed above.

## Reconciliation in Corporate Law

The 2019 amendments to the *Canada Business Corporations Act* (CBCA) include a requirement for federally incorporated firms to report, on a comply or explain basis, on any diversity policies and targets for inclusion of Indigenous people on the corporation's board of directors and at the executive officer level. They also require the company to report on annual and cumulative progress in achieving targets, as well as the number and percentage of Aboriginal people on the board and in senior management

These *CBCA* reforms do two things that are helpful both to the objectives of reconciliation and to businesses and investors:

- Demonstrate that Indigenous leadership is valued at all levels of corporate Canada and that there are no barriers to access and inclusion even at the highest level of the company.
- Provide benchmarking for investors and others on the level of Indigenous participation in corporate leadership, which assists investors in understanding a company's commitment to inclusion and diversity, something that Canadian and international investors have repeatedly demonstrated is of critical importance.

**Similar Indigenous diversity amendments to the CBCA must be included in the *B.C. Business Corporations Act*.**

## Reconciliation in Credit Unions, Insurance and Basic Investment

Access to banking and insurance is challenging for Indigenous peoples, particularly in remote communities. Financing for housing or personal loans to start up a business may not be available. Recent Bank of Canada research has noted the high distances between many Indigenous communities and the nearest bank machine.

According to Prosper Canada,

"Aboriginal people in urban, rural and remote communities sometimes feel unwelcome in mainstream financial institutions. These circumstances contribute not only to increased reliance on fringe financial services but to difficulties effectively managing day-to-day finances including, paying bills on time and regular saving for the future."

FMB recommends a task force to consider the creation of an Indigenous non-profit credit union, insurance, and mutual fund company with a mandate to increase financial accessibility to Indigenous people and consider products tailored to the needs of Indigenous businesses, governments, and individuals, particularly for those on-reserve with unique housing and tax considerations.

Further, all insurance brokerages, pension funds and their managers, insurers, and credit unions above a certain size doing business in British Columbia must publicly report diversity statistics for Indigenous board members, senior management, and staffing.

## Reconciliation in Pension and Asset Management

The National Aboriginal Trust Officers Association estimates that Indigenous trust assets are worth over 20 billion dollars across Canada. However, the financial returns that these trusts are receiving are quite mixed in terms of results. A conservative improvement of a combination of raising return and lowering fees of 2% could position hundreds of millions of dollars annually back to Indigenous communities for enhanced prosperity. Yet Indigenous governments, trusts and settlement corporations do not have access to the same high quality, low-cost money management that the B.C. public sector does. Anecdotally, we know of poorly served First Nations that overpaid for advice and received sub-par returns. We also understand that the largest investors in Canada—the pension fund managers—are slow to embrace Reconciliation in their investment strategy and in staffing.

**FMB recommends changing the Mandate of British Columbia Investment Management Corporation (“BCI”) to embrace Reconciliation. Specifically:**

- Amend the legislation for BCI to permit BCI to manage money on behalf of Indigenous governments, trusts, and social enterprises.
- Mandate inclusion of Indigenous peoples within the staff, senior management, and board of BCI.
- Require BCI to set a goal to contract with Indigenous-owned underwriters, traders and contractors, and mandate that its internal or external fund managers must use Indigenous-owned underwriters and traders. Such requirements may drive the expansion and creation of Indigenous-owned financial institutions.
- Require the creation of a Reconciliation Action Plan and track compliance.
- Amend the legislation of BCI to permit it to invest with an additional purpose to promote Indigenous Reconciliation, including UNDRIP and the TRC Calls to Action.
- Request BCI advocate for similar reforms amongst the Big Eight pension plans in Canada.



Ultimately the goal should be to have BCI be available to manage these Indigenous Assets for a set period of time before an Independent Indigenous-led Asset Manager could be spun off from BCI (as, for example, the First Nations Bank of Canada was spun out of TD Bank). Such an asset manager, based in B.C. and potentially serving First Nations across Canada, could create significant employment and economic growth for Indigenous peoples in B.C.

## Background: FMB & how its activities support UNDRIP & DRIPA

### About the First Nations Financial Management Board

- FMB is an Indigenous-led organization that was created by the federal *First Nations Fiscal Management Act*, which was passed with all party support in 2005.
- Our role is to support First Nations in the development of strong governance and financial management systems.
- It is optional to work with us and our services are free of charge; to date 315 First Nations from across Canada have scheduled to our *Act*.
- FMB helps First Nations:
  - Pass their own Financial Administration Laws
  - Develop their own financial management and governance capacity
  - Acquire certifications that indicate good financial management to their community and potential creditors
  - Access long term affordable financing through the First Nations Finance Authority (FNFA)
  - Gain eligibility for the Indigenous Services Canada 10-Year Grant
- 183 First Nations have received Financial Performance Certification from FMB, allowing them access to the 10-Year Grant and to raise capital through the FNFA.

- To date First Nations have raised about \$1.5 billion through the FNFA, which they've been able to invest in their economies.
  - Notably the recent Clearwater transaction in Atlantic Canada was made possible by seven First Nations certified by FMB raising capital through the FNFA.

### New Fiscal Relationship and the 10-Year Grant Program

- Indigenous Services Canada and the Assembly of First Nations co-developed the 10-Year Grant as part of their report “[A New Approach: Co-development of a New Fiscal Relationship Between Canada and First Nations](#)”.
- The 10-Year Grant allows First Nations to do the following:
  - Better manage finances over a longer period to meet changing community needs
  - Keep unspent funds (no claw backs of surplus funds at year end)
  - Reduce the amount of reporting and resources needed by First Nations
- The FMB’s governance and finance practices were selected by ISC and the AFN as the framework that should be used in the 10-Year Grant.
- FMB analyzes the financial performance of First Nations and confirms whether grant eligibility criteria are met.
- If the criteria are not met, FMB can work with First Nations to gain eligibility.
- FMB prepares and issues compliance opinion reports on grant eligibility to ISC.

### Financial Management System Support Services

- Remote and smaller First Nation governments have difficulty accessing quality, affordable professional services.
- The inability to access timely and accurate financial information prevents First Nation governments from making informed decisions, which has a direct impact on community well-being, prosperity, and ability to manage their own affairs.
- FMB is setting up a pilot project to provide bookkeeping, accounts payable, accounts receivable, payroll and financial reporting services to 10 First Nation governments through a shared services platform.

#### **Default Management Prevention Pilot Project (DMPPP)**

- In 2016, five First Nations in third-party management across Canada asked the FMB to support them in building strong governance and finance practices to help them get out and stay out of default management.
- FMB started the Default Management Prevention Pilot Project (DMPPP) to help these Nations build the capacity to make informed decisions and create a roadmap for community development and well-being.
- Through the DMPPP, each Nation has access to intensive FMB capacity development resources over a three-year period.
- In January 2019, DMPPP added another 20 First Nations to the program.
- **FMB considers DMPPP as an important tool in enabling First Nations to have control of their own destinies, one of the core values of UNDRIP.**

#### **First Nations Governance Project**

- In 2018 FNFMB was asked by ISC to examine the characteristics of First Nations governance, and intergovernmental relationships, to support their transition out

from under the *Indian Act* to a renewed Nation to-Nation relationship.

- FNFMB established a partnership with the Institute on Governance provide research and analytical support.
- The First Nations Governance Project was organized into two phases:
  - [Phase I](#) defined how Indigenous peoples envision a renewed Nation-to-Nation relationship with Canada in a post-Indian Act, UNDRIP-defined environment, and detailed questions about how Indigenous Nations will interact with Canada and other governments.
  - Phase II will provide answers on how Indigenous Nations will interact with Canada and other governments; and suggest support mechanisms and structures to ensure that Indigenous Nations and Canada successfully engage in an UNDRIP-defined relationship.
- The Indigenous Self-Determination and Governance Framework created in Phase 1 situates the role of good governance by suggesting a set of core principles that could form the basis of a renewed Crown-Indigenous relationship, setting the stage for transition out of the *Indian Act*.
- Phase 2 will identify opportunities for First Nations to work together through new models of service aggregation, external training partners, skills development, principled Crown-Indigenous engagement, and other means of realizing greater self-determination within the Canadian federation.
- If ISC provides FMB with the funding for Phase 2, FMB will deliver what could be a very useful component of the UNDRIP Action Plan.