



First Nations  
**FINANCIAL  
MANAGEMENT  
BOARD**

**CONSEIL  
DE GESTION  
FINANCIÈRE** des  
Premières Nations

November 1, 2022

Canadian Association of Pension Supervisory Authorities  
25 Sheppard Avenue West, Box 21 – Suite 100  
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*VIA: Email – [capsa-acor@fsrao.ca](mailto:capsa-acor@fsrao.ca)*

## **Re: CAPSA Guideline – Environmental, Social and Governance Considerations in Pension Plan Management**

The First Nations Financial Management Board (“the FMB”) is pleased to provide you with our comments that emphasize the need for the inclusion of Indigenous consideration in the CAPSA Guideline – Environmental, Social and Governance (“ESG”) Considerations in Pension Plan Management (“the Guideline”).

### **General Comments**

The Guideline is an important step in establishing guidance for consideration of ESG matters. The FMB commends the work that has been done by CAPSA in this emerging reporting area. However, the Guideline does not provide enough detailed guidance for plan administrators to adequately understand and assess the impacts of the current ESG landscape, as well as how to stay current in this rapidly evolving field.

The Guideline has also failed to consider the United Nations Declaration on the Rights of Indigenous People (“UNDRIP”) as well as Canada’s Truth and Reconciliation Commission’s (“the TRC”) Calls to Action. In pursuit of reconciliation with Indigenous people in Canada, the Guideline should specifically highlight the need to consider Indigenous rights, and the responsibility to address systemic racism that continues to perpetuate inequality.

### **Strong Support for Sustainable Growth has Been Pledged by Canada’s Eight Largest Pension Plans**

Following the 2020 public pledge of the ‘Maple 8’ to “continue to strengthen our own ESG disclosure and integration practices and allocate capital to investments best placed to deliver long-term sustainable value creation”<sup>1</sup> there is a clear desire to improve and standardize ESG disclosures in the pension sector. Buoyed by the meaningful statement made by CEOs of the most influential pension plans in the country, we feel there is an opportunity for CAPSA to take the Guideline further to provide more standardized disclosure considerations and to specifically include UNDRIP and TRC Calls to Action. Currently the Guideline “encourages” plan administrators to remain apprised of disclosure developments and industry

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<sup>1</sup> Evelien, K et al. [https://www.bci.ca/wp-content/uploads/2020/11/Nov-24\\_Maple-8-CEO-Statement\\_EN.pdf](https://www.bci.ca/wp-content/uploads/2020/11/Nov-24_Maple-8-CEO-Statement_EN.pdf)

specific guidance from international sustainability reporting organizations. There is a risk that plan administrators will not be sufficiently informed of Indigenous factors to make decisions.

## Failure to Consider Indigenous Rights May Have Significant Negative Impacts on Enterprise Value

There are many examples of projects and entities which have failed to meaningfully engage with Indigenous people about development in their territory with significant negative economic consequences. Protests, boycotts, legal actions, revocation of permits, reputational harm and loss of key suppliers or insurers are all potential negative impacts. The controversial Dakota Access Pipeline is one example of a project where enterprise value suffered due to a failure to consult and collaborate with Indigenous rights holders. Conversely, entities working collaboratively with Indigenous people can recognize a competitive advantage and create opportunities to increase enterprise value. UNDRIP contains requirements for obtaining free, prior, informed consent (“FPIC”) ahead of the approval of any project affecting the lands, territories, and other resources of Indigenous people. Global investors are becoming increasingly interested in Indigenous considerations when assessing sustainability factors. Indigenous consent and inclusion improves project viability and helps to mitigate the risk of opposition on the basis of ESG considerations. Pension plan members have a vested financial interest in ensuring that their retirement income is invested in companies who have devoted adequate resources to assessing and mitigating all relevant risks.

### Barriers Exist for Investment in Indigenous Projects

The Canadian Climate Institute has reported that in order to become a global leader in critical minerals, Canada must do two things, prioritize Indigenous partnerships and remove barriers to private finance.<sup>2</sup> Indigenous projects still face a higher cost of financing and lack of access to capital. These factors are compounded with higher construction costs on reserve and an infrastructure gap compared to non-Indigenous communities. The FMB encourages institutional investors to explore new opportunities that support Indigenous projects and well as provide stable returns.

### The Extended Time Horizons for Pension Plans Magnify the Importance of Sustainability

The impact of ESG factors over the next 30 years should not be underestimated. Climate change, diversity, equity, and inclusion (“DEI”), and Indigenous rights will reshape the way that Canadians invest. Businesses, as well as pension plans and investment managers will need to respond to these changes or risk being left behind. “Beyond that, there are a number of Canadian plans actively engaged on issues such as carbon emissions and net-zero goals. Indigenous reconciliation in the corporate sector, improved

### Enterprise Value & Indigenous Factors

- Investors are now choosing to **reward** companies **committed to reconciliation**
- Reconciliation and implementation of **UNDRIP** are becoming accepted as **mandatory requirements** for natural resource extraction
- Failure to **obtain and disclose FPIC** creates **risk** and uncertainty

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<sup>2</sup> Forman, J. Critical minerals, war and the race to net zero: What is Canada’s role?  
<https://climateinstitute.ca/critical-minerals-war-and-the-race-to-net-zero/>

corporate governance, diversity and inclusion, and board diversity and inclusion are also gaining more attention, as well as allocating resources strategically to meet both financial and non-financial goals.”<sup>3</sup>

### **Materiality Should Be Defined in the Context of the Guideline**

The definition and application of materiality is not clear in the context of Guideline. The Guideline should be explicit about the concept of double materiality. Limiting materiality to the context of the pension plan fails to consider sustainability-related information which in the scale of the plan may be immaterial, but for the market, the environment, or people, the impact is material. The requirement fails to address sustainability risks that are significant to other stakeholders under a shield of immateriality. This limitation could be addressed by expanding the requirement to consider double materiality. Double materiality provides an outside-in perspective which has been identified as “crucial” by GRI reporting standards.<sup>4</sup>

### **Governance Must Involve and Include Indigenous People**

The Guideline emphasizes the importance for plan administrators to have effective governance structures and processes in place to identify and manage risks and opportunities associated with ESG. Unless these governance systems involve and include Indigenous people, they will not be effective at identifying risks and opportunities that are associated with how investees are dealing with Indigenous rights. The Guideline should be expanded to require that governance systems be designed to include and involve Indigenous people. We would also point to the work of the Chartered Financial Analyst (“CFA”) Institute which has developed a DEI Code (USA and Canada). The code provides practical steps for the investment industry to realize greater DEI. “CFA Institute recognizes that a diversity of perspectives will lead to better investor outcomes; an inclusive investment industry will better serve our diverse society. Further, we recognize that an organization, with an inclusive culture, awareness and education, and effective working relationships, is a better place to work.”<sup>5</sup> The FMB encourages CAPSA and its member organizations to review and reflect on the steps which could be taken to improve inclusion internally with specific consideration to Indigenous representation. The FMB has supported the CFA Institute and CPA Canada in identification of systemic barriers and lack of inclusion and would be happy to assist CAPSA in a similar capacity.

### **Risk Management Framework Must Include Indigenous Education and Training**

For a risk management framework to adequately consider risks and opportunities related to Indigenous factors, it is essential that the education and training of a plan administrator and others with fiduciary responsibilities receive Indigenous cultural awareness training. Specifically, the education and skills-based training described in the TRC Call to Action #92 should be referenced in the Guideline.

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<sup>3</sup> Dondo, J. <https://www.wealthprofessional.ca/investments/socially-responsible-investing/canadian-asset-owners-stepping-up-support-for-esg/365661>

<sup>4</sup> GRI - <https://www.globalreporting.org/about-gri/news-center/why-double-materiality-is-crucial-for-reporting-organizational-impacts>)

<sup>5</sup> CFA Institute - <https://www.cfainstitute.org/en/ethics-standards/codes/diversity-equity-inclusion>

## Canadians Expect Corporations As Well As All Levels of Government to Pursue Reconciliation

Pension plans represent the interest of Indigenous and non-Indigenous participants and have a responsibility to further reconciliation. Non-Indigenous people in Canada have become much more aware of the country's shameful history of actions towards Indigenous people and most acknowledge the importance of reconciliation. In a recent poll of Canadians from across the country done by Leger, 72 per cent of respondents agreed with the sentiment "I am much more understanding of why reconciliation is important for Indigenous Peoples and Canada as a whole."<sup>6</sup>

Canada's pension plans are some of the largest asset owners in the country. These entities have an ability and opportunity to make powerful investment decisions that both target strong returns and support Indigenous participation in the economy. TRC Call to Action #92 requires Canada's corporate sector to actively engage in reconciliation. Noting that pension plan administrators should be working to comply with this Call to Action, it is recommended that reconciliation with Indigenous people be a basis for additional CAPSA guidance for reporting.

Sincerely,

**FIRST NATIONS FINANCIAL MANAGEMENT BOARD**

Per: "*Harold Calla*"

Harold Calla, FCPA, FCGA, CAFM  
Executive Chair

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<sup>6</sup> Hopper, T. <https://nationalpost.com/news/canada/vast-majority-of-canadians-support-reconciliation-even-if-they-differ-on-the-details-poll>