

FIRST NATIONS FINANCIAL
MANAGEMENT BOARD



The RoadMap Project

CHAPTER SIX: STRENGTH THROUGH WORKING TOGETHER



First Nations
**FINANCIAL
MANAGEMENT
BOARD**

**CONSEIL
DE GESTION
FINANCIÈRE** des
Premières Nations

FNFMB.COM





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EXECUTIVE SUMMARY

AS THE SHAWNEE LEADER TECUMSEH urged Indigenous nations to unite for the protection of their homelands, he famously stated, **“A single twig breaks, but the bundle of twigs is strong.”**¹ Over 200 years later, Tecumseh’s words remain poignant as First Nations consider the challenges to economic reconciliation that lie ahead.

First Nations are rebuilding themselves in the shadow of colonialism – a policy framework that stripped them of their institutions and robbed them of their economies. These policies dismantled integrated, vibrant Indigenous economies and fractured strong nations into small, isolated communities. This colonial legacy means many First Nations today face the challenge of systemic gaps, including infrastructure, institutional, and socioeconomic deficits. Some First Nations have leveraged their comparative opportunities to re-forge strong and prosperous societies. Yet for other First Nations that do not have abundant resources, economic advantages, or political leverage, the goal of a brighter future may seem distant.



First Nations Fiscal Management Act (FMA) institutions believe in achieving strength through working together. Less than 25 years ago, the FMA institutions were little more than a dream. Today, through the strength of many First Nations and individuals, there is a new institutional framework to support the renewal of Indigenous economies. With a coalition of 335 First Nations scheduled to the FMA, its institutions are looking for new ways to work together to grow Indigenous self-determination and prosperity.

The FMA institutions will support First Nations to work together to achieve their goals by providing platforms, capacity support, resources, and proposals. This chapter of the RoadMap puts forward several proposals that identify opportunities to work together and combine strengths to provide better options, services, and outcomes for interested First Nations. Indigenous initiatives, such as the FMA, have driven Indigenous growth and prosperity – but they must be supported by government. The opportunities discussed here are but a few of the many initiatives that First Nations will embark on as they work together to renew their economies.



Investment



First Nations deserve a better return from their investments and more reasonable fees. These investments include those held by the Government of Canada and Indigenous governments, and amounts invested in trusts. In the non-Indigenous public sector, institutions such as the Investment Manager Corporation of Ontario (IMCO), the Caisse de dépôt et placement du Québec (CDPQ), the British Columbia Investment Management Inc. (BCI), and the Public Sector Pension Investment Board (PSP) secure high rates of return at low costs for their clients.

In contrast, First Nations governments face higher management fees, lower returns, and an investment services gap. The FMA institutions propose that First Nations work together to address this gap and unlock the full potential of the funds held by Indigenous governments and organizations in Canada.

First Nations require a new financial institution, an Indigenous Investment Commission (IIC), to close the investment services gap. Indigenous governments require the same investment tools that non-Indigenous governments have to unlock the full potential of their investments. First Nations can work together to achieve economies of scale by pooling Indigenous investment assets into the IIC.

Below are examples of these assets:

- **Indian trust monies held by the Government of Canada**
- **Comprehensive and specific claim assets**
- **Impact benefit agreement monies**
- **Educational, elder, or cultural trusts**

Approximately \$20 billion of Indigenous investment assets is held in trusts, too often with low rates of return and high management fees. As of 2016, the Government of Canada holds \$676 million in trust for First Nations governments and citizens, with annual returns below 2%. The inclusion of these assets in the IIC would allow it to reach the critical mass of funds needed to achieve economies of scale and greater value for Indigenous governments, organizations, and individuals. The IIC would be well positioned to manage the investment of these funds, provide stronger rates of return, and unlock the potential of Indigenous trusts and investments.





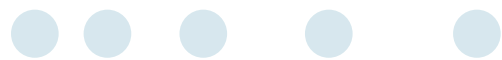
ADDITIONS TO RESERVE

An Addition to Reserve (ATR) takes too long and costs too much, with the burden to negotiate agreements with municipalities resting squarely on First Nations governments. These barriers can be prohibitive for First Nations that require urban reserve additions.

The FMA institutions propose that First Nations consider working together on shared Additions to Reserve. Multiple First Nations could combine resources to reduce costs and maximize benefits, including financing and development of new reserve areas for economic development purposes. This option could be particularly relevant to rural First Nations that have few comparative economic advantages. New opportunities in regional economic centres will lead to businesses, jobs, and prosperity. Increased economic activity will benefit First Nations and neighbouring municipalities, while lowering both monetary and time costs for the provinces by combining and shortening negotiations, and dealing with a single, stronger, more unified entity.

The Government of Canada should support First Nations who wish to collaborate on ATRs by resourcing these coalitions, removing barriers, and incentivizing municipalities to work with First Nations. The FMA institutions and their partners will support these coalitions through the development of tax jurisdictions, infrastructure, economic development planning, financing, and corporate governance.

The FMA institutions propose that **First Nations consider working together** on shared Additions to Reserve. Multiple First Nations could combine resources to reduce costs and maximize benefits...





Working together can give First Nations the ability to achieve a scale that they could not reach on their own. Working together creates bargaining power, large-scale economic opportunities, and new financing options.

Indigenous Services

The Atlantic First Nations Water Authority (AFNWA) is leading the way by taking control of water and wastewater services for 15 First Nations communities. By working together, these Atlantic First Nations are taking the initiative to provide better services to their members, exercise jurisdiction over their lands, and reduce the role of Indigenous Services Canada (ISC) in their public sector.

The FMA institutions will support the AFNWA through a financial regulatory and certification function that will give the Government of Canada the confidence to transfer jurisdiction to these First Nations. The First Nations Financial Management Board's (FMB) Not-for-Profit Organization Standards and certification will bolster credibility and corporate governance capacity. The First Nations Infrastructure Institute will support the AFNWA's development and management of infrastructure assets, and the First Nations Finance Authority (FNFA) will be a source of long-term infrastructure financing. The FMA institutions look forward to providing this broad support to new and upcoming First Nation coalitions as they occupy their jurisdiction and provide better services.

The Government of Canada should support the AFNWA and similar initiatives. These coalitions will reduce the federal-provincial bureaucracy and cost burden, while promoting better services, more employment, increased self-determination, and broader jurisdiction for First Nations. Better services for First Nations infrastructure, housing, and healthcare, for example, improve the standard of life for First Nations and move reconciliation and equity forward. The Government of Canada should further support monetization of federal transfers to unlock financing for these entities.



Economic Development

Working together can give First Nations the ability to achieve a scale that they could not reach on their own. Working together creates bargaining power, large-scale economic opportunities, and new financing options. In 2021, a coalition of Atlantic First Nations finalized a deal valued at \$1 billion to purchase the largest shellfish producer in North America, proving that First Nations willing to work together can become major players in the national economy.

The FMA institutions believe that the Clearwater Seafood deal does not have to be the exception. Through the Indigenous Economic Council (IEC), the FMA institutions and their partners will provide capacity support, tools, best practices, research, planning, certification, and financing to support greater cooperation. Increased opportunities will come as individual First Nations combine their capacities and functions. Larger projects will be realized as combined First Nations entities become more efficient and ambitious. First Nation coalitions will compete for long-term and large-scale contracts, and become major players in procurement, labour supply, and project management. The Government of Canada should support and resource the IEC to promote the participation of First Nations coalitions in major projects, both public and private, across Canada.

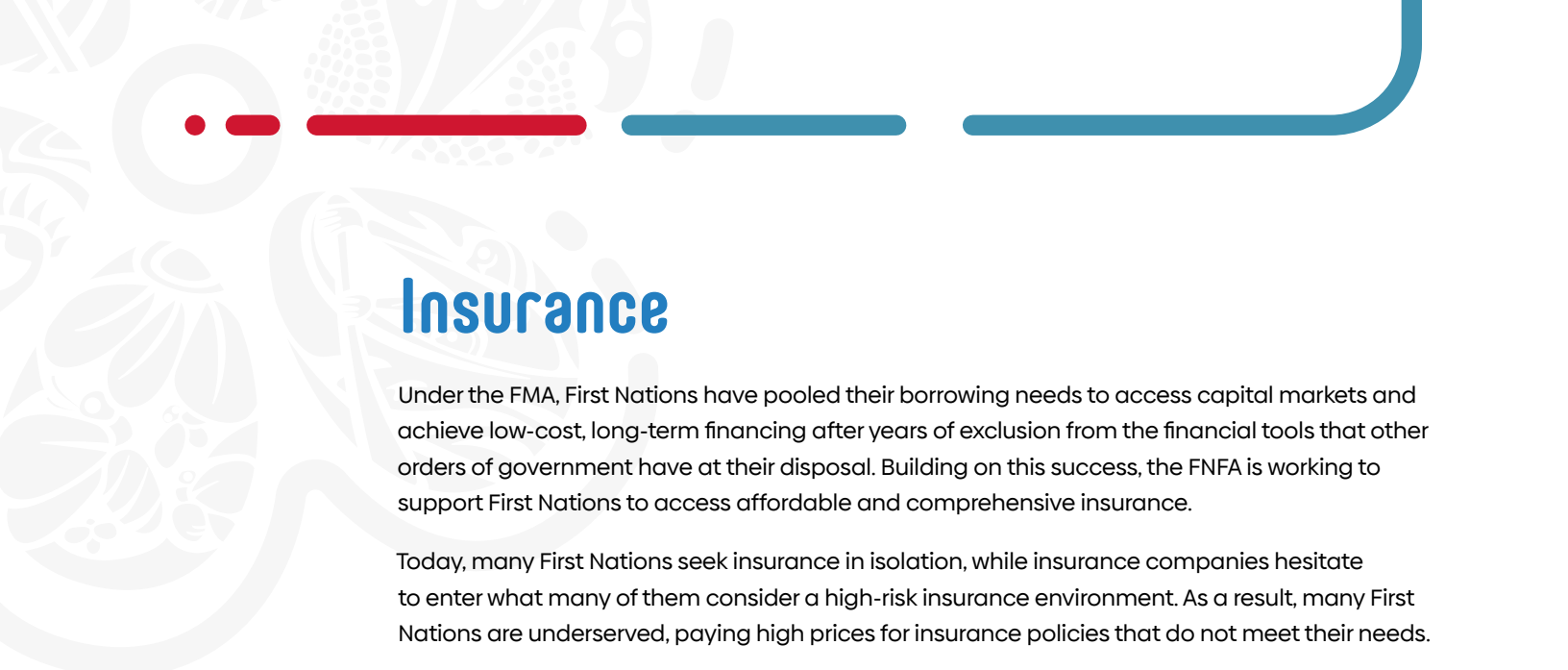


Infrastructure

For years, other levels of government have innovated to solve their infrastructure challenges, while an outdated and inefficient pay-as-you-go model froze First Nations governments in time and created a staggering \$30 billion infrastructure gap.² the FMA institutions are innovating to support First Nations with new options to solve the infrastructure gap collaboratively through institutional support, financing, and procurement.

The First Nations Infrastructure Institute (FNII) will provide a common platform for interested First Nations to pool their resources for community infrastructure, procurement, and maintenance. By combining resources, First Nations can build infrastructure assets that cost less and last longer. FNII will provide technical expertise to advise First Nations on potential projects and facilitate collaboration between First Nations governments and organizations. The FNFA has already proven to be a valuable asset in building better Indigenous infrastructure through providing low-cost financing to First Nations projects and will continue to do so. By working together, First Nations can achieve the scale to participate in public-private-partnership (P3) opportunities that reduce risk and cost to First Nations in procurement and maintenance of infrastructure assets.

With the new monetization financing options discussed in chapter three of the RoadMap Project, FNII can support First Nation governments to bundle projects to achieve economies of scale under P3 contracts. Other financing options from the Indigenous Development Bank (discussed in chapter four of the RoadMap) would further attract private sector investment in First Nations community infrastructure development.



Insurance

Under the FMA, First Nations have pooled their borrowing needs to access capital markets and achieve low-cost, long-term financing after years of exclusion from the financial tools that other orders of government have at their disposal. Building on this success, the FNFA is working to support First Nations to access affordable and comprehensive insurance.

Today, many First Nations seek insurance in isolation, while insurance companies hesitate to enter what many of them consider a high-risk insurance environment. As a result, many First Nations are underserved, paying high prices for insurance policies that do not meet their needs.

The FNFA has a generational vision for First Nations to work together to change that dynamic and empower communities to increase their leverage in the insurance industry. A collective insurance model providing long-term benefits for First Nations across Canada would:

- **expand Indigenous economic growth and community well-being**
 - **ensure equitable participation in the insurance market**
 - **stabilize insurance coverage and costs while building greater resiliency**
 - **sustain risk management benefits over multiple generations**
 - **increase autonomy and ownership**
 - **provide access to capacity-building tools and resources to increase or enhance community risk profile**
 - **generate new jobs and careers for Indigenous people in the insurance and risk management sector**
- 



The path forward

As First Nations emerge from the colonial past, they face the enormous challenge of rebuilding their economies and institutions. Instead of walking this path alone, a First Nation can face these challenges with the strength of many Nations. The options that the FMA institutions present are just the beginning. With the right support, First Nations across Canada can forge a prosperous future with the strength that only comes from unity.



The background is a deep red with a subtle, textured pattern. In the upper center, a hand is shown holding a bundle of sticks or reeds. In the bottom left corner, there is a stylized graphic of several faces, possibly representing a group or community. The word "INTRODUCTION" is written in a large, white, sans-serif font in the center of the page.

INTRODUCTION

THE WATERS AND LANDS of western Nova Scotia have been within Mi'kmaq territory since time immemorial. Despite this, for years the Mi'kmaq were forced to fight for a seat at the table as non-Indigenous companies harvested the region at their leisure. Although the Supreme Court of Canada upheld the Mi'kmaq right to fish in 1999, Mi'kmaq harvesters faced violence from non-Indigenous harvesters and their communities were not welcome in large-scale, industrial fishing.³ The Mi'kmaq, a people who had always fished the coastal waters of the Atlantic, looked on as their traditional livelihood was dominated by a commercial fishing industry that excluded them. Ignorant non-Indigenous harvesters accused Mi'kmaq treaty harvesters of fishing illegally.⁴



Despite pushback from non-Indigenous communities, Mi'kmaq harvesters built fishing fleets, found jobs in the sector, and worked relentlessly to pursue a better future for themselves and their communities. From 1999-2016, Mi'kmaq and Maliseet on-reserve fishing revenue across the Maritime provinces grew from \$3 million to \$152 million, while their communities dramatically improved in well-being, including growth in housing quality, employment, average income, and level of education.⁵ Years of steady progress set these Maritime First Nations on a course for future growth. ***Yet it was by working together to combine their resources that they were able to achieve what few would have imagined possible.***

In 2021, a coalition of Mi'kmaq First Nations bought Clearwater Seafoods, the largest seafood company in Atlantic Canada and North America's largest producer of shellfish.⁶ Partnering with Premium Brands, the First Nations coalition pooled their collective purchasing power for a 50% share of the \$1 billion dollar deal, with \$250 million financed by the FNFA.⁷



By working together as a coalition, these First Nations demonstrated that it was possible for Indigenous communities to not only participate in the economy but to participate at scale. “For so many years, our communities were not welcome to participate in big industry,” stated Chief Terrance Paul of Membertou First Nation. “Today, on our own terms we are 50% commercial owners.”⁸ The economic benefits of this deal will result in more financial capacity, more jobs, more socioeconomic growth, and the opportunity for these First Nations to invest in their communities.

The FMA institutions believe that First Nations are stronger together. The Clearwater Seafood deal – although unprecedented – does not have to be an exception. Instead, it should be a blueprint for what First Nations can achieve by working together. This deal is just the beginning of the success First Nations will enjoy by pooling their resources to achieve common goals. As Ernie Daniels, President and CEO of the FNFA, stated, “This landmark deal which was made possible by a \$250 million loan from FNFA shows the collective purchasing power of First Nations when they stand together. It demonstrates we are stronger when we work together in building the Indigenous economy.”⁹

“ For so many years, our communities were not welcome to participate in big industry. Today, on our own terms we are 50% commercial owners.

– Chief Terrance Paul of Membertou First Nation





Collaboration will unlock the ability of First Nations to participate in economic development projects at scale. Governments and corporations will have no choice but to listen as First Nations approach the bargaining table with the strength of their combined resources. Yet the benefits of working together are not limited to economic development.

The AFNWA will soon provide water and wastewater services to 15 Atlantic First Nations across two provinces. Other opportunities abound for First Nations to lead the way in aggregating to provide improved services to their communities in areas such as health services or power, or to participate in public-private-partnership opportunities to provide sustainable infrastructure to their members. Still other First Nations will innovate by collaborating on Additions to Reserve to share costs, pool resources, and access better economic opportunities for their Nations.

The FMA institutions themselves are an example of the benefits of strength through working together. Pooling the borrowing needs of many First Nations governments across Canada enables the FNFA to provide affordable long-term financing. the FMA institutions see abundant opportunities to pool the needs of First Nations to provide other improved options, such as lower cost insurance and better returns from investment management.

Just as FNFA financing and FMB certifications supported the Clearwater Seafood deal, the FMA institutions will continue to support First Nations to organize coalitions, demonstrate credibility, and access financing, while reducing barriers and providing new options for First Nations to become stronger through working together.

The background is a vibrant red collage. On the left, there are circular Indigenous patterns, including a canoe with a person and a fish. On the right, there are blurred images of modern objects like a water bottle and a pencil. White decorative lines are present: a large bracket-like shape on the top left and a horizontal line with a dot and a bracket-like shape on the bottom right.

OPPORTUNITIES TO WORK TOGETHER

THE FMA INSTITUTIONS HAVE IDENTIFIED several opportunities for First Nations to work together at scale to achieve more economic growth and better services at lower costs. These proposals are not exhaustive and represent only the tip of the iceberg in Indigenous collaborative potential. But they mark an important first step to providing practical options for achieving Indigenous economic reconciliation through the strength of numbers and will unleash a critical mass of collaborative innovation.

Investments and Trusts

All First Nations deserve a fair return at a fair price from the management of their investments – including capital held by the Government of Canada or by Indigenous governments, and amounts invested in trusts. These investments are often intended to last forever as an endowment for the benefit of the First Nation. They should be managed with a goal to last in perpetuity and to reflect the environmental, social, and good governance (ESG) values of the First Nations communities.

As mentioned earlier, numerous examples of investment services organizations are present for the non-Indigenous public sector. By investing and managing pooled funds, these organizations can achieve world-class higher rates of return, lower overhead costs, and greater outcomes for their public sector clients, including pension plans and public entity trusts, endowments, and capital. A clear gap exists in the investment services available to Indigenous governments and organizations. A solution is needed to address this gap and unlock the full potential of the funds held by Indigenous governments and organizations in Canada.

The solution is to establish the Indigenous Investment Commission (IIC) — an Indigenous-led institution that manages the investment assets of Indigenous governments and organizations. Article 5 of UNDRIP affirms that, “Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their rights to participate fully, if they so choose... in the life of the State.”¹⁰ Now is the time to empower Indigenous governments and organizations to unlock the full potential of their investments.

All First Nations deserve a fair return at a fair price from the management of their investments – including capital held by the Government of Canada or by Indigenous governments, and amounts invested in trusts.



Economies of scale can be made possible by pooling Indigenous investment assets into the IIC. RBC estimates that there is \$20 billion of investment assets held in trusts for Canada's Indigenous population.¹¹ A substantial portion of these assets come from comprehensive or specific claim settlements, impact benefit agreements, and treaty or land settlements. The \$20 billion figure will grow in the future as new settlements and treaties are reached and new business partnerships develop. The inclusion of these amounts would allow the IIC to reach a critical mass of funds to achieve economies of scale and greater value for Indigenous governments, organizations, and individuals. The IIC would be well positioned to manage the investment of these funds, provide stronger rates of return, and unlock the potential of Indigenous trusts and investments.



RBC estimates that there is \$20 billion of investment assets held in trusts for Canada's Indigenous population.

The IIC will be established through a phased approach that involves capacity building and strategic partnerships. After a core group of Indigenous nations shows interest and a substantial pool of investments are committed, the IIC could approach an existing public sector pension manager in Canada — such as IMCO, CDPQ, BCI, or PSP — and enter into an asset management joint venture. Managing this large amount of additional assets would be advantageous for the pension manager because they could reduce average costs and potentially allow for access to larger deals.

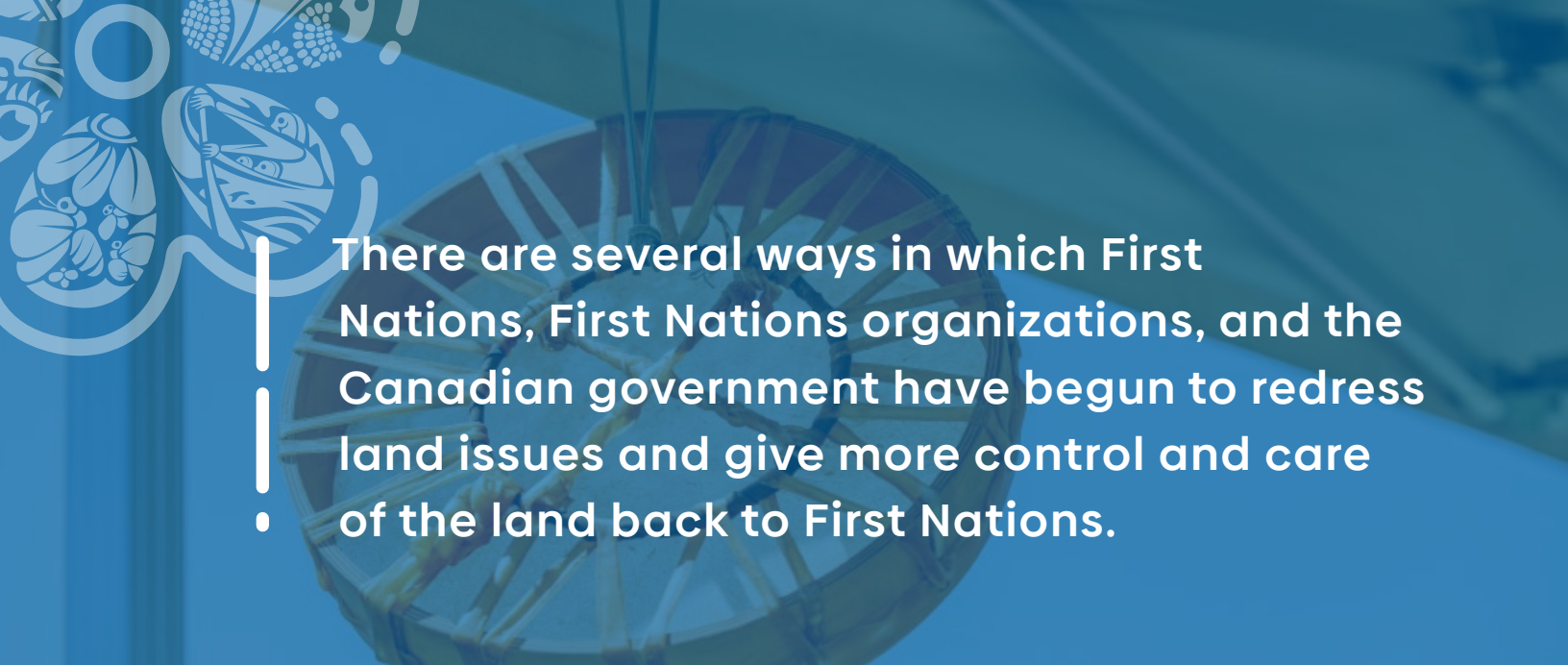
In this initial phase, much of the back-end investing could be conducted by the strategic partner pension fund; the partner and IIC would set up a joint venture with a primary function to provide front-end services to its Indigenous clients. This would include client-facing services, inquiries, promotion of IIC's investment services, and development of investment policy statements. An essential component of this partnership will be the building up of financial and investing capacities for IIC staff and the secondment of IIC staff to the partner in the joint venture, with the goal that the IIC will eventually be able to conduct its own investing activities as the organization grows. Advancing these capacities of IIC, especially its Indigenous staff, is essential to advancing the educational and practical skills of Canada's Indigenous people. This approach is similar to how the First Nations Bank was gradually built up in partnership with TD Bank.¹² Once the expertise and capacities were developed, the First Nations Bank became an independent entity to serve the banking needs of First Nations.



As the IIC expands, its strengthened capacities will enable it to take on a direct role in investing some or all of its clients' funds. A phased independence will happen through building capacity in each asset class and control and administrative functions. Through consultation with its Indigenous clients, the IIC could pursue new product offerings. An example can be taken from the CDPQ, which reinvests a portion of its fund back into the Quebec economy through local projects, businesses, and infrastructure – thus growing Quebec's economy. A similar approach could be taken by the IIC to advance Indigenous businesses and economic reconciliation.

In terms of legal and governance structure, the IIC would be established through federal legislation, with a mandate to provide investing services to Indigenous governments and organizations. The legislation could be modelled after pension manager legislation, such as the *Public Sector Pension Investment Board Act*. Similarly, an independent board of directors will be established to provide governance oversight of the IIC. The governance structure will follow a two-phased approach.

During the initial phase of the IIC, the board of directors would be appointed in a hybrid approach, where both the federal government and the members Indigenous organizations of the IIC have a voice in appointing directors to the board. Most of the directors should be Indigenous and represent diverse regions and Indigenous identities, with preference to members of Nations that are participating in the IIC. All board members should be required to meet specific professional and experience requirements. The board can establish committees to oversee specific areas of the IIC's functions, such as investment and risk, audit, and governance. For the initial board, it would be reasonable to select seasoned pension executives and TD executives involved in the creation of First Nations Bank, who would be expected to assume leadership roles on committees.



There are several ways in which First Nations, First Nations organizations, and the Canadian government have begun to redress land issues and give more control and care of the land back to First Nations.

The capacities, skills, and experience of the IIC will advance as the organization grows. Once the IIC has proven its ability to function as a fully independent organization, the governance structure can be updated to reflect this. As part of the independence phase, the governance structure should be adjusted to have the entire board of directors appointed by the Indigenous members who invest in the IIC, through staggered election dates.

In future, the IIC could also explore managing money on behalf of Indigenous government pension plans, individuals who have received a settlement from Canada, or Indigenous government-owned insurance company funds (as BCI does).

The IIC is an example of the strength that can be achieved through Indigenous governments and organizations working together. In addition to providing greater rates of return, the IIC would advance Indigenous leadership in investment management. Indigenous people will lead the way and ensure that Indigenous values are reflected as their wealth grows. The IIC is an optional pathway for Indigenous governments and organizations to leave behind colonial systems and embrace an Indigenous solution.

Additions to Reserve

Land is still foundational to a First Nation's success, culture, and ability to maintain and govern itself effectively. Both reserve lands and traditional territory remain extremely significant to First Nations, and the government of Canada has shown, through its adoption of UNDRIP, that it seeks to facilitate a new relationship with Indigenous peoples based on respect and working together. The Crown, and its various government departments, has committed to support First Nations in economic development, self-governance, and self-sufficiency. Any path towards these desired outcomes will need to be rooted in the land.

There are several ways in which First Nations, First Nations organizations, and the Canadian government have begun to redress land issues and give more control and care of the land back to First Nations. Mechanisms exist to compensate First Nations who were not given their full land entitlements under treaties signed (Treaty Land Entitlement (TLE)) and to compensate for Crown mismanagement of First Nations assets (Specific Claims Policy). Both processes provide parcels of land to be added to, or purchased by First Nations, who can then apply to the Crown to have these lands added as reserve land. The ATR process acts as a redress mechanism for past inequities, provides First Nations with an opportunity to realize and exercise their treaty rights, and supports the potential for economic development.



Location Matters – Urban vs Rural

Reserve lands, like the First Nations peoples that inhabit them, are diverse. They are spread around the vast country of Canada with differing terrains, climates, and ecosystems. Some reserves are already part of major urban centres, while others are hundreds of kilometres from other settlements and difficult to access. With much of the available reserve land separate from other settlements or urban centres, many First Nations have found it difficult to leverage any comparative advantages they might have into economic development opportunities. And where efforts were made to leverage those comparative advantages on traditional territory or reserve land, decisions on land management fell to the Canadian federal government, which many times sided with external resource developers or Crown corporations over the rights of First Nations inhabitants.

The option for First Nations to select additional territory, specifically urban areas, and use it for the benefit of their communities helps move reconciliation forward. First Nations will have varying reasons for why specific areas are important to them. Some will seek to retain land that was once part of their territory and might have cultural or historical significance. Some may want to create areas with greater access to hunting or fishing, or other activities important to that particular Nation. Others will want to use urban ATRs to spur economic development. If ATRs are to be a mechanism for successful Indigenous economic development, lands must be useful and integration with existing regional economies must be possible. Rural ATRs where resource extraction is occurring are lucrative, but subject to the life of the project and the variability of resource pricing. The greatest opportunities for sustainable and long-term success lies in urban ATRs where long-term planning can take place and there are many potential areas of collaboration with other First Nations, municipalities, or private enterprise.



ISC and Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) also argue that urban reserves “provide First Nations with additional economic development opportunities that would not be available in a more rural setting” and may have “a broader range of Aboriginal business start-up opportunities and improved access for community members to the off-reserve labour market.”¹³ The Crown also asserts, as do the FMA institutions, that improving economic development (specifically in urban centres) to First Nations not only benefits Indigenous people, but provides economic stimulus to regions, municipalities, and non-Indigenous Canadians.¹⁴

While the opportunities are potentially greater in urban settings, the challenges may become enhanced as well. Urban areas, particularly potentially lucrative ones, are far more likely to have a higher number of stakeholders involved. More variables could create more problems. Additionally, to harness and fully maximize the economic development potential that a new ATR might bring requires significant internal capacity, long-term planning, and capital; things that many Nations are currently developing but have not yet fully realized. This need for capacity is one of the prime reasons why First Nations working together, with the support of good institutions, makes so much sense.

Land Governance for ATRs

Control over First Nations lands is usually structured in one of two ways: either the lands are governed by the *Indian Act*, in which case the federal government controls zoning, leasing, designations, permitting, etc.; or the First Nation controls the lands, opting into the First Nation Land Management Act or the negotiation of comprehensive self-government.¹⁵ In 2014, an Aboriginal Affairs and Northern Development report on land management and sustainable economic development for First Nations found that Nations operating under the First Nations Land Management Act are more successful at achieving success.¹⁶ This aligns with the view of the FMA institutions and Indigenous leaders that more control for First Nations results in greater success. First Nation control, as opposed to Crown control under the *Indian Act*, allows First Nations economic development to “move at the speed of business,”¹⁷ reducing time and costs, and building greater capacity in First Nation communities.

Having a custom land management regime in place does a few things that make the ATR process better. Since any designations or leasing decisions/agreements are made by the Nations themselves, they can set the pace at which business is done. They are not beholden to anyone but themselves and their potential partner(s). Bands conducting similar business under the *Indian Act* have an extra variable in that the Crown will need to be involved in those decisions. The process can still happen quickly, but that extra variable has the potential to create delays.

Having a custom land regime also makes it easier to leverage land to access financing for development. It is still possible to do this under the *Indian Act*, and increasingly financial institutions are coming around to how these systems work, but as First Nations begin to step away from the *Indian Act*, and ISC and CIRNAC cede more control to First Nations and First Nations institutions, it seems inevitable that the best path would be through custom land governance.



Custom land management is also an indicator of increased capacity and organization in a First Nation government, which typically means prioritization of long-term goals, community engagement, and community planning are happening.

In 2015, the National Aboriginal Economic Development Board (NAEDB) undertook a study on First Nations experiences with ATR. The report notes that proponents found “economic development took off in their community following their land designation process,” and that without plans in place “it was more challenging to focus their ATR efforts and maximize potential benefits for community members.”¹⁸

Monetizing ATR – Fees and Taxes

As First Nations and the Crown both move away from the restrictive parts of the *Indian Act* and towards greater control and autonomy over all aspects of governance, taxes and fees levied on First Nation lands will come into greater focus. This is the main area of focus for one of the FMB’s sister the FMA institutions, the First Nation Tax Commission (discussed in detail in the Jurisdiction and Expanded Fiscal Powers chapter of the RoadMap). To gain more own-source revenue, tax and levy systems will likely be developed for First Nations. Some have already done so, and thus have more control over what their money is used for, and can leverage the fixed, consistent income for greater access to capital.

Tax policy can also be used in managing relationships among proponents of an ATR. The case cited is in New Brunswick, between Madawaska Maliseet First Nation, the federal government, the province, and local businesses, and is discussed in the NAEDB study.¹⁹ Madawaska Maliseet First Nation’s urban reserve lands are situated next to the town of Edmundston. Local, non-reserve businesses were concerned that different tax regimes on-reserve and off-reserve would slant the playing field too much towards on-reserve businesses. The agreement, which has been in place for over 20 years, is such that the First Nation collects

HST on on-reserve transactions, which typically is not required. A percentage of the provincial portion of the HST is returned to the First Nation. All parties involved benefit from this. The on-reserve businesses and off-reserve businesses both have equal access to the available market. The First Nation receives financial benefit from both on-reserve, and off-reserve businesses, incentivizing them to promote both forms. The provincial and federal governments also receive revenue that would otherwise not be available. This is an example of strength through working together, not only between First Nations, but between First Nations and other proponents; a solution that benefits all involved.

ATR - Benefits for First Nations

Added lands for First Nations serve several purposes. ATR supports greater reconciliation between Canada and First Nations, gives First Nations more control of their traditional territories and cultural activities, as mandated by UNDRIP, and offers First Nations better and more equitable access to economic development activities in their regions, if they so choose. Economic development potential on newly added lands benefits not only members of a Nation on reserve, but everywhere. Revenue generated in a consistent, predictable, and manageable way (as opposed to the current program-based funding from the Crown) allows community-controlled support of education, social development, housing, healthcare, infrastructure development, language programs, and more to community members everywhere.

Direct economic benefits from new development on new land are derived from leasing on this land, as well as from taxes or fees collected by the First Nation. This is the same way that municipalities generate revenue and can unlock access to capital for further development. Indirect economic benefits occur through band-owned or private businesses operating on reserve, building a larger private sector, ushering in a more circular and sustainable on-reserve



With delays, First Nations can miss potentially lucrative economic development activities, face overcrowding on current reserve land due to growing populations, and have the reconciliation process stalled.

economy, and providing more employment options. As mentioned elsewhere in this chapter, indirect economic benefits also flow to non-Indigenous members of bordering or nearby municipalities. A larger job market from growing businesses on reserve may require and attract non-band members from the surrounding area. Increased employment and income for members on-reserve will likely result in greater spending off-reserve. Increased development activity would result in improved infrastructure projects on reserve that will link with or enhance existing infrastructure off-reserve, such as roads, bridges, etc.

Revenues could also be allocated to infrastructure or programming to enhance First Nations cultural activities. Land added via an ATR might have significant historical or cultural significance and give more room and opportunity to conduct cultural activities.

Current Challenges with the ATR Process

The 2015 NAEDB study was intended to “illustrate some of the ATR benefits and challenges facing First Nations and provide a list of best practices coming from First Nations ATR success.”²⁰ The study aggregated information from nine First Nations across Canada (six of which are identified, three chose to remain anonymous), and included a combination of urban and rural reserves. The study illustrates factors that contribute to success, as well as some of the more prominent challenges that First Nations face in the ATR process.

One of the more prevalent concerns in any discussion about the ATR process is that it is time consuming. With delays, First Nations can miss potentially lucrative economic development activities, face overcrowding

on current reserve land due to growing populations, and have the reconciliation process stalled. Changes in elected council or administrations during a lengthy process can stifle any critical mass that may have been forming for positive change and capacity can be diminished, so that even if the ATR process is successful, the window for greater success has been missed.

In the NAEDB study, a crucial cause of a delayed ATR process was addressing municipal concerns regarding lands identified for ATR. First Nations interviewees in the study felt that difficulty with municipalities, “stems from a continued lack of understanding...regarding First Nations in Canada.”²¹ Perpetuated negative stereotypes of Indigenous people and communities is sadly still a factor, with cited examples of communities requesting a 100- to 150-metre buffer zone between existing local housing and the planned reserve addition (due to concern that a new urban reserve nearby would negatively affect property values), and frequent negative comments that led to a First Nation undertaking workshops and information sessions to combat them.²²

The First Nations involved in the study had different relationships with municipalities in which they intended to add reserve land — some friendly, some acrimonious. The study theorizes however, that a prior friendly relationship is not in itself a “sufficient condition for positive working relationships,”²³ nor was having existing service contracts with the municipality. Improved working relationships instead occurred more frequently when the First Nation and municipality collaborated on a joint community economic development process, funded externally by the Canadian federal government. Even if little development activity comes about because of a joint plan, both formal and informal



communication lines improve and set the table for development to happen to mutual benefit in the future. In short, a coming together between a First Nation and a municipality makes both entities stronger. And several First Nations together bring additional resources and capacity to that alliance.

Additionally, municipalities will have concerns that they will lose some of their municipal tax revenue due to ATR. Lost potential revenue can be offset by long-term revenues derived from service provision to infrastructure on the land added through ATR (water, sewage, waste disposal, power, etc.). However, many municipalities balk at the initial notion of losing potential revenue up front and become difficult to negotiate with as they are beginning from a fixed and closed position that ATR will cost them money in the future. This type of concern can negate the potential positive benefits of aggregation and partnerships. When parties are too focused on guarding a small potential for revenue, they ignore the larger benefits that each party could realize. First Nations economic development represents an enormous opportunity for Canada, the provinces, and municipalities. Unlocking First Nation economies, participating in them, and integrating them has tremendous potential upside for all involved, fiscally and societally.

In the NAEDB study, an interviewee from Westbank First Nation in British Columbia says of First Nation/ municipality relationships: “education is so important to understand that we’re in this together, and you are not losing something.”²⁴ In commissioned analysis, it was estimated that through increased off-reserve economic activity near Westbank’s urban reserve, Canada and the government of British Columbia could see increases of \$50 million and \$30 million respectively in federal and provincial tax revenues;²⁵ gains offsetting a municipality’s lost tax revenue in a major way. This would not be an isolated case. ATRs can spur development that leads to greater wealth and health for all involved.

The NAEDB study highlighted other factors that also contribute to lengthier ATR processes. Municipalities operating in bad faith and attempting to leverage their position to gain funding or provincial support for their own projects may hold up an ATR process. Third-party actors, sometimes utilities or private citizens with access rights or right of way, can also lead to the ATR process being dragged out for additional years. Through an ATR process, the Crown also has a duty to consult other First Nations. Many First Nations have overlapping traditional territory, and a part of the ATR process will require the Crown to consult with them. This can lead to competition for land to be added via ATR, or some other land claim between communities, further muddying the waters, and adding time and expense to the process.

In the study, Indigenous proponents also noted two prevalent issues regarding the roles of the provincial and federal governments in the length of the ATR process. Some participants argue that the ATR process favours the needs of the government over those of the First Nation, “since provincial and federal governments can more readily influence and, by extension, address the concerns of municipalities and third parties.”²⁶ When issues raised do not align with federal or provincial planning, and are driven only by First Nations, these issues become more problematic. Indigenous proponents also noted that the ATR process was expedited and made much smoother when the province or the federal government was particularly interested in the success of a specific ATR, hypothesizing that a much quicker ATR process resulted from “these orders of government using their political influence to limit municipal or third-party concerns.”

This would indicate that provincial and federal governments move more quickly when they have a vested interest in the ATR - a further case for aggregation and collaboration among all parties. Provinces and the federal government should move quickly and efficiently, independent of self-interests, and have pledged to do so through their adoption of UNDRIP. But they do have a vested interest in that unlocking Indigenous economic and social development will benefit all Canadians. The provinces play a role in this as well, but specifically the federal government can take steps in supporting First Nations in the ATR process, with assurances and political will to facilitate agreements between First Nations and municipalities and providing strong regional support with consistent and knowledgeable staff.

Proponents in the NAEBD study had several suggestions to improve the ATR process that could be supported by the FMA institutions and the Canadian government. Aggregation among First Nations, potentially spearheaded by a group like the Indigenous Economic Council, would facilitate cost sharing, time reduction, and capacity sharing.

These suggestions include:

- Streamline the consultation process for all parties by developing a cohesive and consistent process.
- Create hard deadlines for various stages of the ATR process. This motivates task/item completion and reduces delays or stalling from interested parties (municipalities or third-party).
- Allow the ATR process to proceed as soon as support from stakeholders is gained, leaving subsequent negotiations and details to carry on without delaying the entire process.
- Ensure more clarity from the federal government on steps required to begin and maintain the ATR process.



Aggregation among First Nations...would facilitate cost sharing, time reduction, and capacity sharing.

The Most Important Factors for Success in Urban ATR

In the NAEBD study, interviewed proponents were asked to identify the most important factors in the success of urban ATRs. Fiscal Realities, the authors of the study, are quick to point out that the identified list does not necessarily represent the most crucial factors in all economically successful First Nations in Canada,²⁷ but summarizes the identified contributing factors for participating Nations. Though not necessarily universally applicable, the five most important factors could be used in developing best practices and strategies to streamline and improve the ATR process.

The five factors cited are:

- 1. Infrastructure and services**
- 2. Governance**
- 3. Land-management regime**
- 4. Own-source revenues**
- 5. Community support**



Service Delivery – Expanded Jurisdiction Through Aggregation

First Nations have expressed the desire to occupy their jurisdictions. Taking the lead in service delivery and public works is a critical component of jurisdiction. First Nations are in the best position to meet the needs of their community members. This assertion is supported by an article published in *Economic Papers*, which finds that transfer revenue per capita from Indigenous sources is associated with stronger community well-being outcomes compared to direct transfers from the federal and provincial governments.²⁸ The path towards socioeconomic reconciliation will require ISC to devolve control of key services and public works to First Nations governments and Indigenous institutions, making way for Indigenous jurisdiction.

Indigenous peoples can take the lead in delivering key services and public works for First Nations communities in a host of areas such as education, cultural programs, language revitalization, health, and community infrastructure, to name a few. Some Nations may seek to pursue these services internally within their government structure, and others may prefer working in collaboration with other First Nations governments. By working collaboratively, Nations can achieve economies of scale, greater bargaining power, and optimized value when delivering services and public works for Indigenous communities.



The Structures for Collaboration section of this chapter outlined three structures for how First Nations can collaborate effectively. One of these structures is not-for-profit organizations, where multiple First Nations pool their resources in one Indigenous institution to deliver key services. Examples include the AFNWA to deliver water/waste-water infrastructure, the First Nations Health Authority to delivery health services, or the First Nations Education Steering Committee to deliver educational services.

The role of ISC will diminish, with Indigenous governments and institutions taking its place. Throughout this process, FMA organizations will provide capacity development and certifications for these organizations – including financial management system (FMS) and financial performance (FP) certifications. The FMB already provides FMS and FP certifications for First Nations governments, which demonstrates strong financial governance and administration practices. These certifications will soon be expanded for Indigenous not-for-profit organizations. The reason that this certification process has been so successful is the capacity support that the FMB provides to build up local capacity within First Nations communities. Ensuring effective governance and internal controls provides confidence to the federal and provincial governments, business partners, and First Nations community members.

With upcoming amendments to the FMA, the FNFA will be able to provide financing to Indigenous not-for-profit organizations, such as Tribal Councils. FNII will provide capacity support and technical feasibility reviews for Indigenous NPOs that pool their resources for common infrastructure projects. The supports provided by the FMA institutions will clear the way for First Nations to take on more jurisdiction and unleash the full potential of First Nations working together to build a stronger future.

The FMB, through its NPO certification, will give the Government of Canada the confidence it needs to transfer these jurisdictions to First Nations and First Nation coalitions. In certain cases, the FMB may play an independent regulatory role to manage risk for both participating First Nations and the federal government. In the case of AFNWA, the FMB will support this coalition of 15 First Nations through an independent regulatory role.

AFNWA's success will provide a model for the monumental government and industry change that will flow from the implementation of UNDRIP. AFNWA's formation is an assertion of self-determination by First Nations in Atlantic Canada: a by First Nations, for First Nations solution to water management. With the Government of Canada's declared intention to sunset ISC at an unspecified point in the future, this model can become the blueprint for Indigenous-led systems of checks and balances. This scalable model will enable new and emerging First Nation coalitions in other regions and sectors to provide services to their communities, paving the way for ISC's withdrawal.

As First Nations aggregate to provide services to their members, some may be positioned to serve non-Indigenous communities in the region. Potential service areas are as diverse as water and wastewater treatment, education, and healthcare. As AFNWA plans for its future, for instance, it is already considering opportunities to provide services to paying commercial users to better fund its operations.

Infrastructure

First Nations seek community infrastructure that adds value for their membership, reflects cultural values, and attracts economic development opportunities. Chapter three of the RoadMap outlined a path forward for advancing First Nations infrastructure – including the establishment of FNII. This section explores how First Nations, with the support of FNII, can work collaboratively to build resilient community infrastructure and capitalize on economies of scale. The optional pathway of First Nations working together on infrastructure construction, procurement, and maintenance can maximize the value of infrastructure investment in First Nations communities.

First Nations Infrastructure Institute (FNII)

FNII will support aggregated Indigenous infrastructure projects to maximize the value that First Nations receive from infrastructure investment. FNII has already demonstrated its ability to add value through its work with the AFNWA. By forming a not-for-profit organization, these Atlantic First Nations effectively pooled their resources to take control of their communities' water and wastewater infrastructure. FNII worked closely with AFNWA in the planning, procurement, and establishment of this infrastructure, and provided professional expertise that empowered First Nations to work together to better serve their communities.

A study from *Environmental Science & Pollution Research*²⁹ found that greater investments in First Nations water and wastewater infrastructure was linked with lower rates of waterborne illness – demonstrating that healthy communities are essential for socioeconomic reconciliation. The *Journal of Information, Information Technology & Organizations*³⁰ found positive associations between investment in information/communications technology infrastructure and business opportunities, education, employment, and health. Clearly, infrastructure is essential for First Nations communities to thrive. Many First Nations, especially in remote locations, have been unable to secure quality infrastructure for their communities. Similar limitations also exist for small population communities that don't have the economies of scale to advance needed infrastructure.³¹ Remote First Nations communities have the disadvantage of higher costs for goods and services, especially for complex





infrastructure. Remote communities often don't have access to all the required contractors and tradespeople needed to complete large-scale projects. This gap results in higher costs and often lower quality infrastructure in infrastructure construction as well as continued maintenance and repairs.

Consider the example of a community hall that needs a plumbing upgrade. In most non-Indigenous communities, a bid could be put out to several local plumbing contractors to find the contractor with the best value. In many remote Indigenous communities, it's possible that there are no local certified plumbers. A plumber may be required to fly in or drive several hours to reach the community. This could significantly increase the price of a plumbing upgrade and decrease the pool of contractors that would be willing to make the journey. Although the dollar amount would be larger, the on-the-ground benefit of the plumbing upgrade would be the same. This example demonstrates the unique problems that remote communities face when constructing and maintaining capital infrastructure.

Such problems are not isolated to plumbing upgrades; they also apply to skilled labour, the use of specialized equipment, or the delivery of supplies/parts. The costs of building and maintaining complex infrastructure can soon become prohibitively expensive. Small population communities may also face prohibitive costs due to a lack of economies of scale. A possible solution to address these problems is First Nations combining their resources together, if they so choose, to develop a coordinated and multi-Nation procurement body (e.g., NPO, pooled contract committee). This could enable economies of scale to reduce the cost of infrastructure purchases and maintenance, strengthen the bargaining power of First Nations, and increase the value received from investment in infrastructure.³²

FNII can provide a common platform for First Nations that want to pool their resources together on community infrastructure, procurement, and maintenance. **As a First Nations-led organization, FNII brings together the technical knowledge and the First Nations relationships that can make collaborative infrastructure projects a reality.** The organization will house the needed technical expertise to advise First Nations about the feasibility of pooled infrastructure projects and will facilitate collaboration among First Nations and Indigenous organizations.

Sister FMA organizations can also provide support. The FMA Statistical Initiative will provide evidence-based research to uncover aggregation opportunities, the FNFA will provide financing for First Nations infrastructure, and the FMB will provide an infrastructure certification to provide assurance for key infrastructure projects. The FMA institutions provide an ecosystem where First Nations can strengthen each other through collaborative infrastructure initiatives.

Public-Private Partnerships (P3s)

Over the past 20 years, Canada has introduced innovations to its financing and procurement model for public infrastructure, including public-private-partnerships (P3s).³³ During that time, the outdated procurement and financing model for First Nations has persisted. The P3 model is now an integral part of procurement in the Canadian public sector, while First Nations are burdened by rigid and costly procurement and financing limitations.

In the P3 model, a private sector consortium is responsible for the design, construction, operations, and maintenance of the infrastructure asset.³⁴ Since the private sector consortium is often responsible for both construction and maintenance, it is incentivized to build infrastructure assets that last, with contract terms over the expected lifespan of the asset. This model can transfer the risk from the public sector to the private sector.

Public sector infrastructure projects are notorious for overrun in time and cost. The P3 model has gained traction within the public sector for addressing both problems. First Nations infrastructure projects are also frequently delayed and overbudget. In 2016, the Government of Canada undertook a study examining a sample of 19 First Nations infrastructure projects. The study found that 11 had gone over budget and the remaining eight projects had to be downsized to stay within the funding envelope.³⁵ The establishment and empowerment of FNII will go a long way towards solving this issue. With the supports offered by FNII, First Nations could be enabled to participate in an optional P3 model. P3s can provide First Nations with further choices that could transfer project construction and maintenance risks to the private sector.

Financing and scale have been barriers to First Nations participation in the P3 model. In the broader public sector, projects over \$100 million are considered strong candidates for P3s.³⁶ With new monetization financing options discussed in chapter three of the RoadMap, the FMA institutions can support First Nations governments to bundle projects to achieve economies of scale under a collaborative P3 contract.³⁷ Multiple communities linked by geographic regions and type of project would attract the attention of the P3 sector. First Nations governments that aggregate to provide regional services to their citizens, such as the AFNWA, could be particularly strong candidates for this model. New financing options from the Indigenous Development Bank (discussed in chapter four of the RoadMap) could further attract private interest in First Nation community infrastructure development.

In summary, significant opportunities exist for First Nations to work together and maximize the value they receive from community infrastructure investment. FNII can provide a common platform to advance pooled community infrastructure construction, procurement, and maintenance. P3s provide an additional pathway if Nations want to pursue public-private partnerships in advancing their communities' infrastructure. By working together, First Nations have greater options, tools, and bargaining power for infrastructure to benefit their community members.



Insurance

Another area where First Nations can combine strengths is collective insurance. The FNFA has pooled the collective borrowing needs of First Nations to achieve low-cost and long-term capital for First Nations. Now it is time to leverage that success and experience to pool the insurance needs of First Nations to achieve better service at better rates. Along with their work in providing low-cost and attainable financing, the FNFA is working on models to improve the abilities of First Nations to secure and maintain good, affordable, and comprehensive insurance — on even better terms if done collectively.

Like many aspects discussed in RoadMap, many First Nations have been left to deal with insurance concerns with little capacity, little experience, and few options to choose from. Difficult economic circumstances, the constraints of the *Indian Act*, geographic concerns, and other factors have formed an environment high on risk; one in which few insurance companies are willing to enter without considerable hesitation. This has hindered any collaborative approach to insurance in the past and, as the FNFA puts it, leaves communities siloed with each one purchasing all its required insurance individually, with all underwriting profits going to the insurer.³⁸

The FNFA also points to the challenges over the past several years within the global insurance market, which highlight “how underserved, siloed, and excluded the Indigenous community is by the insurance industry resulting in tremendous uncertainty and inequity.”³⁹ The FNFA’s stated generational vision for an Indigenous-owned insurance model is “to empower Indigenous communities and organizations with trusted partnerships to own and manage a broad, innovative, and collective insurance and risk management program designed to protect investments and assets while enhancing the economic strength and well-being of Indigenous communities.”⁴⁰

The FNFA cites the following potential benefits of a new approach to insurance:

- **expanding Indigenous economic growth and community well-being**
- **ensuring equitable participation in the insurance market**
- **stabilizing insurance coverage and costs while building greater resiliency**
- **sustaining risk management benefits over multiple generations**
- **increasing autonomy and ownership**
- **accessing capacity-building tools and resources to increase or enhance community risk profile**
- **generating new jobs and careers for Indigenous people in the insurance and risk management sector**⁴¹



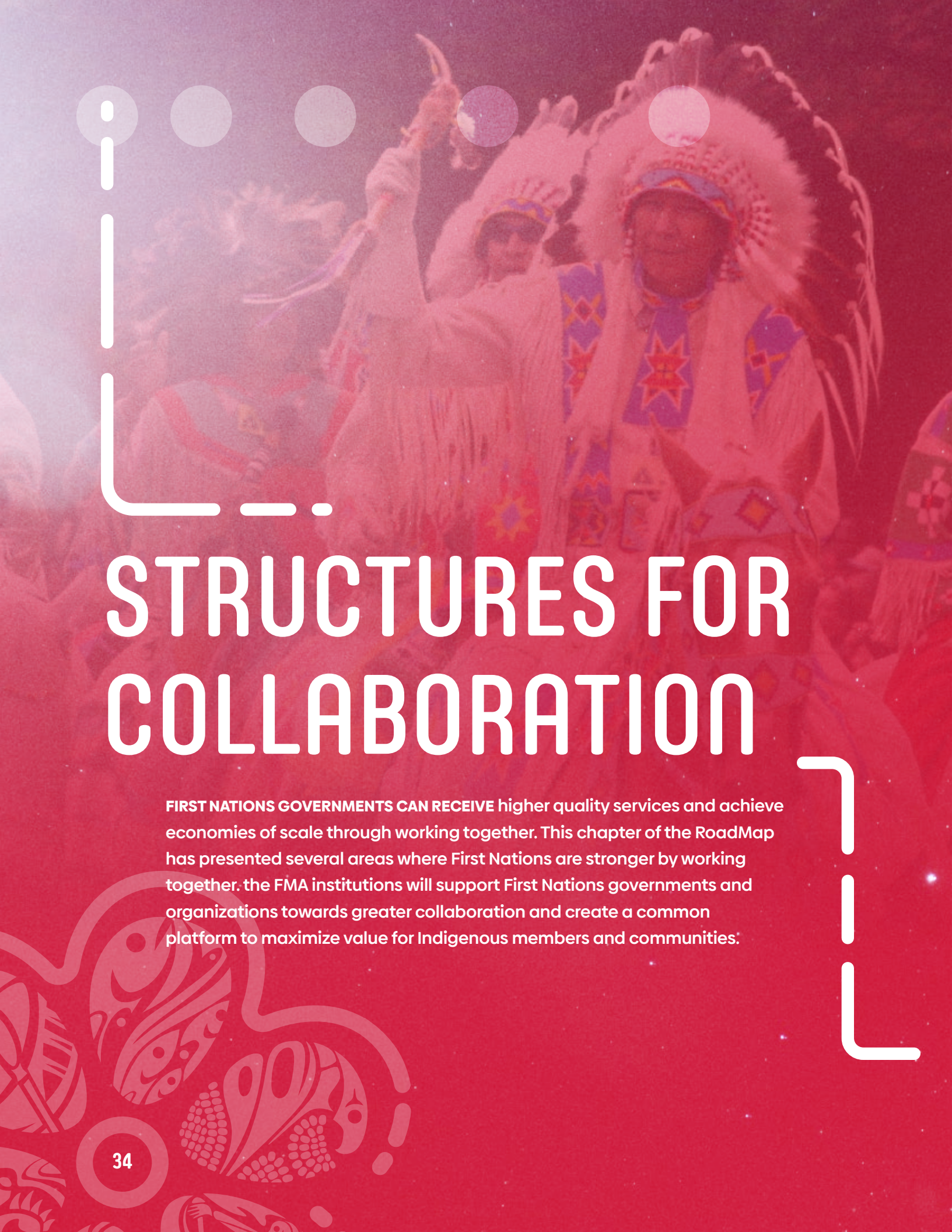
More complete insurance coverage for First Nation governments, Government Business Enterprises, and Indigenous private businesses offers tangible benefits and helps support a healthier economic development climate.

The FNFA has partnered with brokerage firm BFL Canada to begin the process of creating this new insurance model for FNFA borrowing members. The two parties are collaborating on a feasibility study to determine best practices and a model for collective insurance for First Nations. Helping First Nations mitigate and manage potential risks is one of the FMB's prime mandates.

The FNFA and BFL collective insurance model pursues:

- **collaboration among communities to increase leverage in the insurance industry**
- **shared best practices, greater economies of scale, and broader spread of risk**
- **direct access to claims support, risk management, and risk modeling/alternative risk transfer expertise**
- **a scalable model proven to work for communities that can evolve into a more robust and comprehensive mechanism over time**
- **direct access to insurance market, leading to broader coverage, improved pricing, and increased transparency and predictability**
- **surplus underwriting profits relating to community-owned assets or economic development projects and ventures returned to participating members.**⁴²

More complete insurance coverage for First Nation governments, Government Business Enterprises, and Indigenous private businesses offers tangible benefits and helps support a healthier economic development climate. One specific way to achieve this is by making it easier for Indigenous businesses, entrepreneurs, and craftsman to be bondable — something that in the current, siloed insurance climate is difficult, if not impossible. With a better, Indigenous owned model, surety bonds can be issued to companies or entrepreneurs to give consumers greater assurance that they will be protected from potential damages or loss, which will improve business growth, procurement, and revenue for Indigenous companies. Fidelity bonds can be issued to business owners, which will help them hire and retain more staff and ultimately pursue more and bigger projects.



STRUCTURES FOR COLLABORATION

FIRST NATIONS GOVERNMENTS CAN RECEIVE higher quality services and achieve economies of scale through working together. This chapter of the RoadMap has presented several areas where First Nations are stronger by working together. the FMA institutions will support First Nations governments and organizations towards greater collaboration and create a common platform to maximize value for Indigenous members and communities:



Once amendments are made to the *First Nations Fiscal Management Act*, the FMB will be able to provide financial management systems certification and capacity development services to Indigenous NPOs (not-for-profit organizations) – free of charge.

The practical question arises – how will First Nations come together to work collaboratively? Three structures will be essential to empower First Nations to work together in an efficient and effective manner. These structures include not-for-profit organizations (NPOs), business entities, and pooled contract committees.

It is important to note that First Nations have already proven the effectiveness of using NPOs to collaborate and add value for their membership. A prime example is the AFNWA, where several Atlantic First Nations governments came together to establish their own solutions and infrastructure for water and wastewater in their communities.⁴³ FNII has also provided capacity support to AFNWA as the water and wastewater projects were developed.

When financial resources are pooled in an NPO, it is essential that these funds are spent in a way that adds the most value for the First Nations communities involved. Establishing strong governance and financial controls is important to ensure that First Nations receive value from the NPO. To meet this need, the FMB has developed standards for Indigenous not-for-profit organizations. These provide financial management standards and financial performance measures to set out best practices for the financial management of NPOs and demonstrate financial accountability and performance.

Once amendments are made to the *First Nations Fiscal Management Act*, the FMB will be able to provide financial management systems certification and capacity development services to Indigenous NPOs – free of charge.⁴⁴ These standards build on the knowledge and experience gained from already successful Indigenous NPOs and provide a framework that can benefit other Indigenous NPOs. Indigenous NPOs do not have to reinvent the wheel when establishing governance and financial systems for their NPO – these organizations can learn from the knowledge and experience accumulated in the Indigenous NPO standards developed by the FMB.



These supports include developing effective business governance, internal financial controls, and business opportunities identification, to name a few. This support of economic development aggregation aligns with the recommendations released in the National Indigenous Economic Strategy for Canada.⁴⁵ (Refer to chapter four of the RoadMap for details about further supports that IEC will provide to Nation-owned businesses).

IEC will also provide capacity supports for pooled contract committees. These committees will provide a structure for First Nations to pool their buying power for specific needs. First Nations who are interested in pooling their buying power for specific procurement of professional services would form the committee, with each Nation or Indigenous organization having representation on the committee. Each participant would authorize the committee to negotiate pooled contracts with external goods and services providers. This would achieve several benefits, including greater bargaining power, economies of scale, and higher value for goods and services.

The key supports that IEC will provide for these committees include:

- **committee governance training and frameworks**
- **best practices for negotiating pooled contracts with external goods/services providers**
- **a common platform for Nations wanting to pool their procurement and professional services needs**

Table 1 provides a summary of these three structures, including the supports that the FMA institutions will provide to make strength through working together a reality for First Nations.

Table 1: Structures for Effective Collaboration

	Not-for-profit organization (NPO)	Business entity	Pooled contract committee
Legal structure and governance	Structured as a society, NPOs would establish a board of directors with representation from each participating First Nation government.	Structured as a corporation, partnership, or joint venture. An independent board of directors is established with board representation from each participating First Nation and other business partners (if applicable).	Structured as a committee with representation from each participating First Nation. Each Nation would authorize this committee to negotiate pooled contracts with external goods and services providers.
Types of activities to be undertaken	Pooled social programs such as: healthcare, education, cultural programs, or pooled infrastructure projects.	Pooling of economic resources, land, capital, or human resources could enable new business and economic development opportunities and competitive advantages.	Best suited for delivering pooled procurement of business/professional services. By negotiating goods/services for multiple Nations, this committee structure can deliver greater value for participating First Nations.
Support provided by Indigenous institutions	FMB can provide financial management systems certification with its NPO standards, including capacity supports for NPO financial and governance systems. FNII can provide capacity support for infrastructure projects (e.g., AFNWA) as well as a platform for Nations wanting to pool their infrastructure needs.	IEC can provide capacity development support for these business entities, including: financial/ governance capacities, business opportunity identification, a common platform to Nations interested in collaborative economic development projects, etc.	IEC can provide capacity-development support for the governance of these committees and best practices for negotiating pooled contracts with external goods and services providers. IEC can also provide a common platform for Nations interested in pooling their professional services needs.

The NPOs, business entities, and pooled contract committees are three practical structures to enable strength through working together. First Nations can use these structures to maximize the value that their members receive from economic development projects, community infrastructure, social programs, and professional services. The structures provide significant flexibility and empower First Nations to self-organize and pursue collaborative opportunities that meet the needs of their own communities. With the supports that will be made available through the FMA institutions, First Nations can take the lead in forging a new path forward – together and stronger.



CONCLUSION

First Nations face an unclear and inadequate system of public services to citizens, restrictions on wealth management, and economic limitations. the FMA institutions believe that First Nations can overcome these challenges, and many more, by working together.



AS AMERICAN SETTLERS PUSHED THEIR WAY WESTWARD, further and further into Indigenous lands, Tecumseh emerged as a voice of Indigenous unity against a seemingly unstoppable foe. Future President William Henry Harrison would describe him as “one of those uncommon geniuses who spring up occasionally to produce revolutions and overturn the established order of things.”⁴⁶ Tecumseh saw the enormity of the challenge his people faced and understood that their only hope would be to set aside longstanding rivalries and combine their strength.⁴⁷ Although his efforts were ultimately unsuccessful, his vision of strength through working together lives on in the success of Indigenous collaboration today.

First Nations across Canada face the challenge of rebuilding their economies as they emerge from a colonial past and the systematic dismantling of their autonomy, institutions of governance, resources, lands, and economies. Economic resurgence will require systemic changes, the support of government, and institutional support. It is a daunting task but not an impossible one. For a First Nation government working alone, it can feel like being outnumbered 100 to one. Yet even small nations can find great strength when they work together.

The success of the FMA institutions stems from First Nations working together to pursue options beyond the limitations of the *Indian Act*. With 335 First Nations now participating in the FMA, the FMA institutions see the opportunity to work together towards goals that didn't seem possible even a few years ago. First Nations face an unclear and inadequate system of public services to citizens, restrictions on wealth management, and economic limitations. The FMA institutions believe that First Nations can overcome these challenges, and many more, by working together.

Through new organizations like the IEC and FNII, the FMA institutions will provide avenues for First Nations to work together with institutions, organizations, and like-minded First Nations towards their economic and community goals.



The FMA institutions will support First Nations coalitions in building their credibility through the certification of Indigenous NPOs, fulfilling the role of regulator of public utilities where possible, and providing capacity support, platforms, and tools that promote collaboration. Through new organizations like the IEC and FNII, the FMA institutions will provide avenues for First Nations to work together with institutions, organizations, and like-minded First Nations towards their economic and community goals. Through regulatory support, the FMA institutions will ensure that other levels of government have the confidence to transfer jurisdiction over public services to interested First Nations coalitions. Through standards and certifications, the FMA institutions will ensure these coalitions have access to the financing they need to be successful.



As the FMA institutions seek to empower strong and effective coalitions, the Government of Canada should support these initiatives. The federal government should support the transfer of services to First Nations coalitions and empower Indigenous jurisdiction and Indigenous-led organizations at every opportunity, while reducing the role of ISC. It should support the proposal to provide more autonomy over investments and trusts. First Nations deserve better options for wealth management with better returns. First Nations need options that reflect the priorities of their communities rather than the whim of government. Finally, the Government of Canada should support and resource the organizations that foster collaboration for increased economic growth, greater self-determination, and enhanced capacity.



CONCLUSION



APPENDIX

APPENDIX

First Nations Control of Federally
Held Trusts Monies



The new path forward can be established through the IIC, where trust monies that are now controlled by the Government of Canada are reclaimed by First Nations. This can take place in the following ways:

1. **Creation of the Indigenous Investment Commission (IIC) – an Indigenous-led institution that provides professional investment services specifically for Indigenous governments and organizations.**
2. **First Nations can opt-out of sections 61-64 of the *Indian Act*, which stipulates that the Government of Canada controls “Indian moneys” in trust for First Nations.**
3. **All First Nations who opt out of sections 61-64 would have their trust monies transferred from the Government of Canada to the IIC.**
4. **First Nations will have the option to invest other sources of funds with the IIC – which would provide stronger rates of return through a pooled investment option.**
5. **Free from the barriers of sections 61-64 of the *Indian Act*, the IIC would advance greater control by First Nations governments over the trust monies. Greater returns could be achieved through the IIC, along with greater options to realize long-term benefits from trust monies.**



This approach provides Indigenous governance and control over the trust monies held by the federal government. Transferring these federally controlled funds would empower Indigenous governments and organizations to unlock the full potential of their funds.

There have been calls to reform the current federally controlled trust monies for many decades. A significant roadblock preventing change is the *Indian Act* – specifically sections 61-64. This section of the Act describes how “Indian moneys” are to be collected, received, held, and spent – all controlled by the federal government. The *Indian Act* holds First Nations back and results in a trust system that doesn’t meet the needs of First Nations.

We propose an option for First Nations to opt-out of sections 61-64 of the *Indian Act*, in favour of an Indigenous-led organization, the IIC. Such a transfer of control could be completed promptly and would devolve trust monies from the federal government to Indigenous peoples. We know that colonial systems don’t work, but Indigenous solutions do work. Free from the barriers of the *Indian Act*, the IIC can advance greater control by First Nations governments over these trust monies.

REFERENCES

1. Lynne Davis, ed. *Alliances: Re/envisioning Indigenous-non-Indigenous Relationships*, University of Toronto Press, 2010. 9.
2. First Nations Financial Management Board, "RoadMap Chapter 3: Closing the Infrastructure Gap," *First Nations Financial Management Board*. <https://fnfmb.com/en/leadership/roadmap>.
3. Angel Moore, "The deal is sealed, Mi'kmaq coalition partner with B.C company to buy seafood giant Clearwater," *APTN*, Jan 26, 2021. <https://www.aptnnews.ca/national-news/the-deal-is-sealed-mikmaq-coalition-partner-with-b-c-company-to-buy-seafood-giant-clearwater/>.
4. *Ibid*
5. John Paul and Joseph Quesnel, "The Marshall Decision has a great legacy, 20 years on," *Telegraph Journal*, November 30, 2019. <https://macdonaldlaurier.ca/marshall-decision-great-legacy-20-years-john-paul-joseph-quesnel-telegraph-journal/>.
6. "Mi'kmaq-owned partnership in Clearwater Seafoods deal a 'benefit for everybody,'" *CBC News*, <https://www.cbc.ca/news/canada/newfoundland-labrador/ken-coates-clearwater-mi-kmaq-deal-1.5797069>.
7. CBC news, "First Nations Finance Authority (FNFA) Congratulates Mi'kmaq First Nations Coalition for Landmark Clearwater Purchase," *Cision*, November 10, 2020. <https://www.newswire.ca/news-releases/first-nations-finance-authority-fnfa-congratulates-mi-kmaq-first-nations-coalition-for-landmark-clearwater-purchase-808840904.html>.
8. Leyland Cecco, "We won: Indigenous group in Canada scoops up billion dollar seafood firm," *The Guardian*, November 12, 2020. <https://www.theguardian.com/environment/2020/nov/12/canada-clearwater-seafoods-mikmaq-first-nation-fishing>.
9. CBC, "First Nations Finance Authority (FNFA) Congratulates Mi'kmaq First Nations Coalition."
10. UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples*, Article 5, October 2007,
11. Royal Bank of Canada, "92 to Zero: How economic reconciliation can empower Canada's climate goals," *RBC Economics and Thought Leadership*. June 16, 2022. <https://thoughtleadership.rbc.com/92-to-zero-how-economic-reconciliation-can-power-canadas-climate-goals/>.
12. Toronto Dominion Bank, "First Nations Bank of Canada Completes Private Placement, Setting the Stage for Full Independence," Toronto Dominion Bank, n.d., 2007, <http://td.mediaroom.com/index.php?s=19518&item=35565>.
13. Prairie Research Associates, *Additions to Reserves: Lessons Learned from First Nations*. 2016, 4.
14. *Ibid*, 4.

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15. *Ibid.*
 16. *Ibid.*
 17. *Ibid.*, 4.
 18. *Ibid.*, 18.
 19. *Ibid.*, 19.
 20. *Ibid.*, 5.
 21. *Ibid.*, 9.
 22. *Ibid.*
 23. *Ibid.*, 10.
 24. *Ibid.*, 11.
 25. *Ibid.*
 26. *Ibid.*, 13.
 27. Fiscal Realities. *Improving the Economic Success of Urban Additions to Reserves, Stage 1: Identifying Success Factors in Urban First Nations*, Fiscal Realities, October 2014, 28.
 28. Shawn Blankinship and Laura Lamb, "Exploring First Nation Community Well-being in Canada: The Impact of Geographic and Financial Factors." *Economic Papers*, 2022, vol. 41, issue 2, 15, <https://onlinelibrary.wiley.com/doi/abs/10.1111/1759-3441.12358>.
 29. Melanie O'Gorman, Stephen Penner, "Water Infrastructure and Well-being Among First Nations, Métis and Inuit Individuals in Canada: What Does the Data Tell Us?," *Environmental Science & Pollution Research*, vol. 25, no. 33, 2018, 33038-33055.
 30. Shawn Blankinship, 15.
 31. Shawn Blankinship, Laura Lamb, "Exploring First Nation Community Well-being in Canada," <https://onlinelibrary.wiley.com/doi/abs/10.1111/1759-3441.12358>.
 32. *Ibid.*
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33. The Canadian Council for Public-Private Partnerships, "P3's: Bridging the First Nations Infrastructure Gap," *The Canadian Council for Public-Private Partnerships*, 2016, 2.
34. *Ibid*, 6.
35. Dean Beeby, "Tardy bureaucrats causing First Nations' cost overruns, report finds," *CBC News*, Sept 28, 2016. <https://www.cbc.ca/news/politics/first-nations-orbis-infrastructure-water-consultants-budgets-1.3780760>.
36. *Ibid*, 7.
37. *Ibid*, 9.
38. FNFA, *Exploring An Indigenous Owned Insurance Model*, February 2022, pg.1 <https://www.fnfa.ca/wp-content/uploads/2022/03/02-2022-BFL-FNFA-FAQ.pdf>
39. *Ibid*, 1.
40. *Ibid*.
41. *Ibid*.
42. *Ibid*.
43. Atlantic First Nations Water Authority Inc., "About Us," <https://www.afnwa.ca/>.
44. First Nations Financial Management Board, "Standards for Indigenous Not-for-Profit Organizations," <https://fnfmb.com/en/services/set-standards/standards-not-profit-organizations>.
45. *Canadian Association of Native Development Officers, Canadian Council for Aboriginal Business, Indigenous Works, National Aboriginal Capital Corporations Association, National Indigenous Economic Development Board*, "National Indigenous Economic Strategy for Canada," 2022, https://niestrategy.ca/wp-content/uploads/2022/05/NIES_English_FullStrategy.pdf, p. 82.
46. Bil Gilbert, "The Dying Tecumseh and the Birth of a Legend," *Smithsonian Magazine*, July 1995. <https://www.smithsonianmag.com/history/the-dying-tecumseh-97830806/>.
47. *Ibid*.



