

FIRST NATIONS FINANCIAL
MANAGEMENT BOARD



The RoadMap.. Project

CHAPTER SEVEN: STRENGTHENING FIRST NATIONS FISCAL GOVERNANCE



First Nations
**FINANCIAL
MANAGEMENT
BOARD**

**CONSEIL
DE GESTION
FINANCIÈRE** des
Premières Nations

FNFMB.COM





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EXECUTIVE SUMMARY

More self-determination, more capacity, less risk

NOW, MORE THAN AT ANY TIME IN THE PAST, Canadian governments and citizens are showing a willingness to reconcile with the Indigenous peoples of Canada and embrace the recognition of Indigenous rights.¹ In 2021, the Government of Canada passed the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) into law. While the federal government once described the Declaration as aspirational, it has now enshrined inherent Indigenous rights into law – rights that First Nations governments have never relinquished. The promise of UNDRIP is nothing less than Indigenous self-government, political and economic self-determination, and the systems and institutions that can support and sustain Indigenous prosperity.² While the promise is great, it is the implementation of the Act that will determine whether it is aspirational or whether it is transformational.



The pathway to Indigenous prosperity and the implementation of UNDRIP begins with governance. Like all other forms of government, First Nations governments require the authority to govern and the capacity to govern. Neither will come about as the result of programs or improvements to colonial systems. Only when the Government of Canada relinquishes the keys to self-determination will First Nations finally escape the barriers of colonialism and unlock their full potential. Authority to govern can be nothing short of decision-making power within clearly defined jurisdictions. Capacity to govern includes the revenue needed to govern as well as the administrative and institutional resources that support an *effective* government.

Reconciliation and the implementation of UNDRIP require a renewal and modernization of First Nations institutions and governing structures to succeed in today's world. For more than 150 years, First Nations have been excluded from the innovation, progress, and economic activity that have underpinned Canada's growth as a nation. Once-great Indigenous nations were fractured and weakened; divided into separate political entities with a goal to divide and conquer. Indigenous innovation systems were held back as Canada progressed. Colonial policy stripped away their jurisdictions and institutions while segregating them from regional, national, and international economies. Our communities cannot wait another 150 years to achieve their potential.





Everyone wants to move forward but there is no clear path. As Minister of Crown-Indigenous Relations Marc Miller has stated, the starting point will be “the priorities and rights of First Nations, Inuit and Métis.”³ Yet First Nations are already putting forward their priorities and expectations. Participants in the *First Nations Fiscal Management Act* framework have made it clear that they want progress in the implementation of their right to self-determination. They are ready to seize their futures.

The *First Nations Fiscal Management Act* institutions know that there are practical and implementable steps to walk this path of reconciliation together. We do not propose to define the right to self-determination or what systems of government First Nations should choose – only the rightsholders can do that. Instead, the focus of the FMA institutions is on expanding First Nations decision-making authority and strengthening First Nations **fiscal and administrative governance capacity**.

We propose that **self-determination will require the transfer of power, the sharing of wealth, and the renewal of First Nations’ capacity to govern effectively**. The inherent right to self-governance will forever be meaningless unless the Government of Canada transfers decision-making authority to First Nations governments. With the authority to make decisions, First Nations will also require what all governments require to function: fiscal and administrative capacity. First Nations need revenue to fund the cost of governing and the capacity to govern effectively. Only then will First Nations fully unlock their development potential.

Despite recognition of the inherent right to self-government, concerns about transparency and accountability have prevented meaningful progress. First Nations require more authority and more fiscal capacity; the Government of Canada requires assurance that funds will be well managed.

We propose that the FMA should be the legislative basis to advance new options for First Nations self-determination. **FMA participants and institutions have already proven beyond the shadow of a doubt that institutional support for optional legislative pathways is a risk-managed approach to more self-determination and growth**. The FMA can be a platform for expanded authority and expanded fiscal power. As First Nations look to renew their jurisdictions and restore their traditions of good governance, the FMA institutions will offer ongoing institutional support to accelerate their progress. Finally, the FMA is a proven risk-management framework that already underpins \$2 billion in capital and continues to attract investors. The ongoing management of risk can help Canada step back with the confidence that First Nations can govern their communities effectively, now and for seven generations.





More self-determination

While the *Indian Act* stands like a barrier to self-determination and growth, optional legislation creates pathways beyond the limitations of colonial policy. First Nations do not want a one-size-fits-all solution dictated by another government or organization; they want options that offer potential while respecting their right to self-determination.

AUTHORITY TO GOVERN

First Nations require new options to occupy their jurisdictions and the authority to make decisions over their own affairs.

As a start, legislative amendments to the FMA should include the following:

- **Autonomy over expenditures and use of reserve lands**
- **Recognition of First Nations rights within their traditional territories outside of reserve lands**
- **A mechanism to facilitate and acknowledge nation-to-nation relationships**
- **Expanded options for First Nations governments to work together to achieve economies of scale in their governance and economic objectives**
- **Jurisdictional clarity between First Nations and federal, provincial, territorial, and municipal governments**
- **Legal paramountcy of First Nations laws in their jurisdictions and clearly defined taxation rights**
- **Standards for service delivery and option to transfer service responsibility and funds to First Nations governments**





More capacity

REVENUE TO GOVERN

It is not enough to recognize the right of First Nations to self-determination over their own affairs. First Nations require the fiscal capacity to govern effectively.

All governments require independent revenue and fiscal tools to fund the cost of government. Within Canada, federal, provincial, territorial, and municipal governments fund their costs through a combination of transfers, taxes, fees, sale of natural resources, and financing. In contrast, the grant-based system that funds First Nations governments provides neither the fiscal capacity nor the autonomy to govern. First Nations require secure, independent revenue that can both fund the cost of government and support long-term financing. Improved fiscal capacity should include the following options:

- **Expanded revenue resources**
- **Expanded taxation powers**
- **Formula-based transfers**
- **Monetization of transfers for financing, including revenue stacking**
- **Autonomy over expenditures**

SUPPORT STRUCTURES

Good governance is traditional, yet generations of colonial policy have undermined the strong institutions of governance that once supported Indigenous nations across Canada. As First Nations begin to renew their jurisdictions, they will also need to renew their administrative capacity to govern and put in place effective institutions and rules of governance. The investment required to switch from old colonial systems to new, Indigenous-led ones can be high, but First Nations cannot afford to wait to transition to self-determination in a modern world.

The FMA supports the capacity to govern effectively. As a collective, FMA First Nations and institutions are renewing their institutions of governance through the tools of the FMA, based on the traditional principles of transparency, accountability, checks and balances, and the duty of care. Institutional support and tools of governance will support interested First Nations to establish effective practices for government administration and the management of public assets. Training and ongoing capacity development will empower First Nations governments to plan for the future and equip them to identify and mitigate risks before they become problems.

These enhanced support structures will include the following options for First Nations governments:

- **Ongoing capacity support to achieve and sustain Financial Management System (FMS) standards**
- **Certificate training program in leadership and governance for First Nations leaders**
- **Support services to develop human resources capacity**
- **Optional standards and processes to support accountability, transparency, standards of care, and effective governance**
- **Office of the First Nations Fiscal Officer**

Capacity development and institutional support will renew the Indigenous innovation system. Colonial systems and structures regulated almost every aspect of life on reserve. They undermined First Nations' control over land, jurisdiction, growth, where they lived, where they worked, and how they planned for their futures. Indigenous-led legislation such as the FMA and the *Framework Agreement on First Nation Land Management* provides implementable solutions, potential legislative amendments, and thought leadership towards the goals of UNDRIP. As an increasing number of First Nations develop capacity and achieve their goals, innovation will flow upward. Where colonialism once divided and conquered, this institutional framework now unites and inspires. Maintaining principles of good governance, while promoting flexibility and optionality, allows the best ideas to thrive and spread to other First Nations and organizations. The result is an aggregation of successful endeavors that will continue to build momentum.

Indigenous-led legislation such as the FMA and the *Framework Agreement on First Nation Land Management* provides implementable solutions, potential legislative amendments, and thought leadership towards the goals of UNDRIP.

Less Risk

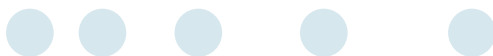
For many First Nations, RoadMap will provide the options they are looking for to exercise greater self-determination. While all stakeholders agree with the principle of self-determination, the Government of Canada has always shown a greater concern for managing risk than enabling change. However, no level of government is satisfied with the current monitoring and oversight framework, led by Indigenous Services Canada (ISC). This framework undermines First Nations fiscal autonomy while making First Nations governments more accountable to a government department than to their own members.

There must be accountability for funds, decisions, and direction. To accomplish this, First Nations governments require an Indigenous-led solution that satisfies not only the Government of Canada, but most importantly, First Nations governments and their members. Unlike the federal oversight framework, the FMA framework has the support of 335 First Nations who have voluntarily become scheduled to the Act. As a component of an Indigenous public sector innovation system, this framework can be adaptive to the ongoing needs of both First Nations and the Government of Canada.

First Nations Financial Management Board (FMB) certifications currently represent a moment in time when a First Nation government has achieved compliance to standards of financial administration. We propose that ongoing assurance of these strong practices can satisfy all stakeholders and empower new options for self-determination. Under a Financial Management System Ongoing Assurance (FMSOA) oversight framework, First Nations governments would renew their Financial Management System (FMS) certificate every five years, with a follow-up review of their financial management systems. As a risk-based review, it will focus on the key internal control and financial governance aspects that are of greatest importance for the First Nation government. This framework will demonstrate that the First Nation continues to manage its affairs effectively – instilling confidence in its members and other stakeholders.

Finally, we propose establishing the Office of the First Nations Fiscal Officer (FNFO) to provide First Nations governments with additional measures to manage risk. The FNFO could provide optional services to interested First Nations:

- **Forward-looking financial and economic advice regarding budgets, transfers, and First Nations fiscal issues**
- **Assurance of audit quality and advice to finance and audit committees**
- **Appeal and hearing function for perceived financial misconduct**





Governance unlocks growth

During their study of Indigenous economic development over the last 35 years, the Harvard Project on American Indian Economic Development came to a very simple conclusion: when it comes to sustainable socioeconomic growth, governance is critical.⁴ It will take the authority to govern and the capacity to govern to finally unlock the Indigenous potential that colonial policy has suppressed for so many years. While the concept may be simple, its implementation is far more complex, for the Harvard Project has also observed that relinquishing power is one of the hardest things a government can do.

We believe that the FMA offers a solution. It is not a one-size-fits-all solution. Instead, it is a response to what we have heard from the collective of First Nations that participate in the FMA. Backed by the most successful Indigenous-led legislation in history, it is an opportunity to advance UNDRIP, further economic reconciliation, and empower First Nations to renew their jurisdictions. The sharing of power and revenue requires change – and many governments do not welcome change. But First Nations are not a line item in a budget or a risk. We are nations that can – and will – contribute to the economic future of Canada. It is time for change. It is time to move from managing poverty to managing wealth.



INTRODUCTION

The term *governance* describes how groups of people make decisions when they come together for a common purpose, whether they are governments, corporations, or other entities.



THE TERM GOVERNANCE DESCRIBES how groups of people make decisions when they come together for a common purpose, whether they are governments, corporations, or other entities. Along with the fiscal capacity to govern, the core issues at the heart of governance are authority, decision-making, and accountability.

A system of governance must answer the following questions:

- **Who makes decisions?**
- **What is the decision-making process and who has a voice?**
- **How are the decision-makers held accountable?**⁵

Any group that pursues goals requires its system of governance to work well. As Stephen Cornell of the Harvard Project states, “capable governing systems are crucial foundations for sustainable development – regardless of the form development takes.”⁶ For both Indigenous and non-Indigenous governments, effective governance is closely associated with good social and economic outcomes.⁷



Since 1987, the Harvard Project has undertaken research to understand and support the conditions necessary for Indigenous economic development. The Harvard Project focuses on uncovering what works to strengthen communities, where, and why.⁸ Over the many years of studying why some nations were more successful than others at building sustainable economies, the Harvard Project concluded that success started with good governance. Factors such as natural resources, education, or access to capital – although important – were not the most reliable predictors of development success. Instead, the researchers found that governance mattered most. The keys to success depended on how a nation answered the questions of power, organization, and effectiveness of government.⁹

The researchers found that three main governance foundations supported success:

- **Sovereignty:**
the right and the decision-making power to govern
- **Capable governing institutions:**
stable rules that encourage citizens to invest time, trust, energy, and capital in the nation's future
- **Cultural match:**
when the governing institutions fit the nation's culture¹⁰

Indigenous nations that had these three foundations of governance outperformed nations that did not. Nations that occupied their jurisdictions and asserted more control over their own affairs through culturally appropriate and capable governing institutions were more likely to become prosperous communities.¹¹ As the researchers concluded, “self-governance matters for indigenous peoples... They have to govern themselves, but they also have to do it well.”¹²

- Over the many years of studying why some nations were more successful than others at building sustainable economies, the Harvard Project concluded that success started with good governance.

Indigenous nations and other nations that separate business from politics foster more sustainable economic growth and achieve higher employment rates

The institutions of governance matter because they are the “rules of the game” that determine how a society makes decisions, settles disputes, cooperates, and pursues goals.¹³ These institutions determine whether a society is a good or bad environment for social and economic growth. Chapter 4 of the RoadMap Project explained how the *Indian Act* created an environment that discouraged growth by dismantling the strong institutions of governance that had underpinned Indigenous prosperity since time immemorial. Any society without strong institutions of government will not be able to sustain growth. Conversely, when the institutions of governance are accepted by the society, rarely change, and ensure fairness and transparency, they encourage growth.¹⁴ Fair, stable rules encourage citizens to invest in a society while uncertainty, lack of transparency, and favouritism discourage investment.

Indigenous nations and other nations that separate business from politics foster more sustainable economic growth and achieve higher employment rates than those that do not.¹⁵ Likewise, governments that have checks and balances against political power, and can insulate political interference from their legal systems, create more jobs and have lower unemployment levels than those with weaker institutions of governance.¹⁶

The past 150 years of colonialism have dismantled Indigenous governance and institutional frameworks and created the conditions for poor socioeconomic outcomes by undermining sovereignty, effective institutions, and cultural match. Where good governance was critical to the success of Indigenous nations across Canada, the *Indian Act* replaced those practices with an imposed system. There is no easy way out of the disaster of colonialism, but the FMA institutions believe it starts with supporting Indigenous initiatives to renew Indigenous jurisdictions and institutional frameworks, empowered by fiscal and administrative capacity.





GOOD GOVERNANCE IS TRADITIONAL



INSTITUTIONS OF GOVERNANCE ARE NOT SOLELY A WESTERN CONCEPT; they are simply the rules of governance that a community understands, accepts, and follows.¹⁷ Since time immemorial, Indigenous nations have had to consider many of the same issues that modern governments face. Indigenous governments needed to decide how to make decisions on behalf of the whole community. They needed to choose leaders, protect themselves from bad leaders, and make sure that disputes could be settled fairly.¹⁸



It did not matter whether these rules were written down. What mattered was whether the community understood and followed them.¹⁹ In order to function, all traditional governments would have answered these essential questions of governance:

- **Who has authority over what?**
- **How are collective decisions made?**
- **How are disputes resolved?**
- **How should people treat each other, outsiders, the land, animals, and all living things?**²⁰

Checks and balances, transparency, and accountability are all traditional to Indigenous nations, while today's absence of strong governing institutions is the legacy of colonialism. Indigenous nations thrived in harsh natural environments through effective and sophisticated systems of governance. Checks and balances were once considered so vital that justice measures could be harsh. For the Squamish Nation of British Columbia, hereditary leadership meant that chiefs served for life. In order to protect themselves from the possibility of enduring a bad chief, the members had the rarely used option to banish the Chief from their community.²¹ This possibility ensured that political leaders took good governance seriously.

There are countless examples of traditional Indigenous institutions of governance throughout North America, many of them still in place. First Nations maintained checks and balances to ensure that individuals or groups could not hoard power at the expense of others. Institutions of governance protected communities against conflicts of interest, preventing those in power from using their positions to benefit themselves and those closest to them.²²

Traditional governments had separations of power and branches of government dealing with law-making, executive decision-making, and law-enforcement. The traditional Lakota government, for example, established these three branches of government and separated them into distinct roles in their society. The *Akicita*, or warrior societies, had the responsibility of law enforcement even at the highest political levels, while the council, or *Big Bellies*, was responsible for law-making.²³ Finally, the *Shirt Wearers* were tasked with executive decision-making.²⁴

Likewise, the *Anishinaabe* of the Great Lakes region practised clan-based institutions of governance that incorporated accountability and separation of powers. According to some traditions, the Crane and Loon clans were responsible for leadership, each balancing the other.²⁵ The Fish clan settled disputes between the leadership clans on behalf of the people, while the Bear clan ensured peace.²⁶



The Haudenosaunee had a governing system that incorporated clans and a highly structured confederacy with roles established for leadership both in peace and in conflict. In addition, the role of women played a prominent role in the governing system. This system was codified in “The Great Law” of which the articles of this law were passed down through the ages orally. This practice continues to this day and is sometime referred to as the Constitution of the Haudenosaunee.²⁷

Institutions of governance that ensure checks and balances, transparency, accountability, and a duty of care are traditional. Indigenous governments have solved the questions of power, decision-making, and accountability through culturally accepted institutions of governance since time immemorial, across not only Canada but the world. Yet, if good governance is traditional, why are there such pervasive socioeconomic disparities between Indigenous and non-Indigenous Canadians?

Imposed colonial systems have undermined good governance

Colonialism dismantled many of the traditional institutions of governance that underpinned the socioeconomic well-being of Indigenous nations across Canada. After contact and Confederation, the Government of Canada segregated First Nations governments from mainstream economies and stripped them of their title and jurisdiction. First Nations governments lost title to their land as Canada placed them on reserves and held the title in trust.²⁸ Through the Constitution, provincial and federal governments assumed First Nations governmental jurisdictions and denied their right to raise revenue. Through the *Indian Act*, the Government of Canada replaced First Nations institutions of governance with colonial institutions and administrated their economies and affairs through a centralized bureaucracy.²⁹

Colonialism replaced Indigenous systems of governance – practised and developed since time immemorial – with imposed systems of governance. Institutions of governance that members accepted gave way to imposed rules that members did not recognize. Colonial governments of the past took the view that First Nations were incapable of governing themselves.³⁰ These imposed systems of governance were external controls, designed not to promote good governance but to facilitate federal control of First Nations governments. Control was not simply a feature of the new system; it was the goal. As a result, First Nations peoples soon found their lives being run by a government department, with little control over even local affairs.³¹

As Dr. Ken Coates remarks, the colonial system “governed almost all aspects of Aboriginal life from the nature of band governance and land tenure systems to restrictions on Aboriginal cultural practices...The *Indian Act* was, and is, a powerful tool in the hands of the federal



government.”³² The *Indian Act* gave the Government of Canada near total control over First Nations lands, resources, trust funds, revenues, cultural practices, and day-to-day lives.³³ The Act allowed the government to regulate commerce and trade, made it illegal to hold public meetings to discuss Indigenous affairs, and regulated the movement of people on and off reserves.³⁴ It determined where and when First Nations children would be educated, barred First Nations members from entering key professions, and segregated them from the financial and economic systems that underpinned the last 150 years of national growth.³⁵

Central control over local affairs inverted traditional governance structures. **First Nations governments across Canada had developed institutions of governance to ensure accountability, transparency, separations of power, and duty of care. Yet the *Indian Act* imposed a new system of governance that made leaders accountable to the Government of Canada instead of their members.** Gone were the institutions of governance that once promoted socioeconomic well-being. In their place was not a system of governance, but a one-size-fits-all solution for managing the “wards” of the state.³⁶

Imposed systems of governance do not work, even in the best of circumstances. One of the key findings of the Harvard Project is the importance of cultural match. Systems of governance must have legitimacy in the eyes of the members in order to be effective. The *Indian Act* governance system has always lacked legitimacy in the eyes of First Nations members because it was developed by another government – and not in their best interests. Institutions of governance must fit a community’s beliefs about how to organize and exercise authority; they cannot simply be imposed by a third party.³⁷

Scholarship on international development has discovered that imposed governance structures frequently lead to a phenomenon known as “institutional dualism” – when two systems of governance are in place at the same time.³⁸ Even in instances where imposed governance structures may appear to support good governance, imposed governance often produces only a shell of governance that bears little resemblance to how public decisions are made or implemented in practice.³⁹

For many First Nations, the reality of colonial governance is that they are now islands of poverty in a sea of wealth that is the rest of Canada.⁴⁰ Run by a government department, with their institutional framework destroyed, they have neither the land, nor the resources, nor the jurisdiction and fiscal power to support socioeconomic progress.⁴¹

The imposed *Indian Act* governance system is a systemic failure that has undermined good governance – and continues to do so. Where the Harvard Project has identified sovereignty, institutions of governance, and cultural match as foundational to socioeconomic growth, the *Indian Act* undermines all three of those pillars. Instead of sovereignty, First Nations have less decision-making power than any other government in Canada. Instead of institutions that promote accountability, transparency, and good governance, First Nations governments exist under a system that makes them accountable not to their members, but to Ottawa.⁴²



INDIGENOUS-LED SOLUTIONS ARE THE WAY FORWARD

“We have to remember
the past. But we have to
walk in the present and
think of the future.”



Federal and provincial governments have recognized the mistakes of the past and are seeking reconciliation. No government is pleased with the outcomes of the colonial system or the legacy of poverty and socioeconomic disparity. Yet what can be done? As the Tulo Centre for Indigenous Economics points out, “you can’t fix a flat tire by yelling at it.”⁴³ The status quo may be unacceptable, but the way forward is through better solutions.

The FMA institutions believe that there are practical options beyond the status quo. Government intervention into the affairs of First Nations governments has been a catastrophic failure, but government support for First Nations to occupy their own jurisdictions and fund the cost of their own governments will be a resounding success. This is what it means to walk the path of reconciliation together.

The path forward is to support First Nations to renew their jurisdictions. First Nations require decision-making power over their own affairs, strong institutions of governance that reflect their cultural values, and revenue to pay for the cost of governing. For many First Nations, renewal of jurisdiction may mean a renewal of traditional ways of governing. For others, it may mean new ways of governing. The task is not simply to bring back traditional governing systems; it is to develop institutions of government that are both effective and supported by the members.⁴⁴ As Indigenous thought-leader Harold Calla states, **“We have to remember the past. But we have to walk in the present and think of the future.”**



A new institutional framework

Nowhere in Canada is government support for Indigenous solutions better illustrated than in the *First Nations Fiscal Management Act*, the most successful Indigenous-led legislation in history. This legislation has empowered First Nations governments to move beyond some of the limitations of the *Indian Act* in favour of modern legislation developed by Indigenous thought-leaders. The success of the FMA is illustrated by the many First Nations who have established standards of transparency and accountability through Financial Administration Laws, raised revenue through fiscal powers, and accessed long-term capital for infrastructure and economic development.

First Nations are renewing governance by remaking the frameworks, institutions, and tools that once underpinned thriving and resilient Indigenous nations across Canada. The FMA is part of this movement. The FMA institutions and their partners represent an Indigenous-led solution to the systemic failure of the colonial system: a new institutional framework that supports First Nations to renew their jurisdictions and the principles of good governance. This new institutional framework will not work for all First Nations, but it will work for many.

The FMA institutions and their partners support the principles of sovereignty, effective institutions, and culturally appropriate governance. The FMA institutions support sovereignty by creating options for more jurisdiction and more control of local affairs. They support strong institutions of governance by strengthening the capacity to govern effectively through capacity support, tools, and the ability to raise revenue. Finally, the FMA institutions support culturally grounded governance through the traditional Indigenous principles of transparency, accountability, checks and balances, and duty of care. As Indigenous-led institutions, they provide options – not one-size-fits-all solutions – that First Nations may pursue, or not pursue.

Rather than direct First Nations – the rightsholders – on how to govern or what system of governance is right for them, the FMA institutions offer proven, Indigenous-led options to interested First Nations. Optionality respects the right of self-determination and cultural preference. It also leads to a constructive environment of competition between colonial systems and Indigenous innovations, where the best ideas will be proven by the results.



The new institutional framework creates new options to exercise self-governance and offers the tools of governance to support nations to switch from an old framework to a new one. This framework is not the only way for First Nations to renew their institutions of governance, but it is one that supports inclusive economic growth and lays the foundation for socioeconomic growth.

The new institutional framework includes the following elements:

- **Strong leadership, governance, and administration**
- **Property rights certainty, through the *Framework Agreement on First Nation Land Management***
- **Legal frameworks that support economies, including certainty of rules, decision-making processes, checks and balances, transparency, and accountability**
- **Fiscal relationships with the federal and provincial/territorial governments for revenues and services, including clarity over how jurisdictions raise revenue**
- **Competitive infrastructure and financing**

One of the key reasons behind the success of the FMA framework is that it facilitates innovation while managing risk. This combination makes the FMA the ideal legislative basis to advance First Nations self-determination and First Nations capacity to govern. Its risk management framework has attracted investment, created new options for fiscal powers, and enabled access to long-term, low-rate financing. Yet these advancements are only the beginning.

The FMA institutions are proposing new options that would empower First Nations to assume more decision-making power over their own affairs, supported by strong institutions of governance. Along with expanded jurisdiction, the FMA institutions propose expanded capacity to govern: the fiscal capacity to fund the cost of government and institutional support to bolster the administrative capacity to govern.

These proposals, captured throughout the chapters of the RoadMap Project, are a long-term, continuously evolving solution to the economic disaster of colonialism. The FMA is a platform that can support new options for self-determination while managing risk for stakeholders.

Finally, the FMA institutions recognize that switching from an old system to a new system requires time and resources. The FMA institutions provide the capacity support and tools to move from a failed system to a better alternative, and to sustain the principles of transparency, accountability, checks and balances, and duty of care – a foundation that can support socioeconomic growth.

The background is a deep teal color with a subtle, darker teal forest scene of tall trees. In the upper left corner, there is a circular indigenous-style artwork featuring stylized faces, a cornucopia of food, and a figure holding a staff. White decorative lines are present: a large 'L' shape in the top left, a horizontal line with a dot in the top center, and a horizontal line with a large 'L' shape in the bottom right.

EXPANDING AUTHORITY TO GOVERN



Systemic change and reconciliation begin with sharing: a sharing of the decision-making power and a sharing of the wealth that funds the cost of government.

Systemic change and reconciliation begin with sharing: a sharing of the decision-making power and a sharing of the wealth that funds the cost of government. It means relinquishing more control to First Nations governments over their own jurisdictions and renewing First Nations fiscal capacity. Victories in the courts have advanced the right to self-determination. Legislation such as the *Constitution Act, 1982* and UNDRIP have further recognized this right. Yet First Nations governments today have very little decision-making power compared to other levels of government and only a fraction of the fiscal resources required to govern effectively.

Stephen Cornell and Joseph P. Kalt of the Harvard Project have observed that colonial governments must either give up control of Indigenous affairs or continue to bear the responsibility for the socioeconomic disparity that persists:

“

One of the most difficult things for non-Indigenous governments to do is to relinquish control over Native nations. But this control is the core problem in the standard approach to development. As long as non-Indigenous governments insist on calling the shots in the affairs of Indigenous nations, they must bear responsibility for those nations' continuing poverty. Only when outside governments let go of control will the development potential within Native nations be released.”⁴⁵

If there is to be reconciliation and the implementation of UNDRIP, the Government of Canada needs to transfer real decision-making powers to First Nations. The FMA can provide the legislative basis to facilitate the orderly transfer of these authorities. The FMA institutions can also provide the tools and the institutional support First Nations governments need to exercise their jurisdiction effectively through strong institutions, while managing risk for the benefit of all stakeholders.



Renewing jurisdictions

First Nations require new options to renew their jurisdictions and exercise decision-making authority comparable to other levels of government. As noted in Chapter 5 of the RoadMap Project, expanded jurisdiction should start with the following powers:

- **Clearly defined taxation and revenue collection rights**
- **Autonomy over the use and development of reserve lands**
- **Standards for service delivery**
- **Autonomy over expenditure of resources**
- **Legal paramountcy of First Nations laws in First Nations jurisdictions**
- **Recognition of First Nations rights within their traditional territories outside of reserve lands**
- **A mechanism to facilitate nation-to-nation relationships with federal, provincial, territorial, and municipal governments**



First Nations need clarity between their jurisdictions and federal, provincial, and territorial jurisdictions. The relationship between federal jurisdiction and that of provincial and territorial governments is defined in the Canadian Constitution. For First Nations, jurisdictional clarity would provide certainty to their governments, members, and businesses. This clarity will ensure that the authority of one government cannot overlap or override the authority of another government within that government's jurisdiction.

The Government of Canada should also be ready to transfer service responsibility and funding to interested First Nations governments. First Nations have expressed the desire to occupy their jurisdictions by providing services to their own members at improved standards. As local governments, First Nations governments are better positioned than federal or provincial governments to manage their own affairs and meet the needs of their communities. Where First Nations desire to take more service responsibility, ISC will need to relinquish control of key services and public works to First Nations governments and institutions.

Expanded jurisdiction will unleash the Indigenous growth potential that colonial policy has constrained for 150 years. Why should one government manage the affairs of another, without local expertise or accountability to that government's citizens? Federal micromanagement of local affairs will only continue to result in failure, while expanded jurisdiction will lead to socioeconomic growth. Expanded jurisdiction may not be a quick fix but it will be a permanent one. Canada can take the first step towards reconciliation by placing more authority in the hands of First Nations governments to develop the institutions, services, and cultural investments that underpin growing, healthy communities.



Expanded jurisdiction will unleash the Indigenous growth potential that colonial policy has constrained for 150 years.



EXPANDING CAPACITY TO GOVERN

STRENGTHENING GOVERNANCE WILL NOT ONLY MEAN expanding the authority to govern but also expanding the capacity to govern. It is not enough to recognize the right of First Nations to self-determination over their own affairs. First Nations also require revenue, or fiscal capacity, to fund the cost of government. Finally, as First Nations switch from a colonial system to a new institutional framework, the FMA institutions will support interested First Nations to renew strong institutions of governance while building the administrative capacity to govern effectively.



Renewing fiscal capacity

All governments require independent revenue and fiscal tools to fund the cost of government. Federal, provincial, and municipal governments in Canada have a host of independent revenue-generating options to fund the cost of their governments. In contrast, most First Nations depend on transfers from other levels of government instead of independent revenue. Table 1 summarizes each government's key sources of revenue – listed in order of significance.

Most First Nations depend on transfers from other levels of government instead of independent revenue.

Table 1: Current Revenue Sources by Level of Government

Government	Revenue Sources
First Nations	• Transfers from federal and provincial governments • Economic/lands development and business revenues • Property tax (currently not widely collected by First Nations)
Federal	• Income and payroll taxes • Sales tax • Energy, customs, duty, resource royalties, and other taxes
Provincial	• Income and payroll taxes • Sales tax • Property tax • Energy, excise, duty, resource royalties, and other taxes • Transfers from federal government
Municipal	• Property tax • User fees • Transfers from federal provincial governments

Transfers from other levels of government is of highest significance for First Nations governments and is lowest for other levels of government. First Nations also have the fewest revenue options, although they are expected to deliver a large variety of services to their community members. As the RoadMap Project documented in Chapter 5, the transfer-based system is not only unpredictable and unclear, but it is also insufficient to fund the cost of government. It denies First Nations both the revenue to fund the cost of government and access to the fiscal tools that other levels of government depend on. Where other levels of government can borrow against future revenue, transfers do not provide the certainty that lenders require. The status quo Crown-Indigenous relationship leaves First Nations without the authority to govern or the means to govern effectively.

The Royal Commission on Aboriginal Peoples (RCAP) notes that most of the wealth that currently funds the cost of government in Canada flows from the lands and resources that First Nations across the country have claim to.⁴⁶ It states that First Nations governments must have independent revenue if self-determination is to become a reality because fiscal capacity will empower First Nations governments to take responsibility for their own governments and services.⁴⁷

First Nations require a revenue-based fiscal arrangement: secure revenues that First Nations governments can use at their own discretion and are not subject to the will of another government. Independent revenue can include improved government transfers, taxation, investment, borrowing, business fees and royalties, public corporation revenues, proceeds from lotteries and gaming, and business revenue.⁴⁸ There is much to be done to expand First Nations' access to independent revenue. Federal and provincial/territorial governments should be prepared for First Nations governments to share in the wealth generated from Canada's lands and resources. Fiscal capacity to govern will require the same fiscal rights, tools, and resources that other levels of government use to fund the cost of government: formula-based transfers, new fiscal tools, fiscal autonomy, expanded revenues, and expanded fiscal powers.

First Nations require the same fiscal resources and tools that are available to other levels of government.

As Chapter 5 of the RoadMap outlined, secure revenues need to include the following:

- **Expanded revenue resources**
- **Expanded taxation powers**
- **Formula-based transfers**
- **Monetization of transfers for financing, including revenue stacking**
- **Autonomy over expenditures**

If First Nations can share in the decision-making and revenue-generating powers that other levels of government employ, it will unlock long-term and sustainable socioeconomic growth. These are the foundations for success for any government, no less for First Nations governments. These foundational elements will empower First Nations governments to develop strong institutions of governance that reflect the cultural values of their communities, and to invest in services, infrastructure, and other community priorities.

As outlined in Chapter 5, the transition to fiscal autonomy will be a long-term endeavour, requiring a strong legal framework and enhanced First Nations capacities. The FMA institutions are committed to providing the supports and capacity development needed for First Nations governments to see this new fiscal arrangement become a reality. This transition will renew the authority of First Nations to govern themselves according to their own cultures and values. **The role of First Nations governments and Indigenous institutions needs to increase, while the role of ISC needs to diminish.** If UNDRIP is to become more than aspirational, governing authority, along with the corresponding financial resources, needs to be repatriated into Indigenous hands.

First Nations require a revenue-based fiscal arrangement: secure revenues that First Nations governments can use at their own discretion and are not subject to the will of another government.



Renewing institutional capacity

Strong institutions of governance are the fair, stable rules that encourage citizens to invest in their societies. These are the governance practices that nourish sustainability instead of limiting growth. Institutional capacity means strong institutions of governance and the administrative capacity to live by them. By renewing their institutional capacity, First Nations governments will do more than merely govern – they will govern well.

Colonialism dismantled the institutions of governance that supported Indigenous societies, economies, and innovation systems. Imposed structures eroded the traditional principles of good governance, and the trust of the members in their government. Once-strong governments became less stable under a colonial system that removed First Nations authority, prescribed rules of governance, and undermined capacity.

Canada has finally adopted UNDRIP and is beginning the process of restoring and maintaining Indigenous rights to govern. It is also starting to cede some areas of responsibility to First Nations governments. As Canada and First Nations continue to move away from the damaging aspects of the *Indian Act*, sustaining sound practices and establishing good governance institutions over the long-term are becoming achievable goals. First Nations governments and institutions are working to ensure that First Nations capacity to govern can match the right to govern. Some First Nations are opting out of some of the barriers of the *Indian Act* in favour of self-government agreements. But many more are choosing optional Indigenous-led legislation such as the FMA and the *Framework Agreement on First Nation Land Management*.

While providing options for a new fiscal arrangement that supports the cost of government and the fiscal capacity to govern, the FMA institutions will also support First Nations to renew the tenets of governance that underpin strong societies: the traditional values of accountability, transparency, checks and balances, and duty of care. The FMA institutions will further bolster the right to govern by supporting the administrative capacity to govern effectively.

INSTITUTIONAL CAPACITY FOR SUSTAINABLE GROWTH

Institutional capacity not only unlocks socioeconomic growth, it also promotes sustainable growth. The principles of accountability, transparency, checks and balances, duty of care, fairness, and justice are the foundation that Indigenous nations are built upon. Since time immemorial, the seven-generation outlook has guided First Nations societies across many parts of Canada. It is the concept that decisions made today should be beneficial in perpetuity. When the acts of forecasting, planning, acting, and managing in the spirit of a seven-generation outlook build upon the foundation of good governance, First Nations succeed. By looking to the past, First Nations can seize their futures, with institutional support to optimize operations and performance.

For institutions of governance to be effective and sustainable, First Nations members must understand and approve of them. The FMA framework supports First Nations leaders to build trust and uphold standards for accountability to their members. It supports them to involve members in setting and achieving goals and adapting standards for fiscal management and administration to a community's unique cultural preferences.

The FMA framework also empowers First Nations leadership to build trust. Leaders can develop, maintain, and nurture a shared vision that comes from their members, and encourage members to invest in their society. Efforts and victories at the local level in the community all add up to form larger victories for First Nations across Canada. Community targets need to be aligned with community needs, with realistic expectations and timeframes, and with outcomes that can be assessed and measured. First Nations members and their governments making collaborative efforts on shared needs can mitigate the risk of instability in leadership. Years of instability and failed initiatives have resulted in mistrust in the *Indian Act* system. First Nations members need to see action from their elected governments and to understand that their leaders are more accountable to their members than to a government department.



Institutional capacity not only unlocks socioeconomic growth, it also promotes sustainable growth.

In the experience of the FMA institutions, sustainability lies in capacity development at the local level in First Nations elected governments, administrations, and members. As capacity grows, platforms and programs that provide more opportunities for planning, benchmarking, setting standards and sharing information will stabilize and strengthen First Nation governance institutions. As capacity grows, so will opportunities. Achievable goals can be set locally, starting on a small scale, and build in scope, allowing greater chances for collaboration with other First Nations, nearby municipalities, and external businesses as described in the previous chapters *Unlocking First Nations Economies*, and *Strength Through Working Together*.

INSTITUTIONAL SUPPORT

FMA support empowers First Nations to meet and sustain high standards of administrative governance and financial management – standards that are both internationally recognized and traditional in their support for good governance practices. Just as traditional institutions of governance ensured effective governance through fairness, transparency, accountability, duty of care, as well as checks and balances, so do the FMB standards. These standards are both backward and forward-looking, as a tool for



the renewal of strong Indigenous governance. FMB Capacity Development managers work alongside First Nations that are scheduled to the FMA to support them on the road to Financial Management System Certification. The FMB's data demonstrates that this approach is working. First Nations governments that have achieved FMS certification have gone on to accelerate the growth of their own-source revenues in subsequent years, supporting their governments to provide a higher level of services to their members.

An independent study of the FMA and its institutions concluded that tangible results in capacity development have been transformational:

“The three organizations collectively are producing large and tangible impacts on First Nations communities. All three institutions are centres of innovation. Their efforts at developing capacity among First Nations, capacity which is sustainable, is especially noteworthy. These three institutions established by the Act are the most interesting innovation to occur over the past decade in First Nation country.”⁴⁹

The FMB's experience in capacity-building shows that not all First Nations governments operate on a level playing field. First Nations with fewer resources and comparative advantages may desire higher levels of capacity support. Building on that experience, the FMB will offer enhanced capacity development support and the tools to develop improved and new fiscal arrangements with the Crown, whether those relationships are defined by transfers or revenue.

Enhanced governance support and tools will empower First Nations to exercise stable, transparent, and fair authority within their jurisdictions to build sustainable, healthy, and wealthy societies. The FMA institutions will provide the following enhanced support to promote the capacity of First Nations to self-govern:

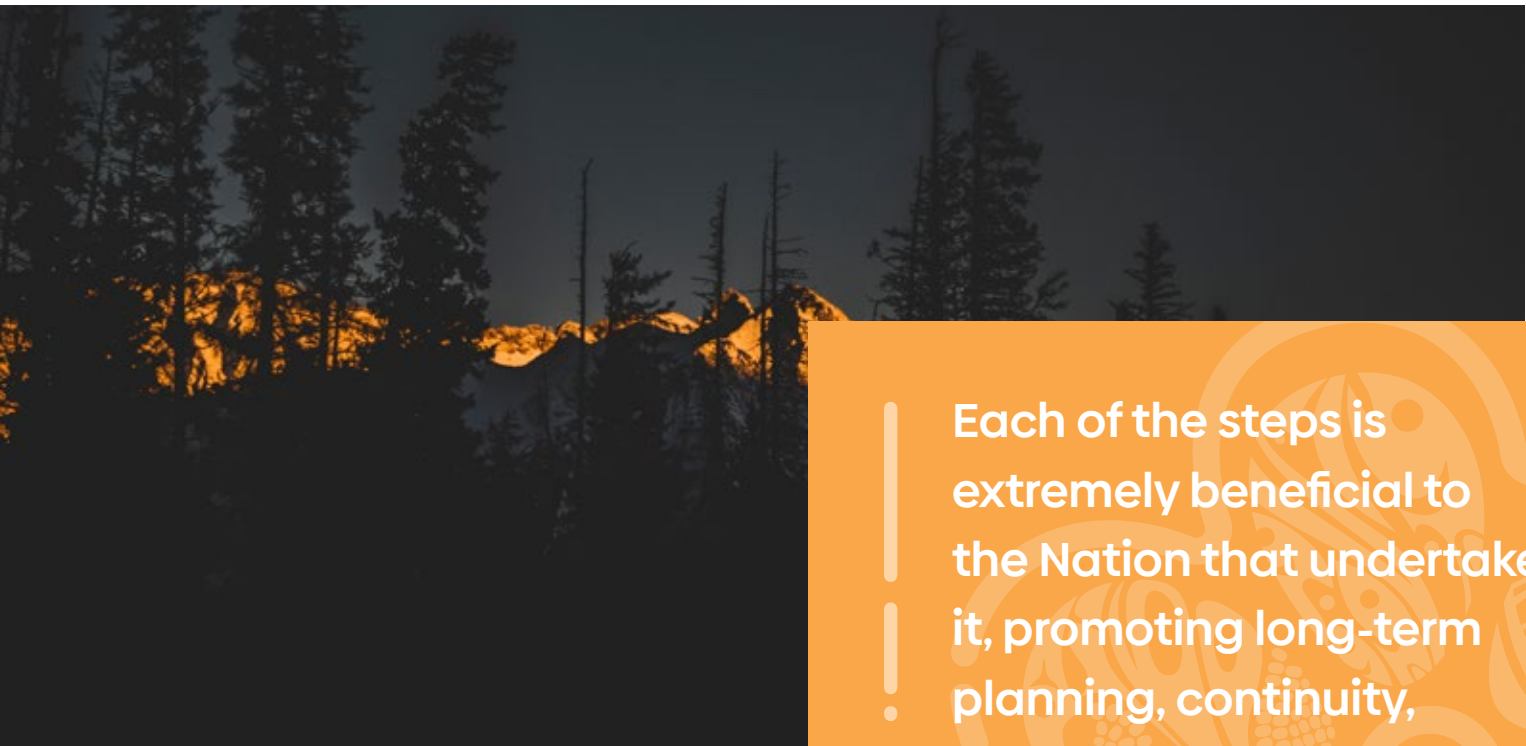
- **Ongoing capacity support to achieve and sustain FMS standards**
- **FMS Support Services to support human resources capacity**
- **Training for First Nations leaders**
- **Tools of governance**
- **Indigenous innovation system**

SUPPORT TO ACHIEVE AND SUSTAIN FMS STANDARDS

More than half of all First Nations across Canada have opted into the *Fiscal Management Act*. For those First Nations that have made the choice to opt in, the FMB is already fulfilling a crucial capacity development role and supporting First Nations in their efforts to establish sustainable governance institutions. The First Nations who have opted in are leaving the inadequate economic and governance environment of the *Indian Act* and are progressing towards something better.

Next steps for First Nations after opting into the legislation are:

1. **The drafting and passing of a custom Financial Administration Law (FAL);**
2. **A Financial Performance certification**
3. **Implementing a Financial Management System**



Each of the steps is extremely beneficial to the Nation that undertakes it, promoting long-term planning, continuity, and sustainability.

At the time of writing, 250 Nations have passed a FAL, 206 have achieved a Financial Performance certification, and 55 have achieved a Financial Management System certification. These numbers have grown exponentially over the past several years.

Each of the steps is extremely beneficial to the Nation that undertakes it, promoting long-term planning, continuity, and sustainability. The customization and optionality of developing a FAL gives the First Nation's government and populace confidence that it is, in fact, their law, and not just another imposition. This builds trust in both the process of crafting long-lasting internal legislation, and in the final product having continuity through cycles of elected governments. The processes and regulatory requirements support elected governments, administrations, and staff in conducting business through the lens of good governance – being transparent, focusing on the right opportunities, and encouraging long-term planning with measurable outcomes. This process builds capacity within First Nations and is several steps in the right direction towards governance sustainability.

Financial Performance certification, and Financial Management System certification are voluntary point-in-time reviews of how well a First Nations government is implementing its FAL. The immediate, tangible benefit to achieving one or both levels of certification is new access to capital through the First Nations Finance Authority and independent verification of good management practices. This verification can enhance a First Nation's credibility as a business and development partner with external stakeholders. Access to capital, as well as assurance that the FAL is being brought to life, is an affirmation of a First Nation's efforts in creating sustainable governance institutions for their community. It empowers the Nation to undertake larger projects to further increase prosperity, build internal capacity, and continue to manage and improve their systems.

As more First Nations adopt FALs and progress through certification, they develop internal capacity. These FMB clients, in increasing numbers, are requesting ongoing capacity development support to not only meet financial management standards but sustain

them. The FMB is willing to commit to more frequent, periodic assurance for those Nations that request it and to develop post-certification care for interested First Nations governments. This sustainment strategy mitigates risk for the First Nation, partners, and other governments ceding control of various aspects back to First Nations. The FMB will continue to support First Nations in maintaining strong institutions of governance through Financial Administration Laws, certifications, and ongoing capacity development support for those Nations who want it – and that number is growing.

FINANCIAL MANAGEMENT SYSTEM (FMS) SHARED SERVICES

The FMB has over 12 years of experience supporting First Nations governments to advance their internal financial controls and governance capacities. This support has focused on bringing the Nation's FAL to life; key components include developing and implementing administrative policies, training, and establishing effective collaboration with their administrations. Some First Nations governments have indicated they need support to generate timely and accurate financial information. This need is largely due to challenges in recruiting affordable and accessible local financial personnel. This results in these First Nations governments being unable to access financial information and make informed decisions.

The FMB will continue to support First Nations in maintaining strong institutions of governance through Financial Administration Laws, certifications, and ongoing capacity development support for those Nations who want it – and that number is growing.

In early 2021, the FMB advanced a new pilot service to address this need: FMS Shared Services. This is a service for First Nations where the FMB provides remote and in-person accounting support to answer the challenge of the human resources needs of some First Nations governments. The services provided to First Nations governments under this initiative are customized, and can include financial functions such as:

- **Local training and capacity development**
- **Bookkeeping**
- **Accounts payable**
- **Accounts receivable**
- **Payroll**
- **Financial reporting**
- **Other accounting and financial management services**

The FMB is well positioned to deliver these support services, as the FMB's Capacity Development team already maintains professional relationships with First Nations clients. Another critical advantage is the FMB's approach to building financial capacity within the local First Nation's administration. The FMS Shared Services pilot initiative is complemented with training for the local First Nations' financial staff. The goal is to develop the financial capabilities within the First Nations government so that the Nation's finance staff can effectively manage their financial management system in the future.

FMS Shared Services is distinguished from other accounting support services (e.g., from the private sector) in several ways, including:

- **Central focus on capacity development for local First Nations administrations**
- **Indigenous-led service delivery**
- **No cost to the First Nations clients**
- **Co-creation of service delivery**
- **Indigenous-led solutions**



The FMB has already launched FMS Shared Services and is currently providing services to 10 First Nations governments across Canada. This service strengthens the financial governance capacities of First Nations governments and is a prime example of an Indigenous-led solution being advanced under the FMA. These financial capacities directly support the ability of First Nations to promote self-determination. We propose that this service be expanded on a larger scale. The Government of Canada can demonstrate its support for First Nations' self-determination by providing funds to broaden FMS Shared Services.

CERTIFICATE TRAINING PROGRAM IN LEADERSHIP AND GOVERNANCE FOR FIRST NATIONS LEADERS

As First Nations work to make their governance institutions sustainable, key questions are 1) who are the stewards of this system, and 2) how are they operating? Developing a government's management capacity

has a huge and direct impact on that government's progress in meeting the needs of its constituents in the present, as well as for the future. In Canada, over the past century and a half, colonial legislation largely dismantled First Nation governments' authority, consolidating power and decision-making in the federal government. Today, Canada and First Nations together look to redress that, and renew decision-making and control for First Nations governments. Professor Stephen Cornell with the Harvard Project reminds us that changes to First Nation governance and leadership will be diverse and may not look like standard U.S. or Canadian governance: "Some will have traditional roots; some will not. But once that freedom is achieved, once those nations have put in place the governance solutions they want and have tested those solutions against the realities of their current situations, once they have the freedom to make mistakes and learn from them and make the adjustments they decide to make... they will be in a stronger position to develop the kinds of economies and communities they envision."⁵⁰



However Nations determine to select their leaders, and whatever structures they choose for how their leaders function and make decisions, all parties involved with developing sustainable First Nations governance practices are heavily invested in supporting leaders in being the best they can be. As mentioned above, those who are in First Nation councillor or chief positions likely have one of the more onerous executive positions in the country. First Nations governments are now taking on multiple aspects of their communities' well-being, many times with little or no formal training, insufficient capacity in administration and staff, insufficient resources, and higher rates of social, infrastructural, and health problems. There often is no private sector to share a bit of the burden. Especially now that Canada, First Nations themselves, and First Nation organizations are moving to give more control to local First Nation governments, capacity development to be able to build, manage, and maintain prosperous, healthy, sustainable governance institutions has never been more important.

The FMB and other FMA institutions are ready and able to support First Nations leaders in training and best practices in good fiscal governance to allow governments and administrations to put their communities in the best possible positions for success. The FMB will collaborate with the Tulo Centre of Indigenous Economics to train Indigenous leaders, senior management, and administrative personnel on applying traditional principles of governance in the modern world. This training program will not prescribe systems of government; it will support effective governance. It will facilitate information-sharing, innovation, and peer-driven learning to renew the traditional practices of accountability, transparency, checks and balances, and the duty of care. **Training opportunities for the change agents that do the work to renew First Nations governance institutions will lead to a critical mass of Indigenous leaders prepared to implement and sustain effective governance in their communities.**

Tulo and the FMB will leverage their relationships with training partners, such as Indigenous organizations and top-tier universities, to provide world-class training on Indigenous governance. This training program would certify individuals for educational achievement in leadership and governance. Instead of dictating training material, training methodology would focus on peer-driven, applied learning with real-world problem-solving. The training would focus on two streams of leadership. The first would be First Nations political leadership, focused on applying principles of fiscal governance to their own unique contexts. The second would be for First Nations' executive officers, managers, and staff, focused on operating within a Nation's adopted FAL, and promoting sustainable growth within a government administration.

The areas of training for First Nation leaders, administrators, and staff would include the traditional principles of good governance:

- **Knowledge**
 - Understanding the Nation's laws, and the functions of the government and the administration
- **Communication**
 - Hearing what the community wants, needs, and expects
 - Prioritizing community goals
- **Strategy**
 - Creating an investment climate
 - Identifying and leveraging the First Nation's areas of strength
- **Investment**
 - Maintaining, optimizing, and growing the Nation's assets
 - Growing capacity within the community
 - Encouraging outside investment into the economy
- **Fiscal Capacity and Accountability**
 - Understanding and expanding sources of revenue for the Nation
 - Best practices in financial control, management, and reporting
- **Administration**
 - Governance and oversight
 - Understanding and optimizing the roles and responsibilities of officers, executives, and staff within a First Nation organization
 - Long-term strategic planning, executing work plans, and budgeting



TOOLS OF GOVERNANCE

The FMA institutions provide a wide array of tools to support First Nations governments. FALs and standards provide an Indigenous-led framework for sound financial practices and administrative governance. By passing a FAL, a First Nations government can opt out of certain sections of the *Indian Act* and advance towards fiscal self-determination.

As First Nations in Canada grow and take on more activities, there will need to be an expanded financial framework under the FAL. Since each First Nation has unique administrative needs, additional tools could meet the specific financial governance needs of a First Nation. Currently, there is already a distinct FAL for Nations that take on local revenue activities (e.g., property tax).

The FMB can make optional tools available to First Nations with distinct financial governance needs, including the following:

- **Optional FAL provisions for oversight of Government Business Enterprises**
- **Corporate governance tools for nation-owned businesses – with industry-specific supplements**
- **Appeal and enforcement provisions for the FAL**
- **Expanded array of financial governance policies and procedures**
- **Asset management tools to accommodate a wide range of needs**
- **Financial practices to advance cooperation and aggregation with other First Nations governments – such as the practices noted in Chapter 6**
- **The advancement of fiscal/economic data and statistics in governance decision-making – including collaborative relationships with the FMA Statistical Initiative (see Chapter 2)**



These tools could provide a more customized financial governance fit for First Nations governments. Tools, such as laws, policy templates, comprehensive processes, or other templates, provide First Nations governments with ready-built best practices that they can adapt to their needs. These tools accelerate the process of switching from an old colonial system to a new institutional framework and reduce the cost of change. As First Nations renew their institutions, an array of tools and templates ensure that First Nations don't have to reinvent the wheel to optimize their operations and performance. A wealth of additional tools that can accommodate a variety of needs results in more comprehensive processes to support accountability and effective governance. This greater accountability and transparency promotes trust for First Nations members and stakeholders. It will support First Nations governments in advancing their financial capacities – a needed foundation for self-determination.

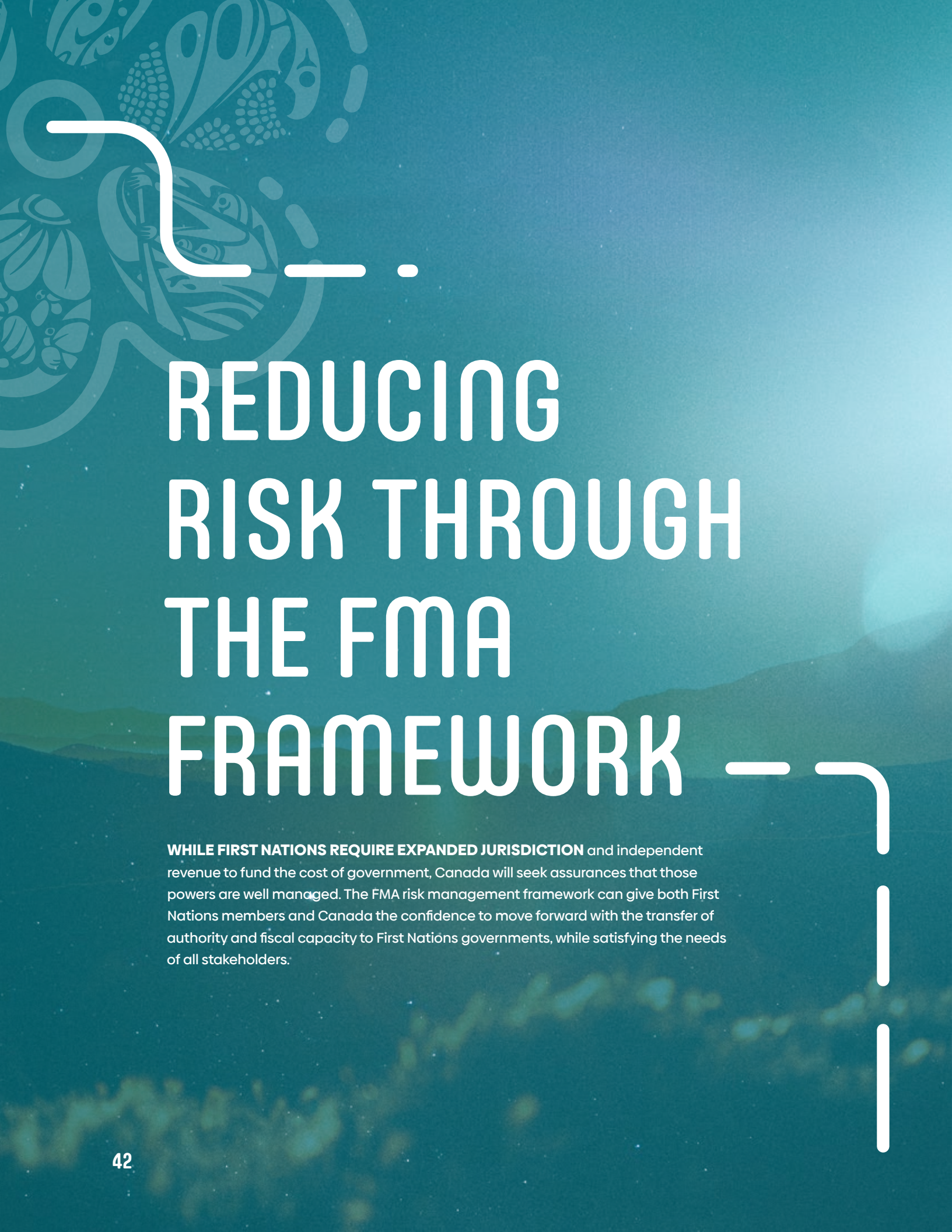
INDIGENOUS INNOVATION SYSTEM

An inevitable outcome of capacity development within First Nations will be a renewed indigenous innovation system. Colonial systems and structures were cages, designed to limit First Nations' control over land, jurisdiction, growth, where they lived, where they worked – everything. Indigenous innovations, part of a legacy of strong and sustainable societies that existed in the Americas for thousands of years, were discarded in favour of the cage.

The FMA, and the institutions it birthed, are examples of a renewed and thriving Indigenous innovation system. The FMA framework supports participating First Nations in a new fiscal relationship with the Canadian government, and provides implementable solutions, potential legislative amendments, and thought leadership towards the goals of UNDRIP. As more First Nations develop internal capacity, and achieve successful results in their own communities, good ideas and creative solutions will flow upward. Where colonialism divided and conquered, the FMA framework unites and inspires. Maintaining standards, while also allowing flexibility and optionality, invites and nourishes the best ideas to thrive and spread to other Nations and organizations. The result is an aggregation of successful endeavors that can be understood and replicated.



As more First Nations develop internal capacity, and achieve successful results in their own communities, good ideas and creative solutions will flow upward.



REDUCING RISK THROUGH THE FMA FRAMEWORK

WHILE FIRST NATIONS REQUIRE EXPANDED JURISDICTION and independent revenue to fund the cost of government, Canada will seek assurances that those powers are well managed. The FMA risk management framework can give both First Nations members and Canada the confidence to move forward with the transfer of authority and fiscal capacity to First Nations governments, while satisfying the needs of all stakeholders.



The RoadMap Project will provide many First Nations the options they are looking for to exercise greater self-determination. Yet the Government of Canada will be concerned about risk when it comes to systemic change. Although Canada has already recognized the need for more jurisdictional powers and fiscal capacity in its adoption of UNDRIP and the announcement of a new fiscal relationship, concerns about accountability and transparency have prevented a significant departure from the status quo. Until the federal government's concerns are met, a transfer-based system and federal control will continue to constrain both the right to govern and the fiscal capacity to govern for many First Nations across Canada.

The notion that Canada should manage the affairs and shoulder the risk of governing on behalf of wards of the state is a relic of times past, as is the federal oversight mechanism. Today, no level of government is satisfied with the status quo monitoring and oversight framework, led by ISC. Although Canada has stated its intention to reduce the role of ISC, the absence of an accountability framework to replace it could prevent that vision.

While a framework for transparency and accountability is necessary, it must be the right framework. First Nations governments require an Indigenous solution that satisfies First Nations stakeholders as well as the Government of Canada. The Crown-Indigenous relationship has historically been characterized by a paternalistic regulatory and oversight regime that took away Indigenous self-determination and institutions of governance. The current framework lacks credibility with stakeholders. It also makes First Nations governments primarily accountable to the Government of Canada rather than their own members. Instead, we propose that an optional and Indigenous-led assurance framework can provide confidence to all stakeholders: First Nations governments, their members, potential business partners, and other levels of government.

Unlike ISC's current oversight framework, the FMA framework has the support of 335 First Nations who have voluntarily become scheduled to the Act. The FMA framework can meet the need for oversight because it has a proven track record for risk management, accountability, transparency, and financial management. Based on the internationally recognized Committee of Sponsoring Organizations (COSO) standards for internal control and risk management, the FMB's financial management system already manages risk for First Nations governments. FMS certification and community reporting standards give First Nations members confidence that their elected leaders have implemented sound fiscal management practices. This certification gives elected leaders confidence that they have the tools for success.

Ongoing assurance that First Nations governments are maintaining the FMS certification can give Canada the confidence it needs to provide new options to support greater fiscal and administrative capacity: confidence that participating First Nations will meet a standard of care as they assume greater control of their affairs. It will provide assurance to all stakeholders and a level of comfort to move forward with new options and innovations that support the implementation of UNDRIP. The FMA assurance framework can empower change and unlock growth.



Institutional support manages risk

FMA institutional support for First Nations' capacity to govern effectively already manages risk for all stakeholders. The capacity support and tools of the FMA institutions support First Nations to manage the risk involved in change, as they switch from an old colonial system to an Indigenous-led institutional framework. The capacity to plan, manage, and act on opportunities builds stronger and more confident governments that have more trust from their constituents, as well as other levels of government.

While the Government of Canada is concerned about accountability for public funds, the risks that First Nations governments face are existential. Some First Nations have already broken free from the constraints imposed by colonialism and the *Indian Act*, but others have not. Without the development of capacity, and sustainable institutions of governance, the risks that affect First Nations peoples will continue. Institutional support mitigates these risks and empowers First Nations governments to renew strong institutions and practices in the face of growing populations, shifting demographics, and a rapidly changing world – for now, and for seven generations.

For the federal government, perceived risks stem from concerns about ceding greater levels of control over funding and programming to First Nation governments. As capacity development over time builds trust with First Nations governments' constituents, the same will happen in the nation-to-nation relationship. Accountable, transparent First Nations governments will be able to take on the challenges of service planning and provision, and the fiscal responsibilities that come with sustaining successful communities.

The provincial/territorial governments and municipalities may anticipate risks to their jurisdictions or abilities to raise incomes in certain areas as First Nations gain more control, capacity, and sovereignty over their traditional territories. Once again, capacity development is key here. As First Nations renew their institutions of government, they present an opportunity for the provinces, municipalities, and other First Nations to partner on projects instead of competing for them. Aggregation of labour, planning, operations, and services can drive thriving economies and sustainable communities going forward.

For the non-Indigenous population of Canada, a colonial system that undermines good governance will only perpetuate an unacceptable status quo, with First Nations communities living in developing world conditions in an otherwise affluent Canada. With renewed jurisdiction, revenue, institutions of governance, and capacity, First Nations will set themselves on the path to prosperity. Increased access to services, growing employment rates, and economic development will lead to greater equity in Canadian society and a stronger Canada.



Ongoing assurance manages risk

FMS certification provides assurance at a specific point in time. This certification can be the foundation for an ongoing assurance framework of internal financial controls and financial governance. As a component of an Indigenous public sector innovation system, this framework can be adaptive to the ongoing needs of both First Nations and the Government of Canada. First Nations interested in pursuing expanded jurisdiction and fiscal powers could opt into an **ongoing assurance credential**, an FMS certification renewed every five years. Ongoing assurance and internal capacity development will support First Nations as they grow, change, and take on new opportunities within their administrations.

The **Financial Management System Ongoing Assurance (FMSOA) framework** would benefit First Nations governments, community members, and other stakeholders. It could further enable an opt-out from the problematic *First Nations Financial Transparency Act*. FMSOA would be an Indigenous-designed assurance and risk-management solution to provide the confidence that First Nations governments will meet and exceed the fiscal expectations of their members – both now and into the future.

HOW WILL FMSOA WORK?

The FMB already has a comprehensive process in place for First Nations to achieve their FMS certification and would use this process to support First Nations to pursue the FMSOA credential. This process would include the First Nation government:

1. **Becoming scheduled to the FMA**
2. **Enacting a FAL and having it approved by the FMB**
3. **Implementing the FAL – with the support of the FMB’s Capacity Development team**
4. **Receiving an FMS review, where the FMB’s certifications team reviews the First Nation’s policies, procedures, internal controls, and adherence to the Nation’s FAL and FMS standards**
5. **Upon a successful review, being awarded an FMSOA credential – valid for five years**



Going forward under the optional, proposed new model, First Nations governments would renew their FMSOA credential every five years through a follow-up review of their financial management system. This review, like the initial FMSOA review process, would be risk-based and focus on the internal control and financial governance aspects that are of greatest importance for the First Nations government. By renewing the certification every five years, FMS certification would shift from being a point-in-time certification to an ongoing assurance credential for First Nations governments.

The FMSOA review is a way to proactively address financial control issues that arise and provide a formal means to ensure that the First Nation's financial management system continues to adhere to the First Nation's FAL. Maintaining an ongoing assurance credential will provide confidence to First Nations members and other stakeholders that the First Nation government is following the highest standards for internal financial controls and financial governance.

Ongoing capacity support will be an essential piece of the FMSOA service offering from the FMB. As First Nations' financial management systems grow and evolve, new capacities will be required. The FMB's team of Capacity Development managers already maintain strong relationships with First Nations governments and are committed to providing ongoing support into the future. Appendix II contains further information about the ongoing capacity supports that would be available to First Nations governments, administrations, and leaders.

By shifting to an ongoing assurance credential, First Nations members, elected leaders, and administrations would have quality information, every year, to support informed decisions. Elected leaders could demonstrate their commitment to accountability and transparency by supporting policies and practices that enable a successful FMSOA review. Other stakeholders, including business partners and other levels of government, would have greater confidence in working with First Nations governments. FMSOA could facilitate a greater transfer of jurisdictional and fiscal powers to First Nations governments, lay the foundation for a stronger investment climate, and strengthen the governance capacities of First Nations governments.

NEW OPPORTUNITIES THROUGH FMSOA

RoadMap proposes a transfer of power and a sharing of wealth by expanding First Nations' decision-making authority and fiscal capacity. With autonomy, revenue, and institutional support, First Nations governments would break free from colonialism, establish their fiscal priorities, and seize their futures. FMSOA can unlock this future by providing a risk management framework that can give the Government of Canada the confidence to move forward with systemic change.

With the FMA framework managing risk for all stakeholders, the federal government will no longer need to maintain the paternalistic oversight systems of the past and present. With this voluntary assurance framework in place, there is no reason to continue with the problematic *First Nations Financial Transparency Act*. **The FMA institutions propose that First Nations with an FMSOA credential should be able to formally opt-out of the First Nations Financial Transparency Act.** This step would demonstrate the Government of Canada's commitment to First Nations fiscal independence and self-determination.

FMSOA will also improve First Nations investment climates. Risk is always a consideration in business dealings. The lower the risk the more attractive the investment climate. FMSOA reduces risks associated with businesses operating within First Nations jurisdictions. Maintaining the FMSOA credential demonstrates to potential business partners, investors, banks, and financial institutions that a First Nation government is committed to sound fiscal practices, a necessary foundation for economic development.

Chapter 4 of the RoadMap discusses the need for a new institutional framework to empower Indigenous economic advancement. Maintaining a separation between Nation-owned business ventures and politics, as well as advancing governance capacities, are essential to creating a business environment that draws in investment. FMSOA is the framework to promote these practices.

In summary, FMSOA is the assurance and capacity development solution to provide confidence to First Nations governments, members, and all stakeholders to advance economic reconciliation. Ongoing assurance is a natural extension to the already successful Financial Management System certification currently offered by the FMB. FMSOA improves upon this certification by transitioning to an ongoing assurance credential and capacity development framework to support First Nations as they grow and advance over time. This offers several new benefits, including:

- **Empowers greater fiscal freedoms for First Nations governments**
- **Lowers business risk within the First Nation's jurisdiction with the potential to draw in greater private investment and capital to advance economic development**
- **Ensures that First Nations members have quality information to make informed decisions about the direction of their Nation's government and administration**
- **Enables an opt-out of the *First Nations Financial Transparency Act* – the federal government of Canada can make this possible and demonstrate their commitment to Indigenous self-determination**

FMSOA will open many new doors for First Nations as they advance their self-determination and fiscal freedoms.



Office of the First Nations Fiscal Officer

Finally, the FMA institutions propose enhanced risk management support through the **Office of the First Nations Fiscal Officer (FNFO)**. The FNFO could provide an optional service to First Nations that wish to further strengthen their capacity to manage risk. Individual First Nations governments may face challenges when addressing complex fiscal issues, such as addressing budgetary imbalances from the federal government. Similarly, small First Nations governments may not have the internal capacity or resources to evaluate the quality of external auditors or employ mediators in the case of fiscal disputes. First Nations governments have asked for supports in these areas. New supports would strengthen their financial management systems and mitigate the risk of fiscal missteps.

A new Indigenous governance institution could address these needs. This institution could provide critical supports to First Nations governments and contribute to the risk reduction enabled by the FMA framework. To accomplish this, **we propose establishing the Office of the First Nations Fiscal Officer**. First Nations scheduled to the FMA would have the ability to opt-in to the services of the FNFO, which would provide support in the following areas:

1. **Provide financial and economic advice and discussion regarding First Nations fiscal issues – with a forward-looking focus on fiscal budgets and transfers**
2. **Take on a First Nations auditor general function by providing:**
 - Heightened assurance over the quality of First Nations government audited financial statements, and
 - Advice to local First Nations' finance and audit committees
3. **Provide an ombudsperson and appeal function for First Nations**

We encourage the Government of Canada to demonstrate their commitment to First Nations self-determination and UNDRIP by supporting the development of the FNFO and the FMSOA frameworks.

The first function has a forward-looking vision and would provide impartial advice and analysis on fiscal budgets and transfers affecting First Nations in Canada. This function would have a similar role as the federal Parliamentary Budget Officer but with a focus toward First Nations matters. It would closely evaluate whether budgeted transfers to First Nations governments are sufficient to meet the service needs of these First Nations communities. This function will be conducted through financial analysis, localized costing, and econometric modeling. Finally, due diligence of future year budgets will be conducted to hold the federal government accountable for their proposed First Nations fiscal transfers.

The second function would focus on evaluating the efficacy of audited financial statements of First Nation governments. This role would provide assurance over the quality of the audited financial statements of participating First Nations governments. Refer to Appendix I for details of how this assurance would be provided via a peer review, every five years, of the external auditors' audit file. The auditor general function could also provide non-binding advice to local members of a Nation's Finance and Audit Committee (FAC). FACs may need to address sensitive financial issues within their Nations. Having a national body to provide professional advice could build the confidence and capacities within local FACs to function more effectively.

The third function of the FNFO would be that of an ombudsperson. This would provide an appeal process in the case of actual or perceived financial wrongdoing for participating Nations. A vital component of a Nation's financial management system is the inclusion of a whistleblower policy. In most cases, the FAC chairperson would be available to address whistleblower complaints. The FNFO could become involved in the case that a whistleblower alleges that the FAC chairperson is not independent or has handled a whistleblower complaint contrary to the Nation's FAL. A formal appeal process and hearing would be established.

Chapter 7 of the RoadMap Project proposes several tools of governance that can support First Nations governments on their journey toward self-determination. Transitioning to an ongoing assurance credential, through the FMSOA framework, will provide confidence that First Nations governments continue to live by their FAL and maintain strong financial governance. Likewise, the establishment of the FNFO will provide new and optional tools for First Nations seeking to strengthen their governance systems. These assurance frameworks are imperative to advance the financial governance capacities needed to achieve self-determination. The FNFO requires further research, scoping, and planning. We encourage the Government of Canada to demonstrate their commitment to First Nations self-determination and UNDRIP by supporting the development of the FNFO and the FMSOA frameworks.





CONCLUSION

The FMA institutions believe that there are practical, implementable options to advance self-determination within the *First Nations Fiscal Management Act*. These options mean more self-determination, more capacity, and less risk.



The First Nations right to self-determination is not a new concept. Section 35 of the *Constitution Act, 1982*, the Royal Commission on Aboriginal Peoples, years of jurisprudence on Indigenous rights and title, and UNDRIP all point to the same conclusion: progress will only come through First Nations self-determination. The Government of Canada may agree with these findings, but it is in uncharted territory and does not yet know how to proceed.

Despite Canada's acceptance and passage of UNDRIP into law, many First Nations continue to lack decision-making power over their own affairs, the fiscal capacity required to fund the cost of government, and the administrative capacity to achieve their governance and economic development objectives. Without the authority or the fiscal and administrative capacity to govern, First Nations have the right to self-determination in name only.

Relinquishing authority over First Nations governments has proven difficult for the federal government. Change brings risks. While First Nations require more jurisdiction and more fiscal powers, the federal government continues to demand a high level of assurance from First Nations that services and funds will be prudently and effectively managed.

The FMA institutions believe that there are practical, implementable options to advance self-determination within the *First Nations Fiscal Management Act*. These options mean more self-determination, more capacity, and less risk. The FMA institutions do not attempt to define Section 35 rights or tell First Nations how to organize or elect leadership. Those issues are for the rightsholders to decide. Building on the findings of the Harvard Project, the FMA institutions support the renewal of jurisdiction, fiscal powers, and strong institutions of governance. Table 2 summarizes the recommendations of the FMA to advance First Nations governance – recommendations that will bring the principles of UNDRIP to life.

Table 2: Recommendations to Advance First Nations Governance

The FMA not only provides the legislative basis for the expansion of First Nations jurisdiction and fiscal powers, but also a proven risk management framework that can satisfy both federal and First Nations stakeholders. With 335 First Nations already scheduled to the Act, we have a critical mass of support for this framework from First Nations stakeholders who wish to move beyond the limitations of the *Indian Act*. It is a risk management framework that already satisfies capital markets and attracts investment. A new, continual assurance framework will build on a proven concept to give Canada the confidence it requires to advance new options for First Nations self-determination.

Advancing Governance	Recommendations
More self-determination	• Expanded options under the FMA for First Nations governments to choose a governance framework that suits their Nation's needs • Greater property rights certainty and local control over First Nations lands – including greater resources for the Lands Advisory Board • Transfer of decision-making and fiscal powers from the federal government to First Nations governments
More capacity	• Greater independent revenue sources for First Nations governments • Expansion of FMS Shared Services • Training and certification program for First Nations leaders – with collaboration between the FMB and Tulo • Expanded FAL supplements and tools to meet the customized financial governance needs of First Nations governments
Less risk	• Transition to ongoing assurance through the Financial Management System Ongoing Assurance (FMSOA) framework • Creation of the Office of the First Nations Fiscal Officer (FNFO), with the following three functions: 1. Provide financial and economic advice on First Nations fiscal and budgetary issues with a forward-looking focus 2. First Nations auditor general role 3. First Nations fiscal ombudsperson role



The FMA framework manages risk for all stakeholders. Most importantly, it manages risk for the First Nations governments that wish to overcome the colonial policy that has undermined their self-determination, institutions, and ability to fund the cost of government. The FMA institutions provide support for First Nations to not only govern, but to govern effectively. With ongoing capacity support, First Nations governments can anticipate and respond to risks before they become major issues. With institutional support and the tools of governance, First Nations governments can feel confident in switching from an old system to a new one, choosing to exercise control over their fiscal futures.

This framework will give Canada the confidence to advance new options for self-determination and fiscal powers, while the tools of the FMA will give First Nations governments the means to occupy their jurisdictions and govern effectively. This pathway is not simply an improvement to the status quo, it is an alternative option to a broken colonial system. It is not a quick fix nor is it a solution that all First Nations will choose. A one-size-fits-all solution does not exist and cannot exist if the right to self-determination and cultural preference is to be maintained. This new pathway is a response to the desires of many First Nations across Canada to renew their jurisdictions and meet the needs of their members. It is a pathway to less risk and more growth, for the benefit of all Canadians. The cost of doing nothing is the continued federal oversight of Indigenous poverty – for which it must take ownership – and Indigenous lives that are run by a government department. But we believe in a better alternative. We acknowledge that change comes with risks, but those risks are managed, and they are worth it.

The FMA institutions believe that First Nations can move from managing poverty to managing wealth. Through the RoadMap Project, we offer a pathway to achieving that vision. It is time to write a new chapter in the Crown-Indigenous relationship based on more self-determination, more capacity, and less risk.

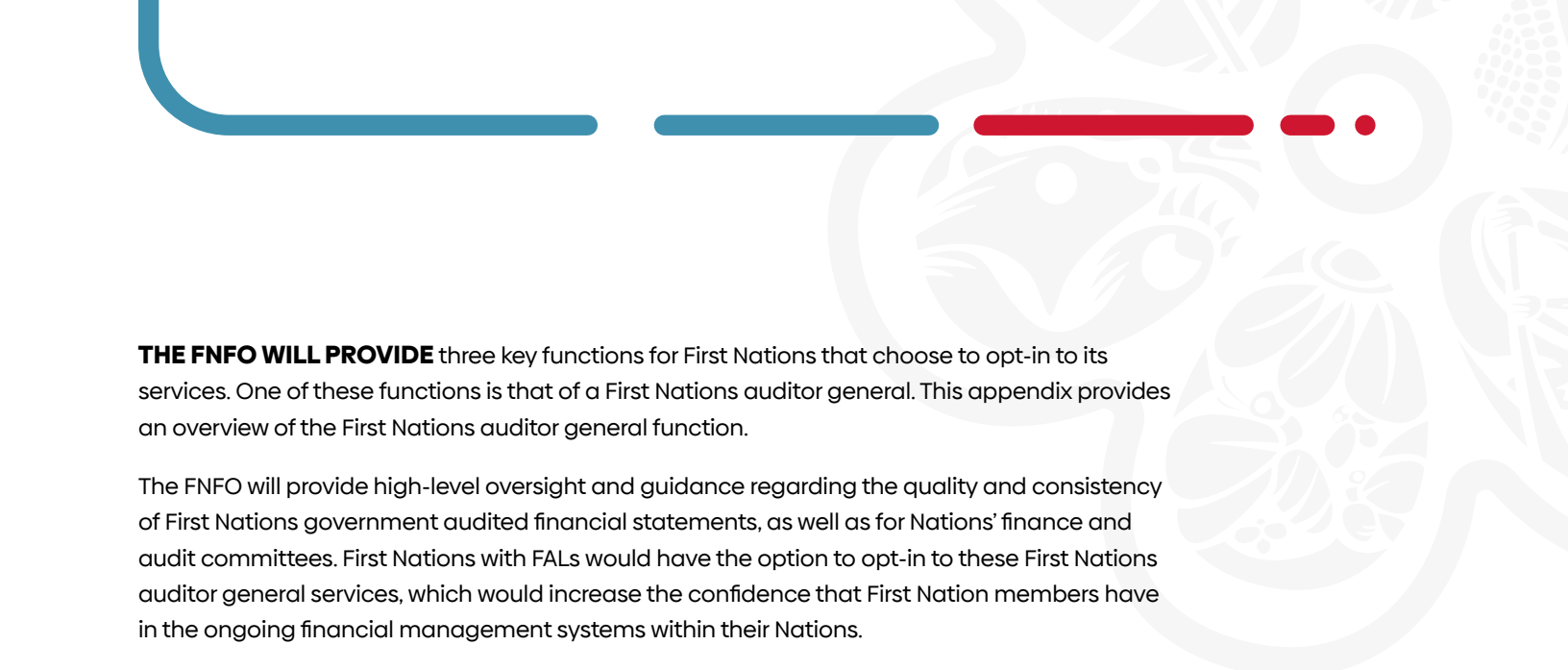
CONCLUSION



APPENDIX I

OFFICE OF THE FIRST NATIONS FISCAL
OFFICER (FNFO) - FIRST NATIONS AUDITOR
GENERAL FUNCTION





THE FNFO WILL PROVIDE three key functions for First Nations that choose to opt-in to its services. One of these functions is that of a First Nations auditor general. This appendix provides an overview of the First Nations auditor general function.

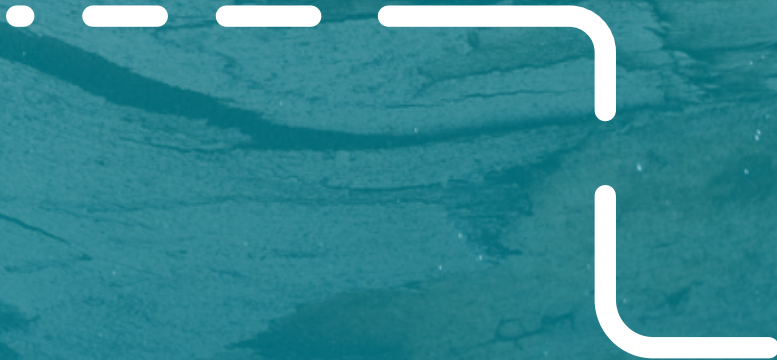
The FNFO will provide high-level oversight and guidance regarding the quality and consistency of First Nations government audited financial statements, as well as for Nations' finance and audit committees. First Nations with FALs would have the option to opt-in to these First Nations auditor general services, which would increase the confidence that First Nation members have in the ongoing financial management systems within their Nations.

The auditor general function of the FNFO would maintain the following roles:

- **Conduct a peer review on the annual audited financial statements of participating Nations every five years. This will be performed on a rotating basis, so that a fifth of member Nations would be reviewed in any given year. This provides high-level oversight of the audited financial statements, while easing the capacity requirements to conduct such reviews. This peer review assures that audit quality standards are maintained for all member Nations and identifies deficiencies from auditing firms.**
- **Each First Nations government with a FAL is to establish a Finance and Audit Committee (FAC). FAC members often address sensitive issues in their roles and would likely benefit from a higher-level body for advice support. The FNFO can take on this role and provide non-binding guidance and advice to FAC members.**

The above roles of the FNFO accomplish several goals, including:

1. **Provide a high-level control mechanism to ensure the quality of First Nations government audited financial statements**
2. **Deliver confidential and professional assistance to First Nations FAC members who are addressing sensitive issues in their communities**
3. **Provide a national institution for high-level advice, while retaining operational power and authority at the local level (with local FACs)**



APPENDIX II

ONGOING CAPACITY SUPPORTS
WITH FMSSOA

CAPACITY SUPPORT IS AN ESSENTIAL COMPONENT OF FMSOA. Ongoing support from the FMB will be provided to First Nations governments to continue living by their FAL.

Examples of this ongoing support can include:

- **Providing financial governance training to newly elected Chief and Council**
- **Introducing the key tenets of the FAL and financial policies to newly hired financial officers and administrators**
- **Ongoing training sessions for First Nations staff and management about seasonal requirements under the FAL – such as:**
 - Establishing budgets
 - Understanding procedures for the annual financial statement audit
 - Strengthening controls around cash and expenditures
- **Assisting First Nations administrations to address items that arise during an FMSOA review and proposing workplans to efficiently correct any issues**

If any issues or weaknesses in the financial management system were to arise, the periodic FMSOA review would identify these issues in a transparent and systematic manner. Upon the completion of an FMSOA review, the First Nations administration would have a given timeframe to address any issues identified in the review. The capacity development team of the FMB could provide any needed support to ensure that the First Nations government had the tools and capacity to continue living by the Nation's FAL.

The capacity development offered under **FMSOA will take a proactive approach.** As First Nations develop, grow, and take on new opportunities, new financial capacities will be required. Examples could include a growing First Nations administration, managing new housing or infrastructure developments, or engaging in economic development activities. The operations of each First Nations are ever-changing – so too are their financial capacity needs. Through its FMSOA service offering, the FMB's capacity development team will work with First Nations governments to support them as they advance their Nation's continued growth. First Nations clients will be able to reach out to their Capacity Development Manager and receive customized support.

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