



INDIGENOUS SUSTAINABLE INVESTMENT

Discussing Opportunities in ESG

January 2021

**THE FIRST NATIONS
MAJOR PROJECTS
COALITION**

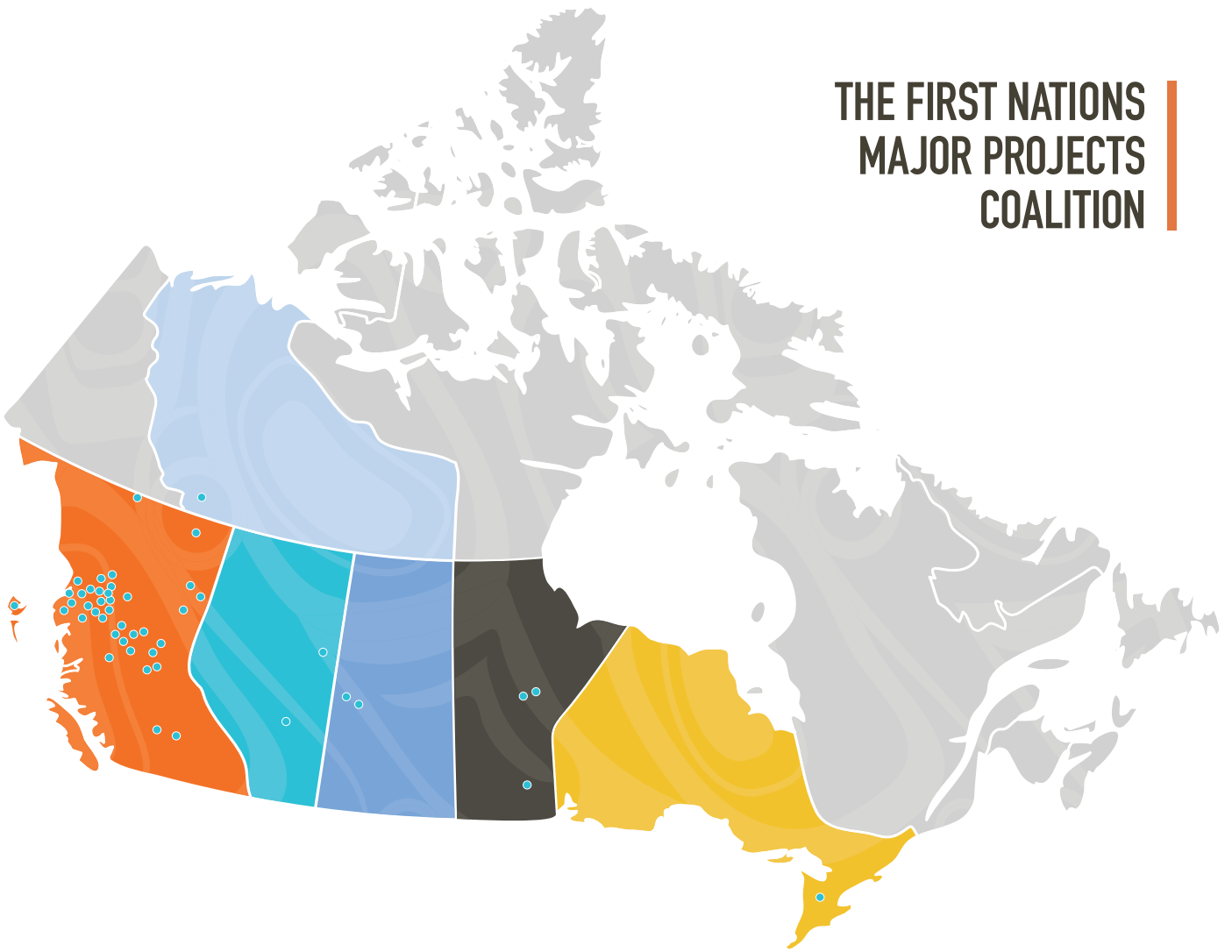
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COMMISSIONED BY

The First Nations Major Project Coalition

THE FIRST NATIONS MAJOR PROJECTS COALITION



The First Nations Major Project Coalition (Canada) is a national 70+ Indigenous nation collective working towards the enhancement of the economic well-being of its members, understanding that a strong economy is reliant upon a healthy environment supported by vibrant cultures, languages and expressions of traditional laws, and in particular to:

- a) Safeguard air, land, water and medicine sources from the impacts of resource development by asserting its members' influence and traditional laws on environmental, regulatory and negotiation processes;
- b) Receive a fair share of benefits from projects undertaken in the traditional territories of its members, and;
- c) Seek ownership opportunities of projects proposed in the traditional territories of its members, such as pipelines and electric infrastructure.

FIRST NATIONS MAJOR PROJECT COALITION

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TABLE OF CONTENTS

Acknowledgements	4
Executive Summary	5
Introduction	6
PART I	8
The Rise of ESG	8
What is ESG?	9
Why is ESG Important?	9
Where is ESG Headed?	11
ESG Origins	12
Early Days	12
United Nations Principles for Responsible Investment	12
Sustainable Stock Exchanges Initiative	14
Multiple ESG Standards	15
ESG Standards Consolidation	16
Global Reporting Initiative	16
Sustainability Accounting Standards Board	16
Task Force on Climate-related Financial Disclosures	17
Climate Disclosure Standards Board	17
One ESG Standard to Rule Them All	18
World Economic Forum	18
Problem for Indigenous Peoples	19
PART II	20
Emerging Indigenous Approaches to ESG – Putting the “P” in ESG	20
Environmental	22
An Indigenized Environmental Assessment – The Major Project Assessment Standard	22
Social	25
Raven Indigenous Capital Partners	25
First Nations Financial Authority	26
Governance	27
Reconciliation and Responsible Investment Initiative	27
Moody’s Investor Services – ESG Report on Indigenous-commercial engagement	28
Going Forward to an Indigenous Informed ESG	28
ESG and Indigenous People – To Be Discussed at Indigenous Sustainable Investment Conference	29
Conclusion	30
Further Reading	31

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EXECUTIVE SUMMARY

This discussion primer is on the subject of environmental, social and governance (ESG) investment standards, prepared by the First Nations Major Project Coalition in advance the Indigenous Sustainable Investment Conference scheduled for March 18-19, 2021. <https://www.fnmpcindustryevent.com/agenda>

While the adoption of ESG standards by Canadian companies and investors has become common, the standards they are using were developed in absence of the consideration of the rights, interests and input of Indigenous peoples. As a result, these standards significantly undermine the interests of Indigenous peoples and investors alike.

This discussion primer highlights an emerging Indigenous approach to ESG, and summarizes the issues, risks and rewards to be considered in the meaningful engagement of Indigenous peoples in the development and application of ESG investment standards in Canada.



Images from past Industry Engagement Events

INTRODUCTION

Worldwide, sustainable or socially-responsible investment has been growing in relevance and influence for decades.

Driven in part by socially-conscious investors, the push for sustainable business practices has led to a dramatic increase in the adoption of environmental, social and governance, or “ESG”, standards and measures for corporate performance.

The adoption of ESG standards has become almost a minimum entry requirement for most of Canada’s large companies and investment managers – reflecting a now widespread consensus that a commitment to sustainable investment should not only be part of a company’s practices, but can directly improve its profitability and performance.

In this moment, and as we discuss in this primer, the challenge for investors is that the vast majority of existing ESG standards do not include the rights and interests of Indigenous peoples, and have been developed in the absence of Indigenous input and buy-in. This exclusion has significant negative ramifications for Indigenous peoples and Canadian investors alike.

Indigenous peoples in Canada, and their elected and hereditary Indigenous leaders, are the stewards, rights-holders, and in some cases, title holders to the land upon which ESG-compliant companies need to invest. As such, the omission of Indigenous interests and input in the development of existing ESG standards is simultaneously a significant unaddressed capital risk and an undermining of Indigenous peoples.

In Canada, Indigenous rights have repeatedly been affirmed in Canadian court rulings.¹ Further, Canada has constitutionally-enshrined fiduciary obligations to Indigenous people², has adopted the United Nations Declaration on the Rights of Indigenous People (UNDRIP), and is expected to soon enshrine UNDRIP into Canadian law³. In concert, these factors, at least from a legal perspective, eclipse the influence of existing private sector- or investment firm-developed ESG criteria.

Commercial or industrial development that (1) is based on robust principles and practices informed by the Indigenous Nation upon which it is taking place, (2) is environmentally sound, socially beneficial, governance inclusive, (3) is proceeding only with the free, prior and informed consent of that Indigenous Nation, and (4) supports Indigenous equity ownership, will be much more likely to be successful.

¹ e.g., *R. v. Sparrow*, *Haida Nation v. British Columbia*, *Delgamuukw v. British Columbia*, and *Tsilhqot’in Nation v. British Columbia*.

² Supreme Court of Canada decisions.

³ The Canadian Press | News, Politics, et al. “UN Declaration on the Rights of Indigenous Peoples to Be Enshrined in Canadian Law.” *National Observer*, 3 Dec. 2020, www.nationalobserver.com/2020/12/03/news/bill-enshrine-un-declaration-rights-indigenous-peoples-canadian-law.

This primer, and the subsequent March 18-19, 2021 conference for which this document is meant to prime discussion, together are the continuation of a topical and increasingly pressing conversation about how Indigenous people and Canada could work together to co-create a Canadian Indigenous and non-Indigenous interpretation of ESG.

This interpretation has the potential to be one that:

1. Honours the rights, traditions and values of the Indigenous peoples who hold the inherent rights and responsibility to their lands and waters of many existing, proposed, and future major infrastructure and capital projects; and
2. Acknowledges the interests of the investment community for capital certainty and need to attract international capital.

This discussion primer will cover the following topics:

- » **Introduction to ESG** – a summary of how ESG as a concept was integrated into the responsible investment movement, and how ESG has become the standard for the world’s leading institutional investors.
- » **Leading ESG standards** – an examination of how the Global Reporting Initiative (GRI), Sustainability Accounting Standards Board (SASB), Task Force on Climate Disclosure (TCFD), Climate Disclosure Standards Board (CDSB) and the emerging World Economic Forum (WEF)-initiated ESG reporting frameworks⁴ do not consider – with two exceptions – Indigenous rights, values, equity ownership, interests and priorities.
- » **Emerging Indigenous-led ESG initiatives** – an examination of how Indigenous values, interests, and inclusive sustainable investment standards are being incorporated by Indigenous nations, people and organizations as a starting point for re-imagining how ESG standards could benefit Indigenous peoples, investors, proponents, governments and the general public.

⁴ “Measuring Stakeholder Capitalism: Towards Common Metrics and Consistent Reporting of Sustainable Value Creation.” *World Economic Forum*, 20 Sept. 2020, www.weforum.org/reports/measuring-stakeholder-capitalism-towards-common-metrics-and-consistent-reporting-of-sustainable-value-creation.

PART I

The Rise of ESG

ESG is a term that addresses environmental issues (such as climate change, water quality, and land use), social issues (such as human rights, community consent, consumer relations) and governance issues (such as company management and board representation). Companies incorporating ESG standards reflect a growing consensus that these factors are important to the overall profitability and performance of a company.

Detailed ESG standards are now being incorporated, alongside conventional financial analyses of a company's performance and operations, by investors into their analyses to reveal both risks and opportunities that might be missed by only looking at financial statements. The rationale for this incorporation of ESG investment standards is to allow investors to align their values to their investments, in turn allowing for a more efficient evaluation of potential investments and rewarding responsible investment that can benefit the environment and society as a whole.

ESG has rapidly become the way companies are “doing good” while doing business.

ESG-compliant companies are now being grouped into ESG-compliant funds and investment portfolios where investors can adopt this more comprehensive way of assessing risk, opportunity and thus competitive advantage. The amount of money now invested in these ESG-compliant funds is staggering: in 2020, the worldwide value of ESG-approved assets exceeded US\$40.8 trillion.⁵ In Canada, this figure is C\$3.2 trillion, and represents nearly 62% of all Canadian assets under management⁶. The value of global ESG investments has doubled in the past four years alone, and by all credible predictions, is expected to continue into the future.

Evidently, improving their environmental, social and governance performance has become material to the strategic-direction of many companies. However, from an Indigenous perspective, the imposition of these externally developed ESG criteria on what standard investment should be held to in the development of our lands and waters undermines not only our Indigenous rights, traditional knowledge and cultural heritage, but, as a result of this uncertainty, also long-term corporate and investor financial interests.

Addressing this omission of Indigenous interests and inputs into ESG standards is critical for Indigenous peoples and Canadian investors alike.

⁵ Baker, Sophie. “Global ESG-Data Driven Assets Hit \$40.5 Trillion.” Pensions & Investments, 2 July 2020, www.pionline.com/esg/global-esg-data-driven-assets-hit-405-trillion.

⁶ “Canadian ESG Assets Surge to \$3.2 Trillion.” Business Wire, 26 Nov. 2020, www.businesswire.com/news/home/20201126005473/en/Canadian-ESG-Assets-Surge-to-3.2-Trillion#:~:text=The%202020%20Canadian%20RI%20Trends,professionally%20managed%20assets%20in%20Canada.

What is ESG?

ESG-based investment is founded on the idea that a company's social, environmental, and governance factors have a measurable impact on their bottom line. Social, environmental, and governance factors can include those which are not part of a company's traditional financial analysis but may substantially impact financial results.

Environment (E) refers to a company's environmental impact such as resource depletion, climate change, waste and pollution, and water use.

Social (S) includes factors that are related to the company's treatment regarding people, suppliers, employees, health and safety issues, local communities, and other social factors.

Governance (G) covers the corporate policies and internal governance of a company such as board diversity, company leadership, executive pay, internal controls, shareholder rights, and political engagement.

Why is ESG Important?

For corporations, ESG is increasingly becoming important because now in order to attract investment, they are required to demonstrate their *actual* commitment to social responsibility in each of the ESG categories. The main way for a corporation to show this commitment is to incorporate ESG principles into their operations and to regularly and transparently report these actions to investors. Further building this trend, ESG data is now in widespread use in annual corporate reporting and is required by many institutional investors and stock exchanges.

This ESG trend is significant because research has shown that incorporating ESG into a company's operations can result in better financial and operational outcomes.⁷ In recent years, a number of studies have supported this previous research, demonstrating that good corporate sustainability performance is directly associated with good financial results.⁸ Specifically, in their November 2019 quarterly report, McKinsey & Company identified the following five main avenues of value created by companies employing an ESG-standard approach.

⁷ Friede, Gunnar, et al. "ESG and Financial Performance: Aggregated Evidence from More than 2000 Empirical Studies." *Taylor & Francis, Journal of Sustainable Finance & Investment*, 15 Dec. 2015, www.tandfonline.com/doi/full/10.1080/20430795.2015.1118917.

⁸ Eccles, Robert G., and Svetlana Klimenko. *Shareholders Are Getting Serious About Sustainability*. Harvard Business Review, 24 Nov. 2020, hbr.org/2019/05/the-investor-revolution.

A strong environmental, social, and governance (ESG) proposition links to value creation in five essential ways.

	Strong ESG proposition (examples)	Weak ESG proposition (examples)
Top-line growth	Attract B2B and B2C customers with more sustainable products Achieve better access to resources through stronger community and government relations	Lose customers through poor sustainability practices (eg, human rights, supply chain) or a perception of unsustainable/unsafe products Lose access to resources (including from operational shutdowns) as a result of poor community and labor relations
Cost reductions	Lower energy consumption Reduce water intake	Generate unnecessary waste and pay correspondingly higher waste-disposal costs Expend more in packaging costs
Regulatory and legal interventions	Achieve greater strategic freedom through deregulation Earn subsidies and government support	Suffer restrictions on advertising and point of sale Incur fines, penalties, and enforcement actions
Productivity uplift	Boost employee motivation Attract talent through greater social credibility	Deal with “social stigma,” which restricts talent pool Lose talent as a result of weak purpose
Investment and asset optimization	Enhance investment returns by better allocating capital for the long term (eg, more sustainable plant and equipment) Avoid investments that may not pay off because of longer-term environmental issues	Suffer stranded assets as a result of premature write-downs Fall behind competitors that have invested to be less “energy hungry”

McKinsey
& Company

Source: “Five Ways That ESG Creates Value.” McKinsey & Company, McKinsey & Company, 22 July 2020.⁹

From the perspective of investors, ESG data provides a standardized way for them to evaluate and compare a company’s commitment to sustainable investments and decision making. ESG provides not only a concrete, defensible way for investors (both individual and institutional) to match their social values with companies who share similar values, but also provides investors with valuable returns on their investments.

⁹ Henisz, Witold, et al. “Five Ways That ESG Creates Value.” *McKinsey & Company*, McKinsey & Company, 22 July 2020, www.mckinsey.com/business-functions/strategy-and-corporate-finance/our-insights/five-ways-that-esg-creates-value?cid=other-eml-alt-mcq-mck&hlkid=ae49024c09bd412e9e6540e054b9ab1a&hctky=9550145&hdpid=4edee4c6-e871-41f1-ba88-e09fec6081d6.

Where is ESG Headed?

Around the world, ESG is being incorporated by companies and investors at breakneck speed.

In January 2020, US-based BlackRock (the world's largest asset manager with US\$7.81 trillion in assets under management) indicated in a letter to chief executives that it expects to be 100% "ESG integrated" by the end of 2020.¹⁰ This commitment means that, going forward, all of BlackRock's portfolio managers will be accountable for appropriately managing exposure to environmental, social, and governance, and responsible for documenting for their shareholders and investors how those considerations affect investment decisions. This widely seen and repeatedly cited commitment by BlackRock is simply the latest example of how profoundly ESG is globally reshaping how corporations do business.

Europe's leadership on climate standardization within the private sector is putting added pressure on large money managers and global corporations to follow suit.¹¹ In June of 2020, the European Union published a common classification system/framework for sustainability-related disclosures in the financial services sector with a focus on climate-related objectives.¹² Known as the EU Taxonomy Regulation, this initiative defines environmental performance of economic activities across a wide range of industries and establishes requirements that corporate activities must meet to be considered sustainable.¹³

Here in Canada, eight of Canada's pension fund managers, who manage a total of C\$1.6 trillion in assets, and who have substantial sway in Canada's financial markets, have asked Canadian corporations to standardize ESG factor disclosures to help them make better investment decisions and manage risk.¹⁴ This ask is a response to the growing onus on Canadian and global investors to play a stronger stewardship role in the ESG impact of their investments.¹⁵

As a result of these in-Canada and global shifts in investment standards, many investors now recognize that ESG information about corporations is vital to understanding corporate purpose, strategy, management quality, and the ultimate success of companies.¹⁶

¹⁰ Fink, Larry. "BlackRock Client Letter: Sustainability." *Sustainability as BlackRock's New Standard for Investing*, BlackRock, www.blackrock.com/corporate/investor-relations/blackrock-client-letter.

¹¹ Sorkin, Andrew Ross. "BlackRock C.E.O. Larry Fink: Climate Crisis Will Reshape Finance." *The New York Times*, The New York Times, 14 Jan. 2020, www.nytimes.com/2020/01/14/business/dealbook/larry-fink-blackrock-climate-change.html.

¹² Breyer, Renaud, et al. "EU Taxonomy Regulation." EY, EY, 20 Nov. 2020, www.ey.com/en_lu/wealth-asset-management/luxembourg-market-pulse/eu-taxonomy-regulation.

¹³ "EU Taxonomy for Sustainable Activities." *European Commission*, 23 Dec. 2020, ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance/eu-taxonomy-sustainable-activities_en.

¹⁴ "In Unprecedented Move, Canadian Pension Funds Unite to Call for Greater ESG Standards." *Times Colonist*, 25 Nov. 2020, www.timescolonist.com/in-unprecedented-move-canadian-pension-funds-unite-to-call-for-greater-esg-standards-1.24245053.

¹⁵ CFA Institute, 2020, *ESG Integration in Canada*, <https://www.cfainstitute.org/-/media/documents/article/position-paper/cfa-esg-integration-canada-web-3pp.ashx>.

¹⁶ Kell, Georg. "The Remarkable Rise Of ESG." *Forbes*, Forbes Magazine, 11 Jan. 2021, www.forbes.com/sites/georgkell/2018/07/11/the-remarkable-rise-of-esg/?sh=75294f771695.

ESG Origins

The rise of sustainable or socially-responsible investment is the culmination of previous initiatives and movements.

EARLY DAYS

In the 1960's, Vietnam War protestors began demanding that university endowment funds no longer invest in military contractors.¹⁷ Following this the Pax World Fund and First Spectrum Fund, the first so-called “ethical funds,” were established in 1971.¹⁸ These first ethical funds in turn led to a growing focus on corporate social responsibility generally, including the development of the “triple bottom-line” accounting framework in 1994, comprised of environmental, social and financial components, or “planet, people and profits.”¹⁹

UNITED NATIONS PRINCIPLES FOR RESPONSIBLE INVESTMENT

The concept of ESG as we know it today was formalized in a 2005 United Nations-released study titled “*Who Cares Wins*”²⁰ that issued initial recommendations for how to integrate sustainability criteria into the financial markets. That same year, UN Secretary General Kofi Annan invited 20 major financial institutions to develop principles that would reward long-term, responsible investment that would benefit the environment and society.²¹

This convened group of financial investors became a group called Principles for Responsible Investments (PRI) who - via a working group drawn from 12 countries and supported by a 70-person multi-stakeholder group of experts from the investment industry, intergovernmental and governmental organizations, civil society and academia – drafted the *Six Principles for Responsible Investment* which expressly included ESG matters.

¹⁷ Lumberg, James. “A Brief History of Impact Investing.” *Investopedia*, Investopedia, 28 Nov. 2020, www.investopedia.com/news/history-impact-investing/.

¹⁸ “The History of Socially Responsible Investing.” *CNote*, 15 Nov. 2019, www.mycnote.com/blog/the-history-of-socially-responsible-investing/.

¹⁹ Kenton, Will. “Triple Bottom Line (TBL) Definition.” *Investopedia*, Investopedia, 5 Jan. 2021, www.investopedia.com/terms/t/triple-bottom-line.asp#:~:text=What%20Is%20the%20Triple%20Bottom,%2C%20people%2C%20and%20the%20planet.

²⁰ “Who Cares Wins - Connecting Financial Markets to a Changing World.” *Ifc.org*, Dec. 2004, www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/publications/publications_report_whocareswins_wci__1319579355342.

²¹ “About the PRI.” *PRI*, 1 Dec. 2017, www.unpri.org/pri/about-the-pri.

The Six UN Principles for Responsible Investing

Principle 1: We will incorporate ESG issues into investment analysis and decision-making processes.

Principle 2: We will be active owners and incorporate ESG issues into our ownership policies and practices.

Principle 3: We will seek appropriate disclosure on ESG issues by the entities in which we invest.

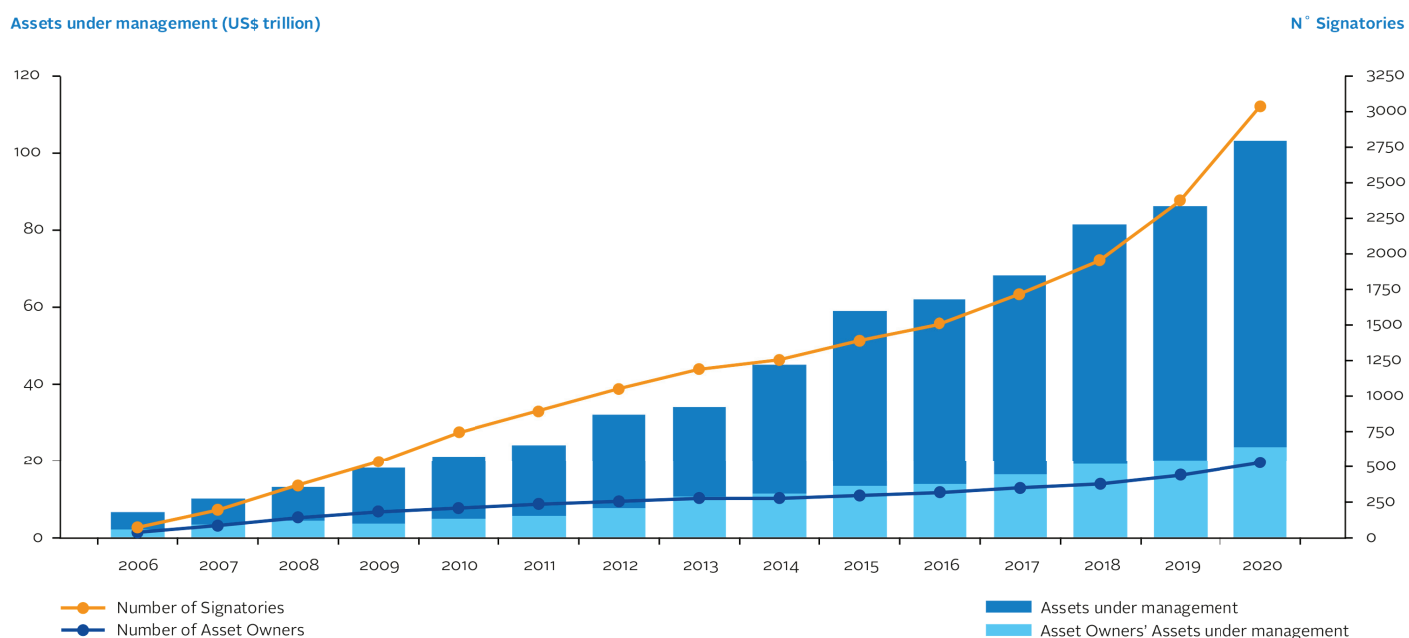
Principle 4: We will promote acceptance and implementation of the Principles within the investment industry.

Principle 5: We will work together to enhance our effectiveness in implementing the Principles.

Principle 6: We will each report on our activities and progress towards implementing the Principles.

The PRI working group’s recommendations made the case that including ESG issues in capital markets – in addition to traditional financial analysis – is good business practice and leads to more sustainable markets and better outcomes for societies.

The initial signatories to the PRI standards included 63 investment companies composed of asset owners, asset managers and service providers with US\$6.5 trillion in assets under management.



Source: United Nations Principles for Responsible Initiative.²²

PRI signatories now includes 3,634 investment companies in 83 countries which is half the world’s institutional investors who have over US\$83 trillion under management. In Canada, there are 179 signatories.²³

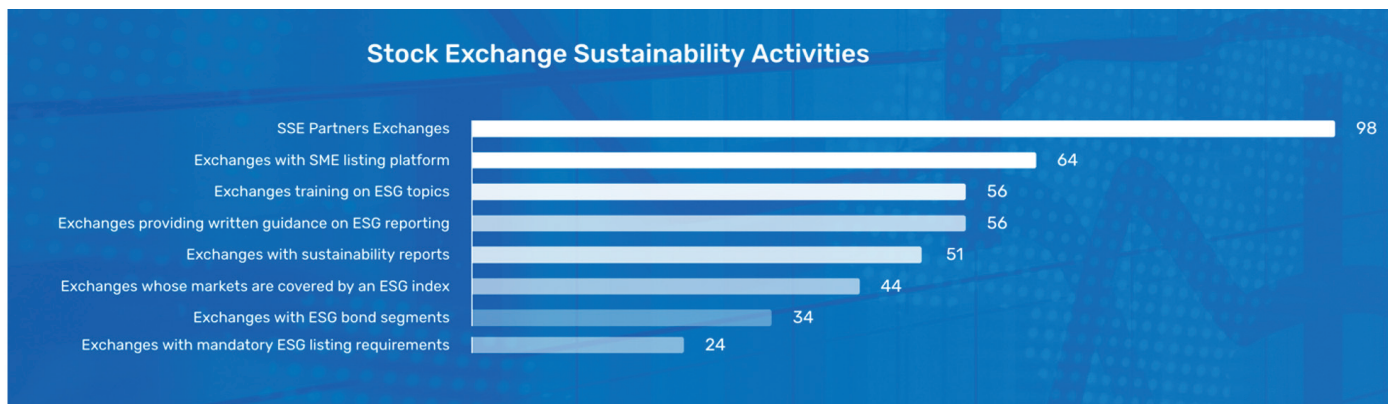
²² “About the PRI.” *PRI*, 1 Dec. 2017, www.unpri.org/pri/about-the-pri.

²³ A list of the current signatories to the PRI can be found at: <https://www.unpri.org/signatories/signatory-resources>.

SUSTAINABLE STOCK EXCHANGES INITIATIVE

In 2009, UN Secretary-General Ban Ki-moon launched the Sustainable Stock Exchanges Initiative (SSEI) to encourage sustainable investment by enhancing performance on ESG issues.

The original intent of the SSEI was to provide a learning platform to improve the capacity of stock exchanges and securities market regulators to promote responsible investment and advance corporate performance on ESG issues. The SSEI's focus is on improving the ability of stock exchanges to report and enforce greater sustainability of companies that trade on their member exchanges.



Source: Sustainable Stock Exchanges Initiative.²⁴

By December of 2020, 98 stock exchanges worldwide were part of the SSEI partnership. There are two SSEI Canadian stock exchange members: the Toronto Stock Exchange (TSX) and the NEO Exchange.²⁵

Together, the PRI and the SSEI initiatives helped accelerate the adoption of ESG standards by the world's leading institutional investors and stock exchanges.

²⁴ *Sustainable Stock Exchanges Initiative*, sseinitiative.org/.

²⁵ "Members." *Sustainable Stock Exchanges Initiative*, sseinitiative.org/members/.

Multiple ESG Standards

While the UN helped to popularize the term ESG, it did not set the evaluation standards behind E, S, or G. That was left to the marketplace. Many companies, investors and investment firms established their own, and sometimes quite different, ESG criteria. The result has been a mindboggling patchwork of different ESG standards around the world numbering in the *hundreds*.

For investors, this overwhelming number of ESG criteria has made it increasingly difficult to evaluate which companies are actually incorporating ESG into their operations. In order to bring some consistency to the hundreds of different ESG and investment sustainability benchmarks, several organizations and industry groups are working to build common, comparable, and consolidated ESG standards.

However, there has been significant progress in coordinating the different global ESG disclosure requirements into frameworks that investors use to evaluate and ultimately approve trillions of dollars of investment decisions.^{26, 27} Most institutional investors now use one of the four major and mainstream consolidated ESG guideline frameworks: the Global Reporting Initiative (GRI), Sustainability Accounting Standards Board (SASB), the Financial Stability Board's Task Force on Climate-related Financial Disclosures (TCFD), or the Climate Disclosure Standards Board (CDSB). These four ESG guideline frameworks are described below.

²⁶ Davies, Paul A., and Michael D. Green. "The Road to Developing an ESG Global Standard." *Environment, Land & Resources*, Latham & Watkins LLP, 26 Oct. 2020, www.globalelr.com/2020/10/the-road-to-developing-an-esg-global-standard/.

²⁷ Third-party aggregator frameworks are frameworks which assess performance based on aggregated, publicly available data, including company-sourced filings and publications, such as company websites, annual reports, and/or sustainability or CSR reports. Some examples include the Bloomberg Terminal, MSCI, and Sustainalytics.

ESG Standards Consolidation

GLOBAL REPORTING INITIATIVE

Founded in 1997, and following public outcry over the environmental damage of the Exxon Valdez oil spill, the Global Reporting Initiative (GRI) was the earliest of the consolidated ESG guideline frameworks and is an international, independent standards organization. The original aim of the GRI was to “ensure companies adhere to responsible environmental conduct principles, which was then broadened to include social, economic and governance issues.”²⁸ The GRI standards have been revised in the decades since, up until 2016 when the GRI transitioned from providing guidelines to, more specifically, setting early global standards for ESG reporting.

The GRI has since grown to be the dominant sustainability reporting framework used in ESG investment and by 2017, “63% of the largest 100 companies, and 75% of the Global Fortune 250 (G250) reported applying the GRI reporting framework” to their reporting.

SUSTAINABILITY ACCOUNTING STANDARDS BOARD

The Sustainability Accounting Standards Board (SASB) is a non-profit organization, founded in 2011 by Dr. Jean Rogers, to develop sustainability-based accounting standards for lenders, investors, insurance and reinsurance companies and other providers of financial capital. The SASB standard, “dedicated to enhancing the efficiency of global capital markets by fostering high-quality disclosure of material sustainable investment information that meets investor needs and enhances public trust in companies”²⁹ has been a central part of meeting the need for standardized reporting of ESG data.

By 2020, 541 companies around the world were disclosing information to the public using SASB standards, with another 1273 companies mentioning or referencing select SASB metrics within their reporting.³⁰ SASB has 77 sector standards in total. SASB distinguishes itself by claiming focus on financially material information aimed at serving the interests of investors, along with their centering of sector-specific standards, in order to cater to unique ESG contexts.

²⁸ “Our Mission and History.” *Mission & History*, Global Reporting Initiative, www.globalreporting.org/about-gri/mission-history/.

²⁹ “About Me.” *Jean Rogers*, rogersassociatesllc.com/index.php/about-me/.

³⁰ “Global Use of SASB Standards.” *SASB*, 18 Dec. 2020, www.sasb.org/global-use/.

TASK FORCE ON CLIMATE-RELATED FINANCIAL DISCLOSURES

Another key player in the ESG space is the Task Force on Climate-related Financial Disclosure (TCFD), an organization established in 2015 by G20 Finance Ministers and Central Bank Governors including Mark Carney, then Governor of the Bank of England, and formerly Governor of the Bank of Canada from 2008-2013. The TCFD aims to compel organizations to disclose their climate-related financial risks, and integrate those risks within governance and strategic planning processes. Specifically, it develops recommendations for:

“...more effective climate-related disclosures that could promote more informed investment, credit, and insurance underwriting decisions and, in turn, enable stakeholders to understand better the concentrations of carbon-related assets in the financial sector and the financial system’s exposures to climate-related risks.”³¹

The TCFD’s recommendations are supported by eight of the world’s 10 largest asset managers. And as of 2020, nearly 60% of the world’s 100 largest public companies either support the TCFD, or report in line with the TCFD recommendations, or both.³²

CLIMATE DISCLOSURE STANDARDS BOARD

The Climate Disclosure Standards Board is a UK-based consortium of international businesses and environmental NGOs who are working on aligning mainstream corporate reporting to account for financial capital and natural (environmental) capital. They have created an environmental reporting framework that is done similarly to corporate financial reporting.

The rationale for CDSB is that investors and financial institutions are able to analyze the risks and opportunities associated with climate change-related information, and therefore make better and more informed decisions if companies are transparent in their disclosure. CDSB acts as a forum for collaboration among international businesses on how existing standards and practices can be used to link financial and climate change-related information with the CDSB. The CDSB Framework streamlines corporate disclosure related to climate change-related information using the CDSB’s standards-ready tool. CDSB works with other initiatives who address reporting standards such as the Sustainability Accounting Standards Board (SASB) and the Global Reporting Initiative (GRI). CDSB works with 314 companies who use the CDSB Framework.

In September 2020, the World Economic Forum, working with the four largest accounting firms, released an ESG framework document that aimed to further consolidate sustainable investment frameworks and establish a single, global ESG standard.³³

³¹ “About.” *Task Force on Climate-Related Financial Disclosures*, 1 Oct. 2020, www.fsb-tcfd.org/about/.

³² Task Force on Climate-Related Financial Disclosures, 2020, 2020 Status Report, *Task Force on Climate-Related Financial Disclosures*. https://assets.bbhub.io/company/sites/60/2020/09/2020-TCFD_Status-Report.pdf.

³³ E.g., The Investor Advisory Committee and Asset Management Advisory Committee of the US Securities and Exchange Commission (SEC); the Chartered Financial Analysts Institute (CFA Institute); the World Economic Forum’s International Business Council; the International Financial Reporting Standards Foundation (IFRS Foundation).

One ESG Standard to Rule Them All

WORLD ECONOMIC FORUM

The World Economic Forum (WEF), founded in 1971, is “committed to improving the state of the world by engaging business, political, academic, and other leaders of society to shape global, regional, and industry agendas.” At the recent 2020 Annual Meeting in Davos, the WEF’s famous annual conference of the world’s richest and most powerful people, the theme was “Stakeholders for a Cohesive and Sustainable World,” with the main focus on environmental, social and governance (ESG) metrics.

Notably, 120 of the world’s largest companies at Davos 2020 supported efforts to develop a core set of common metrics and disclosures on non-financial factors for their investors and other stakeholders. The idea was to create a single ESG standard – one big ESG standard to rule them all, so to speak.

The core result of these efforts was an expanded set of “Stakeholder Capitalism Metrics” and disclosures that companies can use to align their mainstream reporting on performance against environmental, social and governance (ESG) indicators and track their contributions towards the United Nations Sustainable Development Goals or SDGs on a consistent basis.³⁴

³⁴ The United Nations Sustainable Goals are described at https://en.wikipedia.org/wiki/Sustainable_Development_Goals.

Problem for Indigenous Peoples

This momentum toward a single ESG standard could certainly be positive for driving improved corporate environment, social and governance standards and performance. However, the challenge for Indigenous peoples is that existing ESG standards have not included their rights and interests, and have been developed without their input.

The world's leading ESG standards – with two limited exceptions³⁵ – exclude Indigenous perspectives. In researching this discussion primer, FNMPC researchers contacted a number of the ESG standards organizations but found only one instance where Indigenous peoples were involved in the formation of the world's leading ESG standards.³⁶ Nor were researchers able to confirm that Indigenous people have been involved in the application of these ESG standards in Canada.

Current ESG standards were created by the private sector and for the private sector, and as a result, these standards have little to do with Indigenous territories, lands and waters, Indigenous inherent, constitutional or treaty rights, our Indigenous knowledge, or our cultural heritage, principles, or traditions.

Without an inclusive all-Canadian and Indigenous-informed interpretation of what qualifies as a “sustainable” investment standard, any Canadian project or company that impacts Indigenous lands and rights will be hard-pressed to attract funds from institutional investors who are required to comply with global ESG criteria or Canadian legal standards for that matter.

Given Canadian case law on Indigenous rights, plus the pending Canadian enshrinement of UNDRIP into law, this omission remains a massive and unaddressed capital risk. Court decisions, UNDRIP, and Canada's fiduciary obligations to Indigenous people will eclipse any private sector-defined ESG criteria.

Like any investment that may affect Indigenous lands, waters, territories, people, and/or rights, ESG criteria will only be successful if they are harmonized with Indigenous practices that are locally informed, environmentally sound, socially beneficial, governance inclusive, and aligned with the doctrine of “free, prior, and informed consent” as found in UNDRIP.

The shared goal of Canadian investors, governments, Indigenous peoples, and others with a vested interest in ESG should be to determine how we co-create a Canadian interpretation of ESG. This standard will be, no doubt, one that honours not only the traditions, knowledge and values of the people who will be hosting many of the proposed major infrastructure and capital projects, but in a way that also factors in the needs of the investment community for capital certainty and their required compliance with ESG criteria.

³⁵ GRI and SASB. The limited exceptions are explained in Part II.

³⁶ SASB via the First Peoples Investor Engagement Program offered by First Peoples Worldwide, an organization that addresses the social and environmental impacts of development in Indigenous communities. <https://www.colorado.edu/program/fpw/>.

PART II

Emerging Indigenous Approaches to ESG – Putting the “I” in ESG

In Canada, nearly every major development project of consequence will involve Indigenous rights in some manner, particularly if it involves land or natural resources. Yet, research and interviews for this discussion primer revealed that there has been very little engagement of Indigenous people, Indigenous nations, or Indigenous viewpoints into the main ESG standard frameworks.

Given the high stakes of ESG – not only its monetary enormity, but also its impact on Canadian environment and society – it is important to consider and more rigorously discuss the role of Indigenous peoples and nations in how ESG framework data are collected, reported and considered by institutional investors.

Put simply, ESG frameworks need to discuss how to put the “I” (Indigenous) into ESG.

While some institutional investors apply their own lens to assess a specific company’s Indigenous engagement and relationships to see if there are investment risks, this is done in an ad hoc manner that is detached from ESG framework recommendations. All indications are that these assessments of Indigenous engagement and relationships are done by investment companies *without* direct Indigenous input, and are instead based on their own interpretations of what they surmise might be important from an Indigenous perspective.

Of the main standards GRI, SASB, TFCO and CDSB, only GRI and SASB (discussed in Part I) make brief, and arguably negligible, references to Indigenous people. In the case of GRI, Indigenous issues are only considered of importance when Indigenous people have initiated court action against a company.³⁷ Ironically, the GRI framework actually works against the achievement of better ESG outcomes by forcing Indigenous people to take legal action against a company in order to be addressed by the ESG framework.

As a result of this GRI framework process, our Indigenous interests only become “material” and important to the financial bottom line *after* legal remedies are engaged. It would be better for not only Indigenous people, but also corporations and investors, if Indigenous voices were heard in a more positive and mutually beneficial setting than the high-stakes, high-conflict setting of court rooms.

³⁷ This Indigenous reference occurs in *Disclosure 411-1 Incidents of violations involving rights of indigenous peoples*. See “GRI 411: Rights of Indigenous Peoples 2016.” *GRI Standards*, GRI, 2018, www.globalreporting.org/standards/media/1026/gri-411-rights-of-indigenous-peoples-2016.pdf.

In SASB, there are sector-specific references to UNDRIP’s Article 32³⁸ free, prior and informed consent in the following sections of the SASB standards:

- » *Oil & Gas – Exploration & Production;*
- » *Oil & Gas – Midstream;*
- » *Oil & Gas – Refining & Marketing;*
- » *Oil & Gas – Services, Coal Operations; and*
- » *Metals & Mining*

To demonstrate the tone of this Indigenous “inclusion”, in the Coal Operations standards, Indigenous rights are described as an “increasing regulatory risk for companies.”³⁹

A gap within ESG for greater Indigenous inclusion is in corporate governance, particularly in board and management structure. Indigenous participation in board of directors positions is rare in Canada. The low level of direct Indigenous input at this board/corporate governance level is demonstrated by the Toronto law firm Osler Hoskins & Harcourt LLP’s 2020 Diversity Disclosure Practices, a diversity and leadership at Canadian public companies report that covers disclosure by TSX-listed companies and CBCA corporations subject to disclosure requirements. In 2020, new disclosure requirements under the CBCA expanded the number of corporations required to provide disclosure regarding women in leadership positions, visible minorities, Indigenous peoples and persons with disabilities.⁴⁰ According to Osler, “among the 2,023 board positions of the 270 CBCA companies that provided full or partial disclosure on their practices before July 31, 2020, there were only 7 positions held by Aboriginal peoples” – or less than 0.4%.⁴¹

It is not only in the realm of governance “G” that standards related to Indigenous involvement or input are lacking. The “E” (environmental) and the “S” (social) components of ESG appear to lack Indigenous input, values, knowledge, and current realities too.

These omissions raise an important question: how can ESG-approved investments be deemed to be responsible or to even meet the spirit of ESG criteria if their impact upon Indigenous rights, people and communities have not been vetted by Indigenous peoples? To address this, it is worth considering what ESG frameworks have included in their metrics and, perhaps more importantly, what they could achieve if they considered Indigenous perspectives in each of E, S and G.

While Indigenous-led companies and organizations have not themselves yet fully developed their own ESG standards, their decisions tend to already be based in Indigenous values, benefits, and local interests. However, Indigenous people and Indigenous-led companies and organizations are increasingly starting to deploy policies and practices that are in sync with environmental, social and governance principles and in ways that point towards what a truly all-inclusive ESG could look like in a Canadian context.

³⁸ The United Nations Declaration on the Rights of Indigenous People. https://www.un.org/esa/socdev/unpfi/documents/DRIPS_en.pdf.

³⁹ Sustainability Accounting Standards Board, 2018, pp. 20–22, *Coal Operations: Sustainability Accounting Standard*. https://www.sasb.org/wp-content/uploads/2018/11/Coal_Operations_Standard_2018.pdf.

⁴⁰ Milstead, David. “Board Games 2020: Canadian Companies Fall Short on Board Diversity.” *The Globe and Mail*, 30 Nov. 2020, www.theglobeandmail.com/business/careers/management/board-games/article-board-games-2020-companies-fall-short-on-board-diversity/.

⁴¹ MacDougall, Andrew, et al. “Report: 2020 Diversity Disclosure Practices - Diversity and Leadership at Canadian Public Companies.” *Osler, Hoskin & Harcourt LLP*, 20 Oct. 2020, www.osler.com/en/resources/governance/2020-report-2020-diversity-disclosure-practices-diversity-and-leadership-at-canadian-public-companies.

The First Nations Major Project Coalition offers the following case studies and examples as a starting point for discussion at the online FNMPC Indigenous Sustainable Investment Conference on March 18-19, 2021. At the conference, speakers and panelists will discuss these and other examples that could inform a more societally-representative ESG framework that incorporates Indigenous values and aspirations, and in turn, offers investors greater certainty.⁴²

Environmental

In many cases, individual,⁴³ and in some cases collaborating multiple, Indigenous nations have already developed environmental impact evaluation tools and standards that incorporate Indigenous knowledge, values and concepts that they expect to be followed by project proponents, companies and governments. FNMPC has created the *Major Project Assessment Standard* (MPAS), which offers institutional investors direct examples of ESG-like criteria that are anchored in Indigenous sensibilities.

AN INDIGENIZED ENVIRONMENTAL ASSESSMENT – THE MAJOR PROJECT ASSESSMENT STANDARD

The *Major Project Assessment Standard* (MPAS) was developed by FNMPC member nations⁴⁴ specifically to evaluate project proposals put forth by project development proponents. To our knowledge, this is the only auditable standard for major project assessment adequacy developed in Canada and from an explicitly Indigenous perspective. It is available online at: <https://www.fnmpc.ca/environmentaltools>

MPAS articulates Indigenous environmental assessment expectations, and was developed by Indigenous nations with the input of their citizens. The vision for MPAS was for it to be used by First Nations governments and communities, federal and provincial governments, environmental assessment practitioners, and parties that want to carry out development in Indigenous lands.

MPAS has several goals, including to:

- » Maximize the economic benefits and minimize the negative effects of developments.
- » Foster respect for Indigenous rights, Indigenous title and treaty rights, and Indigenous knowledge and perspectives on development.
- » Improve environmental assessment practice by improving upon the application of Indigenous knowledge and the full scope of works and activities.

⁴² FNMPC Indigenous Sustainable Investor Conference - <https://www.fnmpcindustryevent.com/>.

⁴³ The Squamish Nation created their own environmental assessment process to decide for themselves if the Woodfibre LNG project should earn their consent. Nelms, Ben, et al. "B.C. First Nation Shapes a New Approach with LNG Project." *The Globe and Mail*, 14 Jan. 2017, www.theglobeandmail.com/news/british-columbia/bc-first-nation-shapes-a-new-approach-with-lngproject/article33625413/.

⁴⁴ A list of FNMPC member nations can be found at <https://www.fnmpc.ca/structure-governance>.

- » Provide a tool with which to assess cumulative impacts of development, psycho-social and health impact, and economic alternatives.
- » Support First Nations' review and appraisal of major projects occurring within their traditional lands, and the assessment impact of major development on biophysical and human environmental resources.
- » Support the realizing of Aboriginal or treaty rights and exercising of title, and to support Indigenous economic development and reconciliation.

MPAS provides the substantive procedural requirements that Indigenous governments require for making informed decisions on major projects. Whether used in whole or in part, it never replaces or supersedes an Indigenous Nation's existing decision-making system.

MPAS identifies nine guiding principles that provide the framework for the substance and process of major project review:

1. First Nations Rights will be respected, maintained, and promoted.
2. First Nations will be fully engaged in assessment and decision-making for major projects, integrating their laws, norms and values.
3. First Nations stewardship and governance rights and responsibilities will be respected and adhered to throughout the major project life cycle.
4. Ecological values and services will be maintained and if necessary, restored.
5. Impacts to Indigenous culture, socio-economic conditions, health, rights, title and traditional use will be properly assessed and managed to the satisfaction of the affected First Nations.
6. First Nations will have access to adequate resources, information, and time in order to inform their engagement and decision-making processes.
7. The major project assessment scope and process will adhere to agreed upon high quality practices and reflect First Nations values.
8. All projects will be assessed using a focus on total cumulative effects loading and best practice of cumulative effects assessment.
9. Adequate information will be provided to inform consent decisions made through First Nations' worldviews.

Each of these principles has criteria and sub-criteria that provide specific direction on how a development proponent can meet the spirit and intent of a principle. These criteria and sub-criteria (over 100 overall) are used by First Nations governments and communities to measure whether a development proponent has rigorously met Indigenous environmental assessment standards, provided adequate information for decision-making, and maximized affected First Nations involvement.

MPC includes five associated topic-specific guidelines that provide impact assessment practices for the following:

1. Indigenous socio-economic impact assessment;
2. Indigenous cultural impact assessment;
3. Indigenous knowledge integration;
4. Indigenous health impact assessment; and
5. Indigenous land use assessment.

These five guidelines communicate the expectations for topic-specific studies, reports and assessments and are used as a baseline of requirements that must be met by development proponents on Indigenous lands. While topic-specific guidelines provide the substantive requirements of a study or assessment, the depth of effort can be tailored, with agreement from affected Indigenous groups, to suit the size and nature of the proposed project and its context.

As a result of being developed by Indigenous peoples, MPAS explicitly adopts Indigenous worldviews in its principles and criteria. This means, for example, that an integrated and precautionary perspective is adopted when looking at major project development, rather than adopting a mindset that assumes economic growth as the primary driver of any decision-making. Protecting the land and culture is at least equal in importance in deciding whether a project should proceed and under what conditions. In addition, western science is given an equal, rather than privileged, footing in the MPAS with Indigenous knowledge and ways of knowing. An ESG framework, in order to claim to be protective and beneficial to Indigenous peoples, must center Indigenous ways of knowing and understanding the world.

Social

The social “S” category of ESG is broad and encompasses a wide range of issues. For the purposes of this discussion primer, the FNMPC is focusing on capital access and management as a means for Indigenous nations and peoples to develop “own source” revenues to be used for self-determination focused objectives as determined by the Indigenous Nation.

Indigenous nations and peoples in Canada, as well as in other jurisdictions, are increasingly accessing and deploying capital to projects and purposes that reflect Indigenous values and aspirations. In doing so, they are developing their own Indigenous-anchored social impact criteria that they apply to financial management decisions. As in the environmental section, there are Indigenous lessons here for application to ESG framework applications.

RAVEN INDIGENOUS CAPITAL PARTNERS

Raven Indigenous Capital Partners is an Indigenous-owned and Indigenous-led Vancouver-based social finance intermediary⁴⁵ located on Coast Salish territory.



Raven Capital (as it is more commonly known) is a pioneer in the field of investment measurement frameworks that reflect Indigenous values. They focus on providing “equity and equity-like capital to innovative, scalable Indigenous enterprises with transformative social and/or environmental impact.”⁴⁶

The Raven Indigenous Impact Measurement Framework, which was co-created with Raven Capital’s investors and investees, features over 200 impact measurement points. Beyond the standard venture capital criteria, Raven Capital takes into account elements such as storytelling, direct community benefit, community impact, and Indigenous (equity) ownership. Intended beneficiaries of a company, their board structures, Indigenous representation in senior management, as well as staffing and employees are also included in their Indigenous Impact Measurement Framework and resulting analysis.

The partners at Raven place a strong emphasis on relationship building throughout their investment and community building approach. This leads to strong and long lasting partnerships. Often the relationship-building process with a potential investee may take several months, and includes prioritization of protocol and ceremony.

For more information, please see: <https://ravencapitalpartners.ca/>

⁴⁵ Social finance intermediaries are entities that pool capital from investment sources (e.g. foundations, government, financial institutions, individuals) and deploy investments into borrowers and investees that use the investments to achieve a positive social, environmental, and/or cultural impact. Examples of some social finance intermediaries include: New Market Funds, Raven Indigenous Capital, Chantier de l’Économie sociale, Fondation, Social Enterprise Fund, VERGE Capital, Rhiza Capital, Marigold Capital, etc. <https://innoweave.ca/coaching-streams/social-finance-fund-investment-readiness-program-faq/>.

⁴⁶ “Backgrounder: UVic’s First Impact Investment.” *Uvic.ca*, 7 Dec. 2020, www.uvic.ca/news/media/2020+raven-fund-investment+backgrounder.

FIRST NATIONS FINANCIAL AUTHORITY



The First Nations Finance Authority (FNFA) is a non-profit Indigenous-led corporation that permits qualifying First Nation Governments to work co-operatively in raising long-term private capital at preferred interest rates through the issuance of bonds, mirroring the financing mechanisms available to municipal, provincial and federal governments.

Created by an act of the Canadian Parliament in 2005, FNFA recently announced that they have provided over C\$1-billion in loans to First Nations to help finance economic and social development projects.⁴⁷

“The reality is that as First Nations become self-governing, they need to have access to the funds necessary to reduce poverty, manage wealth and create a thriving Indigenous economy. We anticipate that FNFA will be adding new borrowers at a faster rate and we are already working towards the \$2 billion mark. This will generate jobs and opportunities for all Canadians.”

Wasauksing First Nation Chief Warren Tabobondung, Chair, FNFA Board⁴⁸

The FNFA raises funds by issuing debentures⁴⁹ for a variety of projects in First Nations across Canada. According to FNFA president and CEO Ernie Daniels, the Authority’s debentures are often oversubscribed meaning demand exceeds the available supply.

To date, loans provided to First Nations ventures by the FNFA have been used to construct administrative buildings, business parks, two large hotels, a school renovation, commercial travel centres, and to advance business acquisitions, land developments and a hydro power project.⁵⁰ Recently, FNFA provided a C\$250-million loan to the Mi’kmaq First Nations Coalition to purchase offshore fishing licenses as part of the C\$1-billion proposed acquisition of Nova Scotia’s Clearwater Seafoods.⁵¹

The FNFA works with a syndicate or network of banks comprised of all the major banks in Canada. FNFA’s debentures are purchased by institutional investors in Canada, the USA, and Europe.⁵²

More information about the FNFA can be found at the following link: <https://www.fnfa.ca/en/fnfa/>

⁴⁷ Daniels, Ernie. “Opinion: A Better Way for Canada to Bridge the Infrastructure Gap with First Nations.” *The Globe and Mail*, 27 Nov. 2020, www.theglobeandmail.com/business/commentary/article-a-better-way-for-canada-to-bridge-the-infrastructure-gap-with-first/.

⁴⁸ “First Nations Finance Authority Reaches Major Milestone Surpassing \$1 Billion in Loans to Indigenous Communities.” *Cision Canada*, 2 Dec. 2020, www.newswire.ca/news-releases/first-nations-finance-authority-reaches-major-milestone-surpassing-1-billion-in-loans-to-indigenous-communities-869595689.html.

⁴⁹ Debentures are a type of debt instrument that is not backed by any collateral and usually has a term greater than 10 years.

⁵⁰ Narine, Shari. “Finance Authority Raises \$170 Million for Initiatives in 22 First Nations.” *Windspeaker.com*, 5 Nov. 2019, windspeaker.com/news/windspeaker-news/finance-authority-raises-170-million-initiatives-22-first-nations.

⁵¹ Daniels, Ernie. “Opinion: A Better Way for Canada to Bridge the Infrastructure Gap with First Nations.” *The Globe and Mail*, 27 Nov. 2020, www.theglobeandmail.com/business/commentary/article-a-better-way-for-canada-to-bridge-the-infrastructure-gap-with-first/.

⁵² “FNFA Borrowing Process.” *FNFA*, 24 Feb. 2020, www.fnfa.ca/en/for-first-nations/financing/fnfa-borrowing-process/.

Governance

In the past, corporate engagement with Indigenous peoples was often left to operational staff or was considered part of some companies' community relations activities. Indigenous peoples' rights were rarely considered a matter to be addressed by the executive-level or boards of directors. However, legal decisions and legislative changes, including Canada's adoption and anticipated enshrinement of UNDRIP, have changed the ability of Indigenous people to impact the strategic plans of corporate operations within Indigenous lands. For corporations to succeed in this new environment in Canada, corporate executive-level officers and boards of directors will need to directly engage, understand, and include Indigenous people, their knowledge and perspectives into corporate strategy formation.

The following are two examples of Indigenous-centric organizations who are attempting to change corporate officer thinking.

RECONCILIATION AND RESPONSIBLE INVESTMENT INITIATIVE

“We envision a financial system that empowers Indigenous perspectives, recognizes the role of community values in investment decision making, and contributes to protecting Indigenous rights and title.”⁵³



The Reconciliation and Responsible Investment Initiative (RRII) is a partnership between the National Aboriginal Trust Officers Association (NATOA) and the Shareholder Association for Research and Education (SHARE). RRII works with Canadian institutional investors to promote responsible investment policies and practices that include reconciliation goals. The Initiative serves both Indigenous and non-Indigenous investors to build capital markets that integrate and better align with Indigenous values and ways of knowing. RRII's approach is grounded in the Truth and Reconciliation Commission's Principles of Reconciliation and Call to Action 92⁵⁴ directed at business operations in Canada.

RRII has published *Advancing Reconciliation in Canada: A Guide for Investors*, designed for investment organizations including pension funds, foundations, university endowments, Indigenous trusts, religious investors, asset managers and other investment service providers.

The purpose of the guide is to help investors understand, respect and support reconciliation and the rights of Indigenous peoples. The guide encourages investors to engage in meaningful consultation and partnership with Indigenous people, communities, organizations, investors and businesses and to adapt the steps discussed to their distinct situations and contexts.

The guide is available at the following link:

<https://reconciliationandinvestment.ca/portfolio-item/guide-investors/>

⁵³ “About Us.” *Reconciliation and Responsible Investment Initiative*, 9 Nov. 2020, reconciliationandinvestment.ca/about-us/.

⁵⁴ “Reports.” *National Center for Truth and Reconciliation*, University of Manitoba, nctr.ca/reports.php.

MOODY'S INVESTOR SERVICES – ESG REPORT ON INDIGENOUS-COMMERCIAL ENGAGEMENT

In June 2020, Moody's Investor Service issued an ESG-themed report that specifically addressed Indigenous-commercial engagement. Titled *ESG-Canada: Focus on Indigenous rights increasingly vital for project execution, corporate activities*,⁵⁵ the report was directed to corporate boards of directors and other senior corporate officials to highlight the commercial risks that could befall companies that do not successfully engage Indigenous communities.



Moody's report acknowledges the power of Indigenous groups to affect corporations, and potentially an entire industry and how companies are harmed by failing to address Indigenous claims and rights.

Of the many risks outlined in the report, Moody's stresses that it isn't enough to just consult with Indigenous groups, but stresses that the integration of Indigenous people and knowledge into corporate decision-making process is a factor in achieving company objectives. Of particular note, the report outlines how a company's credit rating could be negatively affected by unsuccessful Indigenous engagement.

Also addressed in the report is the importance of legislative changes such as UNDRIP. The report recommends that companies must factor environmental concerns, self-determination of Indigenous groups, and the self-sufficiency of Indigenous groups in the strategic planning of projects.⁵⁶

The report can be accessed online at: https://www.moody.com/research/Moodys-Indigenous-rights-are-growing-increasingly-important-for-Canadian-project--PBC_1233788

GOING FORWARD TO AN INDIGENOUS INFORMED ESG

In Canada, and as global ESG standards begin to coalesce even further, there remains a gaping hole where Indigenous peoples, values and knowledge could be centred and incorporated into ESG standards.

If in Canada we are able to take the lead on setting the standard for Indigenous nations and peoples in ESG investments, it is likely that this will be relevant to other countries where both Indigenous matters and ESG standards have become a priority on the political stage (e.g., Scandinavian countries, New Zealand, Australia, the US, and other countries).

How this standard could and should take shape is the central point of this discussion primer.

⁵⁵ Deluz, Catherine N, et al. *Focus on Indigenous Rights Increasingly Vital for Project Execution, Corporate Activities*. June 2020.

⁵⁶ *Moody's: Indigenous Rights Are Growing Increasingly Important for Canadian Project Execution and Corporate Activities*. Moody's Investor Service, 22 June 2020, www.moody.com/research/Moodys-Indigenous-rights-are-growing-increasingly-important-for-Canadian-project--PBC_1233788.

ESG AND INDIGENOUS PEOPLE – TO BE DISCUSSED AT INDIGENOUS SUSTAINABLE INVESTMENT CONFERENCE

At the March 18-19, 2021 Indigenous Sustainable Investment Conference, Indigenous leaders, institutional investors and relevant government and non-governmental representatives will be discussing how ESG frameworks can more accurately incorporate Indigenous information into useful and more reflective risk analyses.

Some of the questions that will be raised at the conference include:

- » Can ESG frameworks be leveraged as a strategic opportunity for Indigenous nations in Canada?
- » Our own investments: are the Indigenous trusts owned and managed by our various communities invested in a way that is aligned with our community and collective values? Do they align with ESG principles?⁵⁷
- » How can Indigenous governments collaborate advantageously and in solidarity on ESG initiatives and standards?
- » How can the existing work, projects, plans, and community goals of Indigenous governments dovetail with opportunities related to ESG?
- » How can investment in projects in which Indigenous people have significant equity be prioritized in ESG frameworks?
- » How can Indigenous voices be included in ESG standardization procedures at the highest level? (e.g., a Task Force on Indigenized ESG Investment, similar to the Task Force on Climate-Related Financial Disclosures.)
- » How can we Indigenize ESG standards for investments that may range from oil and gas exploration and mining through to ecotourism and casino management?
- » How can we Indigenize ESG standards for investments in a way that is relevant to the vastly different circumstances and contexts of Indigenous nations across Canada?
- » Is Indigenizing ESG in Canada strictly an Indigenous-to-private sector matter? Or should the TRC-committed Canadian government also be invited to the table?⁵⁸
- » Should UNDRIP be the bar at which ESG is set in Canada?

⁵⁷ Reconciliation and Responsible Investment Initiative, *Investing for Today, Tomorrow, and Future Generations: A Guide for Indigenous Investors*. <https://reconciliationandinvestment.ca/wp-content/uploads/2020/06/RRII-Indigenous-Investor-Guide.pdf>.

⁵⁸ Truth and Reconciliation Commission's Call to Action 92, states: *We call upon the corporate sector in Canada to adopt the United Nations Declaration on the Rights of Indigenous Peoples as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources.*

CONCLUSION

The relationship between major project proponents, investors and Indigenous nations underlies all components of ESG. The current ESG framework practice of defining company and investment impacts on Indigenous interests without directly including Indigenous people increases investment risk.

This discussion primer, and the upcoming FNMPC Indigenous Sustainable Investment Conference, are opportunities for investors, ESG framework organizations, company leads, and Indigenous people to come together to discuss how to reduce this risk and improve investment sustainability and ESG compliance for all parties.

As Indigenous people we are the multi-generational stewards of the lands, waters, and resources that are now known as Canada. We are a vital part of, and have a vested interest in, building an environmentally and socially responsible future that will benefit all Canadians, Indigenous and non-Indigenous alike. The inclusion of Indigenous standards, knowledge, values and aspirations at all levels in both corporate decision-making, and in ESG frameworks, data collection and evaluation, will improve company performance, investment stability and social outcomes.

Done correctly, this inclusion will provide companies and investors with a strategic advantage by demonstrating that Canadians are serious about pursuing better environmental, social and governance outcomes – benefitting Indigenous people and investors alike.

Join us at the online FNMPC Virtual Indigenous Sustainable Investment Conference on March 18-19, 2021.

<https://www.fnmipcindustryevent.com/agenda>

FURTHER READING

Advancing Reconciliation in Canada: A Guide for Investors

<https://reconciliationandinvestment.ca/resources/>

Creating a Sustainable World: A Guide to Responsible Stewardship of American Indian Assets

<https://www.ussif.org/files/Publications/TribalAssets.pdf>

Moving Capital, Shifting Power: Identifying Opportunities for Investors to Enhance Demand for Indigenous Employment, Advancement and Contracting

<https://share.ca/wp-content/uploads/2019/06/SHARE-CCAB-Report-HighQuality.pdf>