

December 16, 2020

BY EMAIL

Ontario Securities Commission (OSC) Commissioners:

Re: 2021-2022 Statement of Priorities

The First Nations Financial Management Board is a federal institution with a mandate to assist First Nations in the development, implementation and improvement of financial relationships with financial institutions, business partners and other governments, to enable the economic and social development of First Nations. We have offices across Canada, including in Ottawa, Ontario.

We are pleased to provide comments to the OSC on its 2021-2022 Statement of Priorities.

The Statement of Priorities is an opportunity for Indigenous Reconciliation and embracing the Calls to Action of the Truth and Reconciliation Commission and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

Indigenous people do not yet see themselves reflected in the boardrooms of Canada, in the finance industry or at the CSA.

In fact, according to *The Globe and Mail* (November 30, 2020), Indigenous directors make up only 0.5% of board members of reporting issuers. In contrast, Indigenous peoples make up approximately 5% of the total population of Canada. This under representation exceeds the gender diversity imbalance, which the OSC has previously prioritized.

We can name only a handful of senior Indigenous finance executives. We are aware of only one staff member at the OSC (and across the CSA) who is Indigenous.

There is clearly work for the OSC to do on Indigenous Reconciliation.

We suggest the following amendments to the Statement of Priorities:

Regarding 4.3 Fostering Diversity and Inclusion, the OSC should:

- Implement a hiring, retention and promotion plan for Indigenous peoples at all levels of the OSC with goals and targets similar to the Black North Initiative, reflecting the 5% Indigenous population of Canada, which must be represented in the regulation of Canada's main financial market
- Work with the Government of Ontario to add Indigenous people to the Board of the OSC

The OSC should create an Office of Reconciliation with a mandate to:

- ensure Indigenous representation internally in the OSC
- educate OSC staff and board members on Reconciliation and the history of Aboriginal peoples in accordance with Call to Action 57 of the Truth and Reconciliation Commission (reproduced below)



- consult with Indigenous peoples on the development of legislation that may affect them, and to work with Indigenous peoples to advance economic Reconciliation within the remit of securities regulation
- promote the inclusion of Indigenous people in the finance and investment industries and the adoption of Call to Action 92 (reproduced below)

The OSC's focus on other equity-seeking groups while ignoring Canada's Indigenous peoples is disappointing because Indigenous people are arguably the most disadvantaged Canadians. Accordingly, to promote confidence in capital markets, the OSC must embrace diversity beyond gender-based diversity and require reporting issuer disclosure of the number of Indigenous board members and senior staff, in a manner similar to the "Women on Boards" initiative.

To promote confidence in capital markets and encourage the provision of information that investors need to measure risk of issuers not having Indigenous social licence, reporting issuers must report in their prospectuses and continuous disclosure on Environmental Social and Governance (ESG) matters related to Reconciliation and UNDRIP, including, but not limited to:

- Recognition of Indigenous rights, including whether the issuer commits to apply UNDRIP and/or seek free, prior and informed consent
- Effects of development on Indigenous communities and efforts to mitigate
- Cumulative environmental effects
- Indigenous contracting and procurement
- Indigenous training and education
- Indigenous ownership and economic participation

For investment products that market themselves as ESG-compliant, there must be prescriptive standards developed in NI 81-101 and NI 41-101 that ensure that the ESG claim is full, true and plain and based on objective standards. UNDRIP and Reconciliation principles must be included in the definition of ESG and any reporting requirements.

Collectively, adding these initiatives to the OSC's Statement of Priorities will assist the OSC in meeting the Truth and Reconciliation Commission's Calls to Action and assisting issuers and registrants to meet Call to Action 92.

We thank you for your consideration of incorporating Reconciliation into Canada's and Ontario's capital markets.

Mahsi cho,

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Truth and Reconciliation Commission Calls to Action—Referenced Calls to Action

Professional Development and Training for Public Servants

57. We call upon federal, provincial, territorial, and municipal governments to provide education to public servants on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skillsbased training in intercultural competency, conflict resolution, human rights, and anti-racism.

Business and Reconciliation

92. 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. This would include, but not be limited to, the following:

- i. Commit to meaningful consultation, building respectful relationships, and obtaining the free, prior, and informed consent of Indigenous peoples before proceeding with economic development projects.
- ii. Ensure that Aboriginal peoples have equitable access to jobs, training, and education opportunities in the corporate sector, and that Aboriginal communities gain long-term sustainable benefits from economic development projects.
- iii. Provide education for management and staff on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills based training in intercultural competency, conflict resolution, human rights, and anti-racism.