



January 17th, 2022

The Secretary
Ontario Securities Commission
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To: Ontario Securities Commission

Re: Response to Consultation on Proposed National Instrument 51-107

The Mining Association of Canada appreciates the opportunity to comment on proposed National Instrument 51-107 *Disclosure of Climate-related Matters*, published by the Canadian Securities Administrators (CSA) on October 18, 2021. MAC represents Canadian companies involved in mineral exploration, mining, smelting, refining and semi-fabrication. Our member companies account for most of Canada's minerals and metals and mined energy production.

Canada's mining industry recognizes its important role in reducing emissions and adapting to the impacts of climate change. Mining is essential for a low carbon future, with growing demand for minerals and metals to fuel the global energy transition – whether copper for solar panels, steelmaking coal for wind turbines, or nickel for electric vehicle batteries. At the same time, the industry is working to rapidly decarbonize its extraction and production processes.

In 2020, MAC published a major update to the climate change requirements in its globally recognized [Towards Sustainable Mining](#) (TSM) standard – a mandatory set of performance indicators for all mining and metallurgical facilities operated by MAC members in Canada. The new [TSM Climate Change Protocol](#) supports mining companies in responding to emerging expectations for climate-related disclosures, including the *Recommendations of the Task Force on Climate-related Financial Disclosures* (TCFD). Among other criteria, the protocol includes requirements for MAC members to implement and report on:

- board and management structures and reporting processes related to the governance of climate-related risks and opportunities
- corporate climate change strategy and actions that are integrated into business planning
- analysis and management of material climate-related risks and their impacts on the broader business, strategy, and financial planning

These new requirements position MAC members to respond to many of the disclosure requirements outlined in Proposed Instrument 51-107, and to implement comprehensive climate

strategies, structures, and processes to meet their climate targets. Already, the Canadian mining sector is a leader in the adoption of the TCFD recommendations, with a higher proportion of extractives and minerals processing issuers aligned with or planning to align with these recommendations than any other industry sector.¹ MAC is therefore keen to provide comments on the proposed disclosure requirements issued by the CSA and would like to take this opportunity to share the following observations and recommendations. What follows in the body of this letter are perspectives unanimously shared across the MAC membership, while the answers to the consultation questions are an amalgamation of perspectives from across the membership:

Scenario Analysis

Although MAC recognizes scenario analysis as good practice, we agree with the current approach outlined in Proposed Instrument 51-107, which would not require the disclosure of such analysis nor an explanation of why an analysis has not been conducted. It is important for the CSA to recognize the uncertain nature of medium- and long-term forward-looking statements, and to limit any requirements in the proposed instrument that might result in speculative commentary that goes beyond standard requirements for financial disclosures. At present, there is no consistent and reliable methodology for conducting scenario analyses, which limits the ability to standardize disclosure. Without common analytical methodologies and assumptions about climate projections and impacts that can underpin such analyses, MAC would not recommend that the proposed instrument incorporate such requirements.

Emissions Disclosures

MAC recommends that issuers be required to disclose material Scope 1 and 2 greenhouse gas (GHG) emissions. While many MAC members are moving towards understanding and managing Scope 3 emissions, it is not recommended that this be included as a requirement, given current challenges in developing Scope 3 emissions inventories with the same degree of accuracy and reliability as those for Scope 1 and 2 emissions. As is the case with scenario analysis, the lack of a consistent and reliable methodology for calculating Scope 3 emissions would likely result in reported data that is not comparable across issuers.

Disclosures in Other Documents

MAC supports the approach outlined in the proposed instrument that would provide issuers with the ability to incorporate GHG emissions disclosures by referencing another document. MAC would recommend that this provision be expanded to include all other disclosure requirements outlined in the proposed instrument, as many issuers are already disclosing this information in other public reports, whether voluntarily or to meet the obligations of other standards. MAC encourages the CSA to limit any additional reporting burden on issuers associated with the proposed disclosure requirements.

¹ Millani. 2021. *Millani's TCFD Disclosure Study: A Canadian Perspective*. Download at: <https://www.millani.ca/reports>


Timing

Timing is a key consideration in two respects. First, a number of companies are already participating in robust climate related disclosure processes with pre-existing internal reporting timelines that have been sequenced, as best possible, with third party timelines. In some cases, this sequencing has been developed to coincide with a third party's disclosure of information without which the reporting company cannot fulfill its reporting obligation. Second, in the case of joint-venture businesses, two or more companies – each potentially with pre-existing reporting obligations – will have to align internal processes to coordinate preparation and filing of a disclosure for the joint venture. Building off the first point, this second situation may become even more complex should the joint-venture or parent companies be reliant on a third-party source for information to successfully complete the disclosure. In short, factors of coordination and contingency must be taken into account when considering how any proposed disclosure framework should be implemented.

Noting this complexity, MAC underscores the need for flexibility, a reasonable transition period, and appropriate sequencing to provide companies time to organize internally, and in partnership with other entities as the need may be, to meet these obligations. As such, MAC recommends the following approach:

1. **Timeline:** To provide time for companies to prepare internally and align with third parties, MAC recommends that the proposed disclosures be limited to scope 1 and 2 emissions in a first phase, and the proposed 2024 start time be extended by two years, to 2026 with 2025 data.
2. **Sequencing:** While MAC appreciates the importance of identifying and including scope 3 emissions in disclosure frameworks, we also underscore the limited ability to do so in a coherent manner at this time due to technological challenges. Despite this, MAC recognizes that progress is being made in addressing these issues, and believes that a clearer pathway will become available in the medium term on how this can and should be done. As such, MAC recommends the CSA pursue scope 1 and 2 emissions disclosures first, while committing to undertaking a subsequent consultation on scope 3 emissions in the future, following the successful implementation of the first phase.

Sincerely,



Pierre Gratton
President and CEO

MAC Response to Consultation Questions

1. *For reporting issuers that have provided climate-related disclosures voluntarily in accordance with the TCFD recommendations, what has been the experience generally in providing those disclosures?*

Answer: MAC member investors are generally satisfied with their climate-related disclosures and approaches for doing so, frequently summarized in annual sustainability reporting.

2. *For reporting issuers, do you currently disclose GHG emissions on a voluntary basis? If so, are the GHG emissions calculated in accordance with the GHG Protocol?*

Answer: Member GHG emissions are calculated and submitted to the federal government. These disclosures have been both mandatory and voluntary in recent years. According to the annual Canada Gazette notice, respondents shall use the methods described in “Canada's 2020 Greenhouse Gas Quantification Requirements”. These methods are aligned with the GHG Protocol. The [GHG Protocol: Corporate Accounting and Reporting Standard \(GHG Protocol\)](#) provides high-level or general guidance for companies and other organizations. This information could vary member to member. For example, some companies prepare their corporate-level GHG emissions inventory and reporting in accordance with the GHG Protocol while taking other guidance into consideration (ie. GHGRP). General quantification methods are mainly based on the GHGRP. If quantification methods are not prescribed by the GHGRP or if deviations from prescribed methods are required, alternative methodologies from organizations such as the Western Climate Initiative (**WCI**) and the Intergovernmental Panel on Climate Change (**IPCC**) are referenced or adopted as appropriate for various activity types and modified to meet the needs of reporting.

3. *Under the Proposed Instrument, scenario analysis would not be required. Is this approach appropriate? Should the Proposed Instrument require this disclosure? Should issuers have the option to not provide this disclosure and explain why they have not done so?*

Answer: Although MAC recognizes scenario analysis as good practice, MAC agrees with the current approach outlined in Proposed Instrument 51-107, which would not require the disclosure of such analysis nor an explanation of why an analysis has not been conducted. It is important for the CSA to recognize the uncertain nature of medium- and long-term forward-looking statements, and to limit any requirements in the proposed instrument that might result in speculative commentary that goes beyond standard requirements for financial disclosures. At present, there is no consistent and reliable methodology for conducting scenario analyses, which limits the ability to standardize disclosure of such analyses. Until such a time as there are common methodologies and assumptions about climate projections and impacts that can underpin such analyses, MAC would not recommend that the Proposed Instrument incorporate such requirements.

4. *The TCFD recommendations contemplate disclosure of GHG emissions, where such information is material.*

- *The Proposed Instrument contemplates issuers having the option to disclose GHG emissions or explain why they have not done so. Is this approach appropriate?*
- *As an alternative, the CSA is consulting on requiring issuers to disclose Scope 1 GHG emissions. Is this approach appropriate? Should disclosure of Scope 1 GHG emissions only be required where such information is material?*
- *Should disclosure of Scope 2 GHG emissions and Scope 3 GHG emissions be mandatory?*

Answer: MAC recommends that issuers be required to disclose material Scope 1 and 2 GHG emissions. While many MAC members are moving towards understanding and managing Scope 3 emissions, it is not recommended that this be included as a requirement, given current challenges in developing Scope 3 emissions inventories with the same degree of accuracy and reliability as for Scope 1 and 2 emissions.

- *For those issuers who are already required to report GHG emissions under existing federal or provincial legislation, would the requirement in the Proposed Instrument to include GHG emissions in the issuer's AIF or annual MD&A (if an issuer elects to disclose these emissions) present a timing challenge given the respective filing deadlines? If so, what is the best way to address this timing challenge?*

Answer: We support aligning climate disclosure and annual public filings, however there are significant timing disconnects and resource challenges which need to be considered by the CSA. Ideally, regulators and policy makers across Canadian jurisdictions should align reporting deadlines, including financial filings. With the current lack of alignment, we recommend a longer implementation period – to 2026 for 2025 data – for issuers to meet the climate disclosure requirement set out in the Proposed Instrument.

For reference, below are links to the select provincial and federal GHG reporting requirement deadlines for reference.

- Federal [Greenhouse Gas Reporting Program \(GHGRP\)](#) – June 1
- Alberta [Technology Innovation and Emissions Reduction Regulation \(TIER\)](#) – June 30
- British Columbia [Greenhouse Gas Industrial Reporting and Control Act \(GGIRCA\)](#) – May 31
- Newfoundland and Labrador [Management of Greenhouse Gas Reporting Regulations](#) – June 1
- Ontario [O. Reg. 241/19: Greenhouse Gas Emissions Standards Regulation](#) – June 1
- Quebec [Regulation Respecting a Cap-and-Trade System for Greenhouse Gas Emissions Allowances](#) – June 1

5. *The Proposed Instrument contemplates that issuers that provide GHG disclosures would be required to use a GHG emissions reporting standard in measuring their GHG emissions, being the GHG Protocol or a reporting standard comparable with the GHG Protocol (as described*

in the Proposed Policy). Further, where an issuer uses a reporting standard that is not the GHG Protocol, it would be required to disclose how the reporting standard used is comparable with the GHG Protocol.

- As issuers have the option of providing GHG disclosures, should a specific reporting standard, such as the GHG Protocol, be mandated when such disclosures are provided?
- Is the GHG Protocol appropriate for all reporting issuers? Should issuers be given the flexibility to use alternative reporting standards that are comparable with the GHG Protocol?
- Are there other reporting standards that address the disclosure needs of users or the different circumstances of issuers across multiple industries and should they be specifically identified as suitable methodologies?

Answer: MAC agrees that GHG Protocol should not be “mandated”. However, it is reasonable to require issuers to prepare their corporate-level GHG emissions inventory and reporting in accordance with the GHG Protocol. The GHG Protocol provides high-level or general guidance for companies and other organizations. The national adoption of this protocol would help companies prepare a GHG inventory that represents a fair account of their emissions, through the use of standardized approaches and principles, which would lead to increased consistency and transparency in GHG accounting and reporting among various companies and GHG programs. However, an issuer cannot complete GHG reporting with the GHG Protocol alone. More detailed guidance, such as federal and provincial reporting regulations, are required for thorough, complete and accurate accounting of GHG inventories.

6. *The Proposed Instrument does not require the GHG emissions to be audited. Should there be a requirement for some form of assurance on GHG emissions reporting?*

Answer: MAC encourages the CSA to examine a phased approach to any future assurance requirements (ideally review-level assurance) to allow time for planning and implementation by issuers. MAC notes an important distinction here: that audit-level of assurance involves significantly greater scope of work such as detailed data testing, control testing and corroborations with external evidence compared to review level assurance, which involves analytical procedures paired with enquiries. To avoid duplication of verification and audit work, MAC encourages the CSA to consider allowing for the use of regulatory verifications to satisfy review-level assurance requirements in the Proposed Instrument, where available.

7. *The Proposed Instrument permits an issuer to incorporate GHG disclosure by reference to another document. Is this appropriate? Should this be expanded to include other disclosure requirements of the Proposed Instrument?*

Answer: MAC strongly supports the ability to incorporate GHG disclosure by reference to another document and would recommend that this provision be expanded to include all other disclosure requirements of the Proposed Instrument. Already, issuers are disclosing this information across various reports and to meet the obligations of other standards. MAC would recommend that the CSA seek to limit the additional reporting burden on issuers associated with the new disclosure requirements of the Proposed Instrument.

8. *What climate-related information is most important for investors' investment and voting decisions? How is this information incorporated into these decisions? Is there additional information that investors require?*

Answer: Risk exposure information is most important. To help members to identify this information, MAC developed first-in-the-world climate adaptation risk management guidance. More information on this is available on our website.

9. *What are the anticipated costs and challenges associated with providing the disclosures contemplated by the Proposed Instrument?*

Answer: *The costs and challenges associated with the disclosures under the Proposed Instrument relate primarily to the timing of disclosure.*

10. *Do the costs and challenges vary among the four core TCFD recommendations related to governance, strategy, risk management, and metrics and targets? For example, are some of the disclosures more (or less) challenging to prepare?*

Answer: Strategy, specifically long-term risk and opportunity identification and the associated scenario-analysis are the most challenging and costly recommendations.

11. *The costs of obtaining and presenting new disclosures may be proportionally greater for venture issuers that may have scarce resources. Would more accommodations for venture issuers be needed? If so, what accommodations would address these concerns while still balancing the reasonable information needs of investors? Alternatively, should venture issuers be exempted from some or all of the requirements of the Proposed Instrument?*

Answer: Timing is a concern with respect to the Proposed Instrument and implementation by 2024 and 2026 is ambitious as the transition provisions in the Proposed Instrument do not provide sufficient time to resolve timing issues. Implementation timelines should be extended to address the required disclosures and align with the timing of AIF filings.