

FIDUCIARY DUTY IN THE 21ST CENTURY

CANADA
ROADMAP

INTRODUCTION

[Fiduciary duty in the 21st century](#) concluded that failing to consider long-term investment value drivers, which include environmental, social and governance (ESG) issues, in investment practice is a failure of fiduciary duty. Despite significant progress, many investors have yet to fully integrate ESG issues into their investment decision-making processes.

In January 2016, the PRI, UNEP FI and The Generation Foundation launched a three-year project to implement the report's recommendations, including the preparation of country roadmaps.

These roadmaps enable the PRI and UNEP FI to work with investors, stakeholders and policymakers to support national stakeholders to implement clear and accountable policy and practice that embraces the modern interpretation of fiduciary duty.

The Canada roadmap was developed through extensive industry consultation and sets out recommendations in four categories: regulatory action, stewardship, corporate reporting and investor education.

1. Regulatory action:

- Canadian pensions regulators should require pension plans to disclose ESG integration practices.
- Canadian securities regulators should introduce mandatory "say on pay" votes.

2. Stewardship:

- Asset owners should advance trends and best practice in shareholder engagement.

3. Corporate reporting:

- The Canadian Securities Administrators (CSA) should conduct a comprehensive review of the reporting of material ESG factors, following which it should expand its reporting framework and guidance.
- The Toronto Stock Exchange (TSX) should expand its corporate reporting guidance and ultimately its listing requirements regarding ESG factors, and become a signatory to the Sustainable Stock Exchanges initiative (SSE).

4. Investor education:

- Trustee boards should ensure capacity and competence on ESG issues. This should be industry-led.

This work also sets the Canadian capital market in a broader international context, as regulators and investors respond to a rapidly-changing investing environment. Following assessment of seven further markets (Australia, Brazil, Germany, Japan, South Africa, UK and US), the PRI, UNEP FI and The Generation Foundation will prioritise the areas to which we will contribute.

ESG integration is defined as the systematic and explicit inclusion of material ESG factors into investment analysis and investment decisions.

PROJECT STEERING COMMITTEE

- Peter Knight, Partner, Generation Investment Management
- Fiona Reynolds, Managing Director, PRI
- Nick Robins, Co-Director, UNEP Inquiry into a Sustainable Financial System
- Eric Usher, Head, UNEP Finance Initiative

ACKNOWLEDGEMENTS

The project team would like to thank all of the interviewees and reviewers for their time and contribution to this document, as well as the many organizations in Canada whose work and ideas have helped us get to this point.

This roadmap is prepared by the PRI, UNEP FI and The Generation Foundation and does not necessarily represent the views of interviewees and reviewers.

Name	Title	Organisation
Brian Minns	Manager, Sustainable Investing	Addenda Capital
Karolina Kosciolk	Analyst, Sustainable Investing	Addenda Capital
Hyewon Kong	Associate Portfolio Manager	AGF Investments
Krish Karunakaran	Director	AGF Investments
Daniel Simard	CEO	Bâtirente
Jennifer Coulson	Senior Manager, ESG Integration	bcIMC
Marie-Claude Provost	Director, Advisory services, Compliance and Responsible Investment	Caisse de dépôt et placement du Québec
Ginette Depelteau	Senior Vice-President, Compliance and Responsible Investment	Caisse de dépôt et placement du Québec
Angela Mazerolle	Superintendent of Pensions and Insurance, New Brunswick / CAPSA Chair	Canadian Association of Pension Supervisory Authorities (CAPSA)
Michael Delaney	Superintendent of Pensions, Newfoundland and Labrador / CAPSA Vice-Chair	Canadian Association of Pension Supervisory Authorities (CAPSA)
Tony Toy	CAPSA Secretariat	Canadian Association of Pension Supervisory Authorities (CAPSA)
Catherine McCall	Director of Policy Development	Canadian Coalition for Good Governance
Stephen Erlichman	Executive Director	Canadian Coalition for Good Governance
Tessa Hebb	Distinguished Research Fellow	Carleton Centre for Community Innovation
Rosalie Vendette	Senior Advisor, Responsible Investment	Desjardins
Brian Mills	CEO and Superintendent of Financial Services / CAPSA Vice-Chair	Financial Services Commission of Ontario (FSCO)
Lester Wong	Deputy Superintendent of Pensions	Financial Services Commission of Ontario (FSCO)
Nurez Jiwani	Director of Regulatory Coordination Branch	Financial Services Commission of Ontario (FSCO)
Lynda Ellis	Senior Manager, Pension Policy, Pension Division	Financial Services Commission of Ontario (FSCO)
Michael Long	Senior Policy Analyst, Pension Policy, Pension Division	Financial Services Commission of Ontario (FSCO)
Samantha Saunders	Senior Policy Analyst, Regulatory Coordination Branch	Financial Services Commission of Ontario (FSCO)
Olivier Gamache	Président	Groupe Investissement Responsable
Murray Gold	Senior Partner	Koskie Minsky LLP
Keith Ambachtsheer	President	KPA Advisory Services Ltd.
Randy V. Bauslaugh	Partner	McCarthy Tétrault LLP
Michelle de Cordova	Director, Corporate Engagement & Public Policy, ESG Services	NEI Investments

Tamara DeMos	Managing Director, Private Pension Plans Division / CAPSA Member	Office of the Superintendent of Financial Institutions (OSFI) Canada
John Grace	Director, Private Pension Plans Division	Office of the Superintendent of Financial Institutions (OSFI) Canada
Chris Eccles	Legislation and Policy Initiatives Officer, Private Pension Plans Division	Office of the Superintendent of Financial Institutions (OSFI) Canada
Jennifer Rook	Director, Pension Policy Branch	Ontario Ministry of Finance (MOF)
Christine Anderson	Senior Policy Advisor, Pension Policy Branch	Ontario Ministry of Finance (MOF)
Joy Williams	Assistant Portfolio Manager	Ontario Teachers' Pension Plan
Deborah Ng	Asset Mix & Risk	Ontario Teachers' Pension Plan
Paul Schneider	Manager, Corporate Governance	Ontario Teachers' Pension Plan
Katharine Preston	Manager, Responsible Investing	OPTrust
Jordan Berger	MD, Strategic Relationships & Portfolio Intelligence	OPTrust
Louise Greig	Associate General Counsel	OPTrust
Tony Williams	Former President	PBI Actuarial Consultants
Judy Cotte	VP & Head of Corporate Governance & RI	RBC Global Asset Management
Ioana Circo	Investment Advisor	Régime de Retraite de l'Université de Montréal
Andrée Mayrand	Director, Investment Management	Régime de Retraite de l'Université de Montréal
Kevin Thomas	Director of Shareholder Engagement	SHARE
Peter Chapman	Executive Director	SHARE
Ed Waitzer	Partner	Stikeman Elliott
Douglas Sarro	Associate	Sullivan & Cromwell, LLP
Jack Donnelly	Senior Managing Director, Investment Strategic Research	SunLife
Derek Smith	Senior Counsel, Legal Department	TD Asset Management
Annie Zhang	Associate - Portfolio Management	TD Asset Management
Toni Evans	Managing Director, Risk Management	TD Asset Management
Eleanor Fritz	Director Compliance & Disclosure	TMX

STAKEHOLDER FEEDBACK

This roadmap draws on over 30 interviews with stakeholders at different points in the Canadian capital market. The common themes in their feedback have formed the basis for the analysis and recommendations that follow.

Canadian investors have been at the forefront of responsible investment initiatives and have played a prominent role in the PRI. Groups such as the Shareholder Association for Research and Education (SHARE), the Responsible Investment Association (RIA) and the Canadian Coalition for Good Governance (CCGG), as well as Focusing Capital on the Long-Term (FCLT)¹, have contributed extensively to the global responsible investment industry.

The Canadian model of in-sourced, high-capacity public pension plans has offered a way to overcome problems in pension plan governance², enabling Canadian asset owners to be early adopters of ESG integration. However, as with other markets, there are different levels of ESG integration across pension plans and regulatory contexts. There are substantial pockets of the Canadian investment community that have capacity constraints and lack awareness of ESG integration³. Overcoming these issues requires a mixture of regulation, education, overcoming misconceptions about ESG integration and toolkits for investment practice.

The scale of assets under management within the responsible investment sector in Canada is growing year on year⁴, with increasing investor demand for ESG information and products.

Several stakeholders also stated that Canada's dependence on extractives has helped advance responsible investment. Its highly visible environmental impact, from oil exploration to mining, has often caused companies operating in this sector to adopt sustainability and stakeholder reporting to assist them in responding to public pressure and preserve their license to operate⁵.

Investors saw significant potential destruction of investment value through climate change, from write-downs, stranded assets, extreme weather events or additional regulation. As a result, investor engagement on enhanced reporting of climate risks and managing the transition to a low-carbon economy is essential.

This responds to the federal government's plans set out in its Federal Sustainable Development Strategy⁶ and ratification of the Paris Climate Treaty. Various provincial governments were also responding with policy initiatives on climate change⁷.

Regulators were interested in learning from international examples of regulatory practice on ESG integration but required political support to enable expansions in regulation. Canada's fragmented regulatory architecture could make policy coordination complicated. However, forums such as the Canadian Association of Pension Supervisory Authorities (CAPSA) enabled Canadian regulators to share practice and harmonise regulation.

The adoption of ESG disclosure requirements by all Canadian pensions regulators is a priority. Several stakeholders saw developing ESG practices as part of a sequence which began with ESG disclosure (discussed further below).

There was also a concern that regulators should tread carefully when preparing guidance on ESG integration. Guidance could be overly-prescriptive or fail to reflect the best practice adopted by many Canadian asset owners. Despite this, it was accepted that well-framed principles-based guidance could help kick-start the practices of capacity-constrained, less advanced schemes and help set a minimum benchmark for prudent investment practice.

1 Focusing Capital on the Long-Term - founded by CPPIB and McKinsey, with participation from AXA, BlackRock, Ontario Teachers, Aviva, State Street, CDPQ, HBS, Barclays and other major players.

2 Maple Revolutionaries (The Economist): <http://www.economist.com/node/21548970>

3 Federally regulated private plans, multi-employer pension plans and small plans were identified as a particular focus

4 <https://riacanada.ca/trendsreport/>

5 Note PRI's engagement with oil sands corporations in 2014

6 <https://www.ec.gc.ca/dd-sd/default.asp?Lang=En&n=CD30F295-1>

7 Alberta carbon levy: <https://www.alberta.ca/climate-carbon-pricing.aspx>

The reporting of comparable, decision-relevant material ESG information by corporations is also central to the adoption of ESG integration. Our stakeholders wanted to see the CSA engage on the reporting of material ESG information (not only in relation to climate risk disclosures) and thought the Canadian stock exchanges were important for steering the development and quality of reporting by Canadian companies.

Shareholder engagement with investee companies is a major focus. Canadian asset owners, given their relative scale, had an authoritative voice with Canadian corporations and were effective in pursuing collaborative engagements, through CCGG, SHARE and other forums, and had achieved significant advances in recent years, such as through the voluntary adoption of “say on pay” votes. Asset owner scale was one of the many features of the Canadian market that distinguished it from the US. Trends in the US remained relevant given cross-listings and exposure to US securities.

THE EVOLVING LANDSCAPE OF REGULATION AND FIDUCIARY DUTY

Canada has, in many ways, an enabling environment for the consideration of ESG issues. For example, the Canadian Supreme court has held that directors of Canadian corporations considering action in the best interests of the corporation may consider the interests of shareholders, employees, creditors, customers, governments and the environment⁸.

This is reinforced by recent regulatory developments which have improved disclosure of ESG issues by both corporations and institutional investors and sought to remove barriers to the effective exercise of shareholder rights.

Pension plans registered in Ontario are now required to state “whether environmental, social, and governance (ESG) factors are incorporated into the plan’s investment policies and procedures, and if so, include a description of how those factors are incorporated”⁹.

On proxy voting, the CSA has been developing protocols to enable accurate, reliable and accountable proxy voting and vote reconciliation¹⁰. Regulators have also made thematic interventions on corporate disclosure and accountability, through the “comply or explain” disclosure requirements introduced by several Canadian securities regulators¹¹ and the related CSA-issued Multilateral Staff Notice 58-307 regarding women on boards¹².

Canadian academics and commentators have been at the forefront of redefining and updating interpretations of fiduciary duty¹³ and considering methods to reflect such expanded duties in investment management¹⁴.

Underlying these approaches is the understanding that fiduciary duty changes over time, reflecting investment practices and social norms¹⁵. This means a broader understanding of fiduciary duty is required, incorporating the concept of “reasonable expectations”¹⁶, rather than a rigid compliance-based understanding.

In other mature markets, regulators and government agencies have taken steps to make these interpretations clearer. For example, in the UK, the Law Commission, in its report *Fiduciary Duties of Investment Intermediaries*, stated that “there is no impediment to trustees taking account of environmental, social or governance factors where they are, or may be, financially material”. This clarifies that it is not the origin of the factor but whether it is financially material that is relevant¹⁷.

8 BCE Inc. v. 1976 Debentureholders, [2008] 3 S.C.R. 560, 2008 SCC 69

9 Section 78(3) of Regulation 909 under the Pension Benefits Act (PBA) in force on January 1, 2016

10 Recent consultation on the protocols: <http://www.osc.gov.on.ca/en/50968.htm>

11 Adopting amendments to NI 58-101 Disclosure of Corporate Governance Practices: https://www.osc.gov.on.ca/documents/en/Securities-Category5/csa_20150928_58-307_staff-review-women-boards.pdf

12 https://www.osc.gov.on.ca/documents/en/Securities-Category5/csa_20150928_58-307_staff-review-women-boards.pdf

13 Reclaiming Fiduciary Duty Balance: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1935068

14 The Future of Pension Management: integrating design, governance and investing (Keith P. Ambachtsheer): <http://onlinelibrary.wiley.com/doi/10.1002/9781119193494.ch11/summary>

15 The Lorax Speaks to Pension Fund Administrators (Randy Bauslaugh): <http://www.bpmmagazine.com/articles/Lorax.php>

16 Protecting Reasonable Expectations: mapping the trajectory of the law (Ed Waitzer and Douglas Sarro, March 2016)

17 The evaluation of financial materiality is at the well-reasoned discretion of pension scheme trustees having taken appropriate advice.

The understanding and assumptions of many Canadian corporate boards and pension fiduciaries may “lag the trajectory of the law”¹⁸ and best practice, knowledge and awareness of ESG issues. This is a problem common to other mature markets. As such, trustees of Canadian pension schemes should be trained on ESG issues (such as that carried out by organisations like the International Centre for Pension Management at Rotman Business School and SHARE).

Canadian pension schemes are also being encouraged to reference their liability structure in the determination of their investment approach; reflecting long-term liabilities with a long-term investment approach¹⁹. This includes issues such as climate change, whereby trustees should ask whether it affected the balance of their portfolio asset allocation, whether their investee companies most exposed to climate change had a business plan that responded to climate risk, and what their preparation was for climate change regulation and adaptation²⁰.

In this context, regulators should broaden their methods to protect investors. This would acknowledge that ESG factors are a key element in investor protection, in addition to the welcome development of policy in relation to avoiding conflicts of interest²¹ and poor charging structures²².

Globally, public scrutiny of the investment industry has increased. We anticipate that beneficiaries, particularly millennials²³, will want to engage with their retirement providers on environmental and social issues²⁴. This will add to both the demand for ESG information and political pressure for the adoption of responsible investment regulation.

18 The Future of Pension Management: integrating design, governance and investing (Keith P. Ambachtsheer)

19 Climate Change and the Fiduciary Duties of Pension Fund Trustees in Canada (Murray Gold and Adrian Skotchmer, Koskie Minsky LLP 2016): https://kmlaw.ca/wp-content/uploads/2015/10/KM_Climate_Change_Paper_06oct15.pdf

20 Conversation with Murray Gold, Koskie Minsky LLP (September 2016)

21 http://www.osc.gov.on.ca/en/SecuritiesLaw_csa_20160428_33-404_proposals-enhance-obligations-advisers-dealers-representatives.htm

22 https://www.osc.gov.on.ca/documents/en/Securities-Category5/rp_20151022_81-407_dissection-mutual-fund-fees.pdf

23 RIA. Millennials, Women, and the Future of Responsible Investing: <https://riacanada.ca/millennials-women/>

24 Brookings Institute, How Millennials Could Upend Wall Street: https://www.brookings.edu/wp-content/uploads/2016/06/Brookings_Winogradfinal.pdf

RECOMMENDATIONS

1. REGULATORY ACTION:

a. Canadian pensions regulators should require pension plans to disclose ESG integration practices.

International regulators have increasingly required statements explaining ESG investment practices in annual regulatory disclosures or scheme governing documents. Disclosure requirements can be a light-touch intervention to improve scheme practice. A new disclosure requirement initiates a discussion between an asset owner and its scheme advisors, such as lawyers, investment consultants, investment managers and actuaries to comply with the regulation.

Our stakeholders were of the view that there was low awareness of ESG integration among many private sector plans, multi-employer pension plans and smaller pension plans. This is because they often lean heavily on advisors and face significant capacity constraints to respond to new regulation and investment practices. As a result, such regulation requires a compliance-based engagement with ESG factors without significantly adding to a scheme's regulatory burden.

Such disclosures have been a feature of UK pensions regulation for over a decade²⁵ and have recently been strengthened with supporting guidance²⁶ and public commentary from The Pensions Regulator on the importance of ESG to prudent scheme practice²⁷. Since January 2016, Ontario-registered pension plans are required to indicate in their Statement of Investment Policies and Procedures (SIPP) and in a prescribed statement to plan members "whether environmental, social, and governance (ESG) factors are incorporated into the plan's investment policies and procedures, and if so, include a description of how those factors are incorporated".

The ESG disclosure regulation regarding plans registered in Ontario is yet to complete a full reporting cycle. However, once a full year's report is available, the regulator will be able to observe which plans do not take account of ESG factors and whether there are common characteristics among the schemes that do.

Disclosure of ESG investment practices also provides an opportunity for regulators to issue high-level guidance, as the Financial Services Commission of Ontario²⁸ and The Pensions Regulator in the UK have done. As the work of The Pensions Regulator has indicated, such guidance may need to be reassessed over time.

Next steps:

Federal and provincial regulators should require ESG disclosure by pension plans, consistent with Ontario's approach. Such disclosure requirements should be accompanied by principles-based supporting guidance. This should be developed in consultation with industry stakeholders and make reference to guidelines from other countries. Following their implementation, each relevant regulator should review trends, progress and quality of ESG reporting annually and monitor the impact of disclosure requirements on investor practice and investment performance.

25 The Occupational Pension Schemes (Investment) Regulations 2005: <http://www.legislation.gov.uk/ukksi/2005/3378/regulation/2/made>

26 Guide to Investment Governance – The Pensions Regulator: <http://www.thepensionsregulator.gov.uk/docs/dc-investment-guide.pdf>

27 <http://www.professionalpensions.com/professional-pensions/news/2470190/tpr-trustees-must-wake-up-and-smell-the-coffee-on-esg>

28 Financial Services Commission of Ontario, Investment Guidance Notes: IGN-004: Environmental Social and Governance (ESG) Factors, <https://www.fsco.gov.on.ca/en/pensions/policies/active/Documents/IGN-004.pdf>.

b. Canadian securities regulators should adopt mandatory “say on pay” votes at Canadian public companies.

Mandatory “say on pay” votes are a common feature of mature markets, such as the US²⁹ and the UK³⁰, but are not obligatory in Canadian capital markets. However, they have been adopted following a series of shareholder proposals at Canadian companies over the last few years³¹. As a result, around 80% of S&P/TSX 60 companies have “say on pay” votes. A substantially lower percentage of smaller cap companies do³². After a rapid initial increase, the percentage of firms voluntarily adopting this voting style appears to have levelled off. Many cross-listed Canadian companies are in any case subject to the SEC’s “say on pay” rules³³. We note that the Ontario Securities Commission (OSC) has reviewed the international context on “say on pay” regulation and determined to keep regulatory developments under review³⁴.

For investors, “say on pay” votes are an increasingly important tool for engaging with investee companies as they provide a structured and efficient method for engagement on an often controversial issue. It is also critical to investors that executive compensation is adequately aligned to a company’s business plan and strategic objectives. The structure of executive compensation packages can also help embed long-term and sustainability approaches in management practice. This is a theme on which the PRI and its signatories have been actively engaged³⁵.

Additionally, “say on pay” has been regarded as raising the expectations of the minimum level of engagement to be expected by investee companies with their shareholders. The preparation for such votes also seems to have improved the quality of disclosure of corporate strategy and long-term plans³⁶. This is part of rising trends of shareholder engagement across a range of governance issues, such as board composition and director tenure. This is in addition to the growing tide of engagement on environmental and social issues.

Next steps:

Given the range of mature markets that mandate “say on pay” votes, Canadian securities regulators should make them mandatory in public companies. Canadian and international stakeholders will continue to build on their engagement with investee companies to present the case for this.

29 SEC adopts say on pay: <https://www.sec.gov/news/press/2011/2011-25.htm>

30 Say on Pay around the World: http://openscholarship.wustl.edu/cgi/viewcontent.cgi?article=6133&context=law_lawreview

31 SHARE on say on pay: <http://share.ca/its-time-for-canadian-securities-regulators-to-complete-the-say-on-pay-picture/>

32 Holding steady with say on pay: <http://www.meridiancp.com/insights/news/holding-steady-with-say-on-pay/>

33 SEC “say on pay” applicable to Canadian companies: <http://ca.practicallaw.com/w-002-4563>

34 OSC shareholder democracy: http://www.osc.gov.on.ca/en/SecuritiesLaw_rule_20110110_54-701_reg-proposal.htm

35 <https://www.unpri.org/group/vertical-comparison-of-executive-compensation-at-td-bank-865>

36 Boardroom Resources: <http://www.boardroomresources.com/how-say-on-pay-has-affected-shareholder-engagement/>

2. STEWARDSHIP:

Asset owners should advance trends and best practice in shareholder engagement.

Canadian corporations are increasingly aware of the importance of creating a framework to manage shareholder engagement³⁷. This is because it is central to effective oversight of investee companies, as well as a way to create long-term value. Amendments are currently proposed to the Canada Business Corporations Act (CBCA), on issues such as majority voting and the elimination of staggered boards, to bring that statute in line with TSX listing requirements³⁸.

In addition, stewardship codes have been part of improving the quality and extent of shareholder engagement with investee companies across markets, with codes adopted in the UK, Japan and Hong Kong, among others. The UK example suggests that codes are only effective where they have market-wide adoption. Regulators are also developing oversight and accountability mechanisms for reporting against their codes³⁹.

Stewardship practices are, however, not static. As such, codes must be regularly revisited to ensure they reflect best practice. In that context, we support CCGG's initiative to update and re-issue their Principles for Governance Monitoring, Voting and Shareholder Engagement, first issued in 2005 and updated in 2010.

Compared to the US, Canada has smaller cap companies but larger asset owners, meaning that shareholder voice in the Canadian market is inherently louder. Our stakeholders reported having easier access to Canadian boards and management than they would expect in the US. However, there was an expectation that shareholders would have an increasingly central role in the director nomination process in listed Canadian corporations – influenced to an extent by the expectations in the US market⁴⁰.

The situation in Canada can be further distinguished from the US, where proxy access, to an extent, is enabled. However, it is expected to remain an issue, particularly given engagement by CCGG⁴¹.

Next steps:

Canadian asset owners should:

- Disclose their voting practices (and those of their managers) and provide rationale for the votes cast – as a supplement to existing regulations applicable to fund managers⁴².
- Engage with their investee companies on ESG issues and, where possible, publicise those activities and the value arising from such engagements.
- Include an assessment of stewardship quality in their selection, appointment and monitoring of investment managers.

We note that there are many examples of Canadian asset owners reflecting this best practice in a manner consistent with being signatories to the PRI⁴³.

37 <https://www.icd.ca/About-the-ICD/Media-Centre/ICD-News/Press-Releases/ICD-Releases-Guidance-for-Director-Shareholder-Eng.aspx>

38 Proposed CBCA amendments: <https://corpgov.law.harvard.edu/2016/10/14/proposed-canada-business-corporations-act-amendments-a-new-era/>

39 FRC tiering report: <https://www.frc.org.uk/News-and-Events/FRC-Press/Press/2016/November/Tiering-of-signatories-to-the-Stewardship-Code.aspx>

40 In the US proxy access by private ordering has been adopted as a common practice among S&P 500 corporations

41 http://www.ccg.ca/site/ccgg/assets/pdf/proxy_access_finalv.35.docx_630.pdf

42 National Instrument 81-106 – Continuous Disclosure Regime for investment funds by the CSA which requires disclosure of policies, procedures and voting record annually regarding proxy use.

43 <http://www.cppib.com/en/how-we-invest/sustainable-investing.html>; <http://cdpq.com/en/investments>; <https://www.otpp.com/investments/overview>

3. CORPORATE REPORTING:

a. The CSA should conduct a comprehensive review of the reporting of material ESG factors, following which it should expand its reporting framework and guidance.

There have been recent developments in both Canada and internationally which provide an opportunity to revisit corporate reporting in Canada. Investors and corporations seek standardized reporting of material ESG factors to create more consistent reporting practices. This would lower the cost of production and analysis of such information and increase its usefulness to investors.

The CSA issued [Staff Notice 51-333](#) in 2010. This provided guidance outlining reporting requirements for issuers by:

- determining what information about environmental matters needs to be disclosed;
- enhancing or supplementing their disclosure regarding environmental matters⁴⁴.

Since 2010, investor opinion about reporting enhanced financial information has strengthened. For example, CPA Canada has begun to review the effectiveness of management discussion and analysis disclosures that mention climate risks⁴⁵. Additional disclosures have been mandated for oil and gas⁴⁶ and mineral⁴⁷ projects for over a decade, both of which have been subject to recent updates and amendments. Several studies have also indicated that ESG issues are routinely considered by Canadian investors although frustrations exist about the quality of the information provided to them⁴⁸.

In the US, the SEC has launched a full review of its disclosure framework, including in response to its climate change guidance⁴⁹. In the UK, requirements for enhanced financial disclosures by UK companies have been expanded to be delivered as part of the annual report and accounts.

Internationally, the Financial Stability Board (FSB) Task Force on Climate-related Financial Disclosures (TCFD) has undertaken an assessment of what constitutes efficient, consistent and effective climate-risk financial disclosures for global capital markets.

The TCFD's report, launched in December 2016, builds on the work of voluntary reporting frameworks, and is relevant to the reporting of social and governance factors, as well as environmental factors. The CSA has a Continuous Disclosure Review Program⁵⁰ and is expected to launch an initiative on enhancing the reporting of material ESG factors by Canadian corporations.

Next steps:

Following the publication of the TCFD report, the CSA should engage on the reporting of material ESG factors by Canadian corporations. This is a key industry need and has comprehensive stakeholder support. It requires regulators to engage on the full spectrum of ESG factors to be reported on, not just those connected to climate risk or extractives.

We recommend the following principles help shape the CSA's requirements for corporate disclosures:

- ESG factors should be disclosed with the annual report and other relevant documents, showing clear links between ESG factors and the company's business model and risk factors.
- Over time, ESG factors should be subject to assurance, as with financial data. We suggest a phased introduction.
- Corporations should report using common performance metrics – in particular, by industry, portfolio and across time series – so that data is easily comparable.
- Corporations should disclose company-specific ESG risks and opportunities.

44 http://www.osc.gov.on.ca/documents/en/Securities-Category5/csa_20101027_51-333_environmental-reporting.pdf

45 PIAC Corporate governance principles: <http://www.piacweb.org/files/PIAC-Corporate-Governance-Principles-and-Guidelines-14-09-29.pdf>

46 Oil and gas disclosures: <http://www.osc.gov.on.ca/en/13338.htm>

47 Mineral project disclosures: <http://www.osc.gov.on.ca/en/15019.htm>

48 2016 Canadian Investor Survey: New insights into what investors want from disclosure (RR Donnelly & simplelogic): <http://www.simple-logic.com/wp-content/uploads/2016/06/2016-Canadian-investor-study-June2-2016.pdf>

49 <https://www.sec.gov/rules/concept.shtml>

50 CSA continuous disclosure review 2016: http://www.osc.gov.on.ca/en/SecuritiesLaw_csa_20160718_51-346_continuous-disclosure-review-fiscal-year-2016.htm

b. Expanded corporate reporting guidance and listing requirements by the TSX.

Stock exchanges perform a vital function as information standard-setters, influencing the disclosure practices and expectations of both corporations and investors. Guidance by exchanges can enhance the consistency and comparability of ESG information available to investors and enable companies to prepare for mandatory disclosure – which is being adopted in several jurisdictions outside Canada.

To date, 16 exchanges have introduced guidance⁵¹ for reporting on ESG issues with several more committed to do so⁵². We welcome that Canada's recently-opened Aquitas NEO Exchange has become a signatory to the SSE initiative and committed to promoting long-term sustainable investment and improved disclosure and performance of ESG factors among listed corporations⁵³. The TSX has engaged its members on ESG listing issues through ESG briefing days and hosts ESG indices⁵⁴. Canadian stakeholders have been instrumental in developing products that seek to refocus investing on long-term value creation, such as the S&P Long-Term Value Creation Global Index⁵⁵.

Next steps:

The TSX should introduce mandatory ESG disclosure as a listing requirement. As a first step, it should also update its Primer for Environmental & Social Disclosure⁵⁶, in line with the SSE's Model Guidance on Reporting ESG Information to Investors⁵⁷. We also recommend the TSX sign the SSE initiative.

51 This includes exchanges that promote guidance from other standard setters or regulatory bodies, such as JSX adopting the King Code in South Africa.

52 The SSE Campaign to Close the Guidance Gap: <http://www.sseinitiative.org/engagement/esg-guidance/>

53 <http://www.sseinitiative.org/wp-content/uploads/2015/11/Canada-Aequitas-NEO-Exchange.pdf>

54 <https://us.spindices.com/indices/equity/sp-tsx-60-esg-index>

55 <http://www.prnewswire.com/news-releases/sp-long-term-value-creation-global-index-launched-by-sp-dow-jones-indices-300206969.html>

56 <https://www.tsx.com/resource/en/73>

57 <http://www.sseinitiative.org/wp-content/uploads/2015/10/SSE-Model-Guidance-on-Reporting-ESG.pdf>

4. INVESTOR EDUCATION:

Trustee boards should ensure capacity and competence on ESG issues. This should be industry-led.

The Canadian asset owner model helps overcome some of the governance and capacity challenges inherent in pension management. In many ways, it has become a model of best practice. There remain parts of the Canadian pension market which have significant capacity constraints and low awareness of ESG issues. Our stakeholders identified corporate plans, particularly at the smaller end, as struggling to keep up with regulatory developments and best practice.

In practice, the trustees of these plans tend to lean heavily on the advice of their investment consultants and investment managers, often seeming to interpret advice as instruction. There is then a role for guidance from industry associations on ESG to ensure that capacity-constrained plans have access to guidance to evaluate the advice, products and practice of their service providers. Additionally, the PRI is working with signatories and industry stakeholders to develop ESG tool kits and trustee training programs to raise awareness of ESG methodologies and benefits. We will look to collaborate through industry forums such as the Pension Investment Association of Canada (PIAC) and International Foundation of Employee Benefit Plans to promote best practice and ESG awareness among Canadian asset owners.

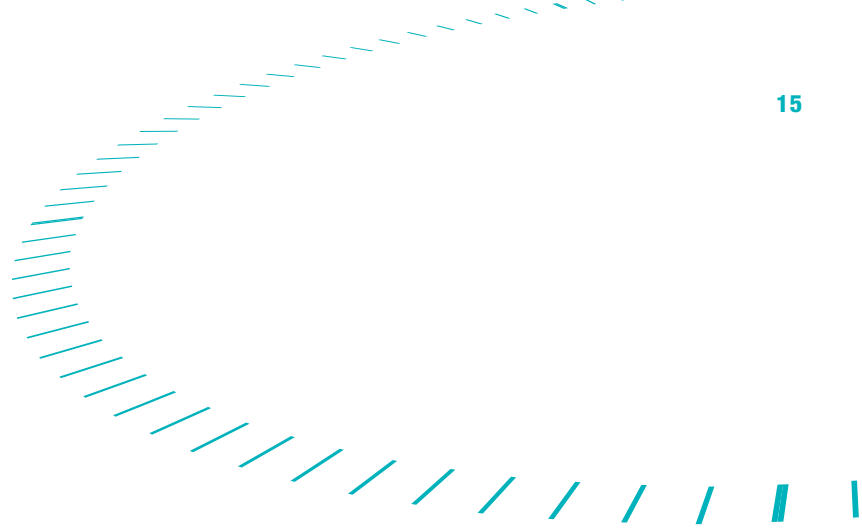
Next steps:

ESG factors should be referenced in training materials for new trustees. Boards should regularly evaluate training needs and, if necessary, provide additional training to existing trustees, such as PIAC's knowledge sharing programme. The PRI Academy is also an important resource for such training, as well as Canadian providers such as SHARE.

In addition, the PRI has produced a substantial suite of supporting documents to help structure asset owner interactions with service providers on ESG factors. These include *How asset owners can drive responsible investment: beliefs, strategies and mandates*⁵⁸, and *Crafting an investment strategy – a process guidance for asset owners*⁵⁹. There will be on-going collaborations between national and international stakeholders to share these approaches with Canadian asset owners.

⁵⁸ [How asset owners can drive responsible investment: beliefs, strategies and mandates](#)

⁵⁹ [Crafting an investment strategy – a process guidance for asset owners](#)



About the PRI

The PRI works with its international network of signatories to put the six Principles for Responsible Investment into practice. Its goals are to understand the investment implications of environmental, social and governance issues and to support signatories in integrating these issues into investment and ownership decisions. The six Principles were developed by investors and are supported by the UN. They have more than 1,500 signatories from over 50 countries representing US\$62 trillion of assets. They are voluntary and aspirational, offering a menu of possible actions for incorporating ESG issues into investment practices. In implementing the Principles, signatories contribute to developing a more sustainable global financial system. For more information, see www.unpri.org.

About UNEP FI

The United Nations Environment Programme Finance Initiative (UNEP FI) is a unique global partnership between the United Nations Environment Programme (UNEP) and the global financial sector founded in 1992. UNEP FI works closely with over 200 financial institutions who have signed the UNEP FI Statements as well as a range of partner organizations to develop and promote linkages between sustainability and financial performance. Through peer-to-peer networks, research and training, UNEP FI carries out its mission to identify, promote, and realize the adoption of best environmental and sustainability practice at all levels of financial institution operations. For more information, see www.unepfi.org.

About The Generation Foundation

The Generation Foundation ('The Foundation') is the advocacy initiative of Generation Investment Management ('Generation'), a boutique investment manager founded in 2004. The Foundation was established alongside Generation in order to strengthen the case for Sustainable Capitalism. Its strategy in pursuit of this vision is to mobilise asset owners, asset managers, companies and other key participants in financial markets in support of the business case for Sustainable Capitalism, and to persuade them to allocate capital accordingly. For more information, see www.genfound.org.

CREDITS

Prepared by: Brian Tomlinson, Will Martindale, Elodie Feller, Melanie Paty and Grace Eddy

