

June 16, 2022

Securities and Exchange Commission
c/o Vanessa A. Countryman, Secretary
100 F Street NE
Washington, DC 20549-109

Re: File No. S7-10-22

Re: Proposed Rule Regarding the Enhancement and Standardization of Climate-Related Disclosures for Investors (File Number S7-10-22)

The First Nations Financial Management Board (“the FMB”) is pleased to provide you with comments on the proposed rule by the U.S. Securities and Exchange Commission (“the Commission”), File Number S7-10-22.

Overview

The FMB is providing feedback on the proposed rule as climate-related disclosures by SEC registrants will impact investment decisions being made in Indigenous territories. These same investment decisions are central to economic opportunities for Indigenous businesses. Under the United Nations Declaration on the Rights of Indigenous Peoples (“UNDRIP”), states must seek the free, prior and informed consent of Indigenous people before undertaking any projects on their lands or territories; accordingly, when developing projects in traditional territories, businesses, both registrants in the United States and those under the multijurisdictional disclosure system, must report on this requirement because it is material to determining enterprise value.

Recommendation: Require the Disclosure of a Registrant's Impact on Indigenous People

The FMB supports the development of regulations around the disclosure of climate-related risks as well as greenhouse gas (“GHG”) emissions. We also encourage the expansion of the proposed rule to require the disclosure of a registrant’s impact on the rights of Indigenous people. In order to adequately disclose material sustainability related information, it is essential that a registrant’s relationships with, and impacts on, Indigenous people and their traditional territory is included.

It has been demonstrated through the effects of legal challenges and stakeholder activism that ignoring the rights of Indigenous people can have significant adverse impacts on the feasibility of commercial projects. The result of these challenges could be a material impact on an entity’s enterprise value; therefore, this information should be disclosed to investors. Conversely, obtaining free, prior, informed, consent, and partnering with Indigenous people improves project viability and reduces uncertainty. This approach is consistent with the implementation of the universal framework of minimum standards set out in UNDRIP.

Recommendation: GHG Emission Reporting Should be Simultaneous with Indigenous Reporting

GHG emissions and prospective GHG emission reporting will affect Indigenous Peoples and their rights, disproportionately more than the mainstream economy. Indigenous Peoples are disproportionately located in higher-carbon economies including remote and northern communities. To ensure a just transition away from GHG emissions, standard setters should work in consultation and cooperation with Indigenous peoples by ensuring that Indigenous reporting is implemented simultaneously with GHG emission reporting.

As signatories of *COP26 SUPPORTING THE CONDITIONS FOR A JUST TRANSITION INTERNATIONALLY* communique, the United States (along with 30 other countries) must balance GHG reporting with Indigenous ESG factors. A just transition must consider that Indigenous people and businesses along the value chain currently have less access to renewable and cleaner forms of energy.

As access to capital is improved, and the infrastructure gap closes, Indigenous people have an important role to play as stewards of the land and resources that will make the transition to net zero achievable. Lands held by Indigenous people, and land comprising their traditional territory represent significant opportunities for the future clean energy development as well as rare earth metal extraction. These projects may only come to fruition through equitable, responsible, projects which respect the land and the rights of Indigenous people.

Indigenous people are currently at the forefront of energy generation projects partnering with industry leading firms and leveraging new technology in hydro, wind, geothermal, solar, and fossil fuels.

Recommendation: Reporting Requirements Should Meet the Standards of UNDRIP

While UNDRIP is not legally binding in the United States, the US federal government does recognize it as an instrument of both moral and political force. It is also reflective of the development of international legal norms and commitments of member states to abide by those principles.

Further, many SEC Registrants, including foreign private issuers, operate in countries around the world. Many of those jurisdictions are home to Indigenous people, and have enacted legislation, or are in the process of reviewing and establishing laws clarifying the rights of Indigenous people as codified in UNDRIP. For example, SEC registrants that operate in Canada will be required to comply with UNDRIP, having been domestically implemented through legislation.

With the development of many different climate and sustainability related reporting requirements it is important that the proposed rule is robust enough to meet the needs and interests of investors around the globe. Individual and institutional investors are increasingly showing interest in socially responsible investment vehicles. With an emphasis on social responsibility, funds that seek to facilitate improved economic opportunities for Indigenous people and address historical wealth inequalities are becoming more common.

When Indigenous governments, businesses, and individuals have access to capital to the same extent, and on the same terms as their non-Indigenous counterparts, it becomes possible to realize returns as well as further reconciliation. As historical disputes are settled, and the wealth of Indigenous governments continues to grow, Indigenous trust funds will fuel the market for funds that quantify an Indigenous component.

About FMB

The FMB is an Indigenous Institution created by Canadian federal legislation. The FMB sets standards for First Nations financial administration, financial performance, and financial management systems. The services provided by the FMB are optional and provided at no cost to the First Nation. More than 300 First Nations in Canada have signed letters of cooperation with the FMB.

Included in FMB's legislated purposes is 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."

Conclusion

Thank you for your consideration. We hope you will agree that we have raised important issues that will improve ESG-related disclosures for investors and support increased Indigenous involvement in the U.S. economy.

We would be happy to answer any questions you may have or provide further information as needed.

Sincerely,

FIRST NATIONS FINANCIAL MANAGEMENT BOARD

Per: "*Harold Calla*"

Harold Calla, FCPA, FCGA, CAFM
Executive Chair