

PRI RESPONSE

CANADIAN SECURITIES ADMINISTRATORS' PROPOSED AMENDMENTS TO FORM 58-101F1 CORPORATE GOVERNANCE DISCLOSURE AND NATIONAL POLICY 58-210 CORPORATE GOVERNANCE GUIDELINES

September 2023

The information contained in this briefing is provided for informational purposes only and should not be construed as legal advice on any subject matter. Except where expressly stated otherwise, the opinions, recommendations, findings, interpretations and conclusions expressed in this report are those of PRI Association, and do not necessarily represent the views of the contributors to the briefing or any signatories to the Principles for Responsible Investment (individually or as a whole).

To inform this briefing, the following investor groups have been consulted: PRI Global Policy Reference Group and RIA Policy Stewardship Group. This consultation is not an endorsement or acknowledgement of the views expressed in this briefing.

PRI Association

Registered office: 25 Camperdown Street
London, UK, E1 8DZ Company no. 7207947
T: +44 (0) 20 3714 3220 W: www.unpri.org E: info@unpri.org



**United Nations
Global Compact**

Alberta Securities Commission
Autorité des marchés financiers
British Columbia Securities Commission
Financial and Consumer Services Commission, New Brunswick
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Nova Scotia Securities Commission
Nunavut Securities Office
Office of the Superintendent of Securities, Newfoundland and Labrador
Ontario Securities Commission
Office of the Superintendent of Securities, Northwest Territories
Office of the Yukon Superintendent of Securities
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island

To the attention of:

The Secretary
Ontario Securities Commission
20 Queen Street West 22nd Floor, Box 55
Toronto, Ontario M5H 3S8

Email: comment@osc.gov.on.ca

Me Philippe Lebel
Corporate Secretary and Executive Director,
Legal Affairs
Autorité des marchés financiers
Place de la Cité, tour Cominar
2640, boulevard Laurier, bureau 400
Québec (Québec) G1V 5C1

Email: consultation-en-cours@lautorite.qc

ABOUT THE PRI

The Principles for Responsible Investment (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 (ESG) issues and to support signatories in integrating these issues into investment and ownership decisions. The PRI acts in the long-term interests of its signatories, of the financial markets and economies in which they operate and ultimately of the environment and society as a whole.

The six Principles for Responsible Investment are a voluntary and aspirational set of investment principles that offer a range of possible actions for incorporating ESG issues into investment practice. The Principles were developed by investors, for investors. In implementing them, signatories contribute to developing a more sustainable global financial system.

The PRI develops policy analysis and recommendations based on signatory views and evidence-based policy research. The PRI welcomes the opportunity to respond to the CSA's call for feedback on Proposed Amendments to Form 58-101F1 Corporate Governance Disclosure and Proposed Changes to National Policy 58-201 Corporate Governance Guidelines.

ABOUT THIS CONSULTATION

On April 13, 2023, the Canadian Securities Administrators (CSA) published the Proposed Amendments and Changes to the corporate governance disclosure requirements pertaining to board nominations, board renewal and diversity of non-venture issuers.

The Proposed Amendments and Changes reflect the CSA's commitment to ensuring investors have the information they need to make informed investment and voting decisions.

[Proposed Amendments to Form 58-101F1 Corporate Governance Disclosure of National Instrument 58-101 Disclosure of Corporate Governance Practices and Proposed Changes to National Policy 58-201 Corporate Governance Guidelines | OSC](#)

For more information, contact:

Kelly Krauter

Senior Specialist, Canada Policy and

Acting Head of Legal Framework for Impact

kelly.krauter@unpri.org

SUMMARY OF PRI RESPONSE

The PRI welcomes this opportunity to provide the CSA with insights on [investor data needs](#). Responsible investors require globally comparable, consistent and high-quality corporate sustainability disclosure to incorporate ESG risks and opportunities and to consider sustainability outcomes in their investment decisions and ownership activities.

The PRI supports the CSA's intention to mandate corporate governance disclosure requirements of non-venture issuers to include aspects of diversity beyond the representation of women on boards and in executive officer positions.

As a harmonising body, the CSA should strive for policy coherence across provincial securities regulation and federal corporate regulation wherever possible. In this case, provincial corporate disclosure metrics should align with existing federal corporate disclosure metrics required by the [Canada Business Corporations Act](#) which have been determined by the Canadian [Employment Equity Act](#). Adopting comparable and consistent domestic sustainability disclosures would surely help decrease the reporting burden for issuers, reduce information asymmetry for investors, and contribute to an increase in public confidence and market efficiency.

The PRI encourages the CSA to consider how the final disclosure requirements within Form 59-101F1 could fit within a wider corporate sustainability disclosure regime – beyond the scope and requirements captured by this consultation. The CSA could look at consolidating the various corporate disclosure forms for issuers to develop a wider, holistic corporate disclosure regime built upon the formal adoption of ISSB Standards S1 and S2, the OSFI Guideline B-15 and relevant enhancements determined by the Canadian Sustainability Standards Board.

The PRI interprets the issues of diversity, equity and inclusion to fit withing the broader spectrum of human capital, human rights, and social issues. In our recent [response](#) to the ISSB's Consultation on [Agenda Priorities](#), we recommend that the Board prioritise the project on human rights during its next two-year work plan, with a view to develop a general human rights and social issues reporting standard which includes DEI and human capital. Should it be adopted as a near-term priority, the CSA will be well-placed to contribute the experience and expertise gathered through its process to inform the ISSB project.

KEY RECOMMENDATIONS

The PRI's key recommendations to the CSA are:

- Proceed with Form B as the basis for amendments to the corporate disclosure requirements in Form 58-101F1. Include the reporting option, "prefer not to say," for individual voluntary self-disclosures.
- Broaden the requirement to include executive-level disclosures.

- Phase in disclosure requirements for venture issuers. Investors have indicated a need for sustainability-related information from all portfolio companies across sustainability-related issues, with phase-in used to achieve proportionality where necessary.
- Phase in time-bound target setting to achieve corporate board diversity and report on progress annually. Refer to the recommendations outlined in the Ontario Capital Markets Modernization Task Force.¹
- Consider how the final disclosure requirements in Form 59-101F1 fit within a wider corporate sustainability disclosure regime – beyond the requirements captured by this consultation. The CSA should look to consolidate the various corporate disclosure forms for issuers to develop a wider, holistic corporate sustainability disclosure regime built upon the formal adoption of ISSB Standards S1 and S2, the OSFI Guideline B-15 and relevant enhancements determined by the Canadian Sustainability Standards Board.
- Contribute insight and experience of developing DEI corporate governance disclosures to the ISSB, should it commit to working on a human capital, human rights and social issues reporting standard as part of its near term [Agenda Priorities](#).

DETAILED RESPONSE

The PRI supports the CSA's intention to mandate corporate governance disclosure requirements of non-venture issuers to include aspects of diversity beyond the representation of women on boards. As a subtopic of Human Capital, DEI sits within the safeguard expectations for equal opportunity and treatment. The PRI's 2022 paper, [Diversity, Equity and Inclusion: Key action areas for investors](#), demonstrates that DEI issues have a clear basis in human rights. The UN Guiding Principles on Business and Human Rights (UNGPs) articulate that investors have a responsibility to respect human rights, including DEI issues.

Companies and investors rely on healthy, stable social and environmental systems to generate financial returns. Because the financial performance of a diversified investor's portfolio relies on overall economic performance, investors are incentivised to look beyond the interests of their individual investees and more broadly on systemic issues, and support broader sustainability outcomes and well-functioning financial markets.² For this reason, investors have an interest in the overall DEI performance within an economy.

It is well understood that diversity within companies brings different perspectives and can reduce groupthink, support robust decision-making³ and lead to faster problem solving,⁴ strengthened risk

¹ Capital Markets Modernization Taskforce, 2021, [Final Report](#), pg. 64

² Quigley, 2020, [Universal Ownership in Practice: A Practical Positive Investment Framework for Asset Owners](#)

³ Ruffer, 2020, [Why diversity matters in investment](#)

⁴ Harvard Business Review, 2017, [Teams Solve Problems Faster When They're More Cognitively Diverse](#)

management,⁵ more accurate predictions⁶ and increased innovation. One study found that companies with more diverse management teams have 19% higher revenues due to innovation.⁷

Companies and investors also run into significant risks in failing to improve or in ignoring DEI: for example, studies in the US show high incidences of sexual harassment can impact market performance, profitability, as well as staff productivity and turnover.⁸

Investors can play a very important role in advancing DEI efforts for all groups in society, including indigenous communities, women, people of colour, religious minorities, and others. In [A Legal Framework for Impact](#) (LFI), a joint research project between by the PRI, UNEP FI, the Generation Foundation, and Freshfields Bruckhaus Deringer, the research finds that across the 11 jurisdictions studied, including Canada, *investors are broadly permitted, and in some cases may be required, to consider pursuing sustainability goals where this would contribute to their financial return objectives*. They can use capital allocation, stewardship and collaborative engagement with others to influence investees and policy makers to have a positive effect on the relevant sustainability issues or the assets' exposure to them; and to do so in ways that reduce the investment risk.

Investors require consistent and comparable data to inform this type of intentional and outcome-oriented investment and ownership activities. For this reason, the PRI recommends the CSA proceed with proposed Form B because it largely aligns with the Canadian Business Corporations Act (CBCA) which is consistent with Canadian employment law. Moreover, the CSA should consider extending the requirement to executive officer positions to further reflect the CBCA.

The diversity disclosures table should allow respondents to use discretion when providing information and should offer the possibility for individuals to select "prefer not to disclose". The disclosure of diversity data should be voluntary and free from coercion.

Diversity reporting requirements for venture issuers should be phased in, once the baseline data for non-venture issuers has been collected, analysed and relevant targets have been determined and reported on by non-venture issuers.

The CSA should consider how the disclosures requirements in Form 59-101F1 could fit within a wider corporate sustainability disclosure regime. Although this is beyond the scope and requirements of this consultation, the PRI would like to see the CSA consolidate the various corporate disclosure forms for issuers to develop a wider, holistic corporate sustainability disclosure regime which would build upon the formal adoption of ISSB Standards S1 and S2, additional jurisdictional enhancements provided by the Canadian Sustainability Standards Board and OSFI's Guideline B-15.

Having completed an in-depth consultation process with the Canadian market, the CSA will be well positioned to contribute the insight and experience it has gained through developing DEI corporate

⁵ Young Zik Shin, Jeung-Yoon Chang, Keyeongmin Jeon, and Hyunpyo Kim, 2019, [Female directors on the board and investment efficiency: evidence from Korea](#)

⁶ Page, 2017, [The Diversity Bonus: How Great Teams Pay Off in the Knowledge Economy](#)

⁷ BCG, 2018, [How Diverse Leadership Teams Boost Innovation](#)

⁸ Au, Dong & Tremblay, 2019, [Employee Sexual Harassment Reviews and Firm Value](#)

governance disclosures to the ISSB, should it commit to working on a human capital, human rights and social issues reporting standard as part of its near term [Agenda Priorities](#).

The PRI has experience with contributing to public policy on sustainable finance and responsible investment across multiple markets and stands ready to support the work of the Canadian Securities Administrators further to support the adoption of a wider corporate disclosure regime built upon the formal adoption of ISSB Standards in Canada.

Please send any questions or comments to policy@unpri.org.

More information on www.unpri.org