Canada Climate Law Initiative | L'Initiative canadienne de droit climatique

From:
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30 November 2023

To: The Honourable David Eby
Premier of British Columbia
premier@gov.bc.ca

and to: The Honourable Katrine Conroy
Minister of Finance
Government of British Columbia
FIN.Minister@gov.bc.ca

and to: The Honourable Brenda Bailey
Minister of Jobs, Economic Development and Innovation
Government of British Columbia
JEDI.Minister@gov.bc.ca

and to: The Honourable George Heyman
Minister of Environment and Climate Change Strategy
Government of British Columbia
ENV.Minister@gov.bc.ca

Dear Premier Eby, Minister Conroy, Minister Bailey, and Minister Heyman,

Re: Policy Submission to the Premier and the BC Government on Strengthening Climate Resilience in the Financial Services and Corporate Sectors

The Canada Climate Law Initiative (CCLI) submits that four key policy recommendations have the potential to considerably enhance the British Columbia (BC) government's oversight of financial services and support the corporate sector in the transition to a net-zero greenhouse gas (GHG) emissions economy. Policies to help BC residents become financially resilient to the impacts of climate change are critically important. BC faces growing, significant exposure to climate-related impacts, including increasing frequency and severity of flooding, heat waves, wildfires, atmospheric rivers, and winter storms.[1] The BC Financial Services Authority (BCFSA) has recently demonstrated leadership by issuing the *Natural*

[1] Intergovernmental Panel on Climate Change (IPCC), *Climate Change 2023: Synthesis Report* (20 March 2023), IPCC_AR6_SYR_SPM.pdf; IPCC, *Sixth Assessment Report from the Intergovernmental Panel on Climate Change* (2021), IPCC_AR6_WGI_SPM_final.pdf; UNEP, *UNEP Emissions Gap Report* 2023 (20 November 2023), EGR2023.pdf (unep.org).

Catastrophes and Climate-Related Risks, Managing Uncertainty and Building Resilience in the BC Financial Services Sector report.[2] You now have a unique opportunity to move quickly to build on that leadership by issuing guidance that will protect the safety and soundness of our financial system and attract new capital to support the transition.

BCFSA's mandate includes safeguarding the interests of depositors, policyholders, beneficiaries, pension plan members, and other consumers of financial services.[3] BCFSA supervises provincially-regulated credit unions, pension plans, insurers, and trust companies, determining whether they are in sound financial condition and are complying with their governing laws and supervisory standards. It uses a risk-based supervisory framework to identify imprudent or unsafe business practices.[4] The BCFSA's regulatory mandate includes oversight of 34 credit unions with more than $78 billion in assets; 635 pension plans with $212.2 billion in assets protecting more than 1.2 million members; and more than 230 insurance and trust companies.[5] The corporate sector is also important to BC's economy. There are 8,600 large businesses in British Columbia that generate approximately 67% of provincial GDP.[6]

Given the importance of BC's financial institutions and companies to both the provincial and national economies, the government has the potential to be a leading presence in encouraging investment in projects, activities, and sectors that will support the transition to a net-zero carbon economy. CCLI's recommendations, if implemented, will strengthen regulatory oversight and contribute to long-term economic competitiveness in the province, while showcasing a commitment to proactive climate action in support of industry actions already underway. While BC is a province of largely small businesses, its largest businesses have an important role in leading the transition to a sustainable economy.

The CCLI is a collaboration of the law faculties at the University of British Columbia and York University that analyses the legal obligations of corporate directors, pension fiduciaries, and asset managers to manage and report on climate-related financial risks and opportunities. It publishes guidance on effective climate governance, working closely with legal and accounting professionals and policymakers.[7] CCLI believes our recommendations will effectively amplify BC's protection of the safety and soundness of the financial system by offering guidance to BC-regulated financial institutions on managing climate-related financial risks and building resilience in both the financial services and corporate sectors in the transition to a decarbonized economy.

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[2] British Columbia Financial Services Authority (BCFSA), *Natural Catastrophes and Climate-Related Risks, Managing Uncertainty and Building Resilience in the BC Financial Services Sector* 2023 *Discussion Paper* (July 2023), download (bcfsa.ca) (hereafter *Natural Catastrophes and Climate-Related Risks).*

[3] *Natural Catastrophes and Climate-Related Risks,* note 2 at 5.

[4] BCFSA, *Supervisory Framework For Provincially Regulated Financial Institutions* (September 2021), at 8-9, https://www.bcfsa.ca/media/42/download.

[5] BC Financial Services Authority 2022/23 Annual Service Plan Report (August 2023) at 7, BC Financial Services Authority 2022/23 Annual Service Plan Report (bcfsa.ca); as well as over 6,500 mortgage brokers and brokerages; and 37,000 real estate licensees, brokerages, branches, and personal real estate corporations. BCFSA was established by the *Financial Services Authority Act*, 2019. See also British Columbia Financial Services Authority, *Report on Pension Plans Registered in British Columbia* (October 2023), at 6, https://www.bcfsa.ca/media/3498/download.

[6] BC Ministry of Jobs, Economic Recovery and Innovation, *Small Business Profile 2022*, at 14, 38, sb_profile.pdf (gov.bc.ca).

[7] See for example, in financial services, Helen Tooze, *Canadian Credit Unions and Effective Climate Governance Cooperating for a Sustainable Future* (CCLI and Canadian Credit Union Association, 2023); Janis Sarra and Norie Campbell, *Banking on a Net-Zero Future: Effective Climate Governance for Canadian Banks* (CCLI 2022); Janis Sarra, *Life, Health, Property, Casualty: Canadian Insurance Company Directors and Effective Climate Governance* (CCLI 2021); Janis Sarra, Roopa Davé, Meghan Harris-Ngae, and Ravipal Bains, *Audit Committees and Effective Climate Governance, A Guide for Boards of Directors* (CCLI, 2020).

Our recommendations:

1. Adopt a guideline on climate financial risk management for BC-regulated financial institutions aligned with the federal Office of the Superintendent of Financial Services (OSFI) Guideline B-15 Climate Risk Management,[8] extending requirements under the guideline to BC-regulated pension funds in addition to other financial institutions.

2. Endorse the Sustainable Finance Action Council's (SFAC) Green and Transition Finance Roadmap and co-operate as a member of the proposed Taxonomy Council's Indigenous, Provincial, and Territorial Government Stakeholder Advisory Group in advising the Taxonomy Council on developing the Green and Transition Finance Taxonomy.

3. Amend section 51 of the Pension Benefits Standards Regulation[9] pursuant to the BC *Pension Benefits Standards Act*[10] to require that the pension plan administrator's written statement of investment policies and procedures (SIPP) includes a statement on how its policies and procedures address climate-related financial risks, including the plan's climate resilience (mitigation and adaptation) and how it weighs the risks and benefits in decisions with respect to its portfolio of investments and loans in light of the impending transition to a net-zero emissions economy.

4. Amend the BC Business Corporations Regulation pursuant to the British Columbia *Business Corporations Act (BCBCA)*[11] to require large *BCBCA*-registered companies to develop transition plans to address climate-related risks and opportunities. Our proposal would apply to 380 companies with 500 or more employees and, one year later, would be applicable to the 3,411 BC companies with 100 to 500 employees, most of which are not covered by the initiatives being implemented by provincial and territorial securities law or federal financial services regulation.

CCLI's detailed rationale for these recommendations is discussed below.

Recommendation 1: Adopt a guideline on climate financial risk management for BC-regulated financial institutions aligned with the federal Office of the Superintendent of Financial Services (OSFI) Guideline B-15 Climate Risk Management, extending requirements under the guideline to BC-regulated pension funds in addition to other financial institutions.

BC has demonstrated leadership among provincial regulators in announcing that it will issue guidance on climate-related financial risk management. The BCFSA, as part of its oversight of BC-regulated financial institutions, protects the safety and soundness of the financial sector and the public while allowing

[8] Office of the Superintendent of Financial Services (OSFI), "Guideline B-15 Climate Risk Management" (March 2023), Climate Risk Management (osfi-bsif.gc.ca).
[9] Pension Benefits Standards Regulation BC Reg 71/2015, OC 219/2015, as amended, Pension Benefits Standards Regulation (gov.bc.ca).
[10] *Pension Benefits Standards Act*, SBC 2012, c 30, as amended, Pension Benefits Standards Act (gov.bc.ca).
[11] BC Business Corporations Regulation, BC Reg. 65/2004, OC 201/2004, last amended 1 March 2023, BC Reg. 50/2023, Business Corporations Regulation (gov.bc.ca); British Columbia *Business Corporations Act,* SBC 2002, c 57, as amended (*BCBCA*).

regulated entities to innovate and grow.[12] BCFSA has stated that it will focus on the key risks including credit, market, and operational risks such as climate change.[13]

BCFSA has recognized the need to ensure that the entities it regulates exercise prudent risk management, and that they help ensure consumers are protected and treated fairly, noting that regulatory guidance can ensure a consistent and comprehensive approach across the financial services sector.[14] The CCLI supports BCFSA's proposed integrated and proportionate approach that will encourage financial services providers to consider Natural Catastrophes and Climate-Related Risks (NCCR) holistically, considering the impacts on both businesses and the consumers they serve.[15] CCLI supports BCFSA's proposed two-pillar approach: ensuring financial services providers identify, measure, and manage NCCR, commensurate with the level of risk to both their business and to consumers; and ensuring financial services providers disclose sufficient information to consumers so that they can understand the risks to products and services they are being offered and/or are receiving, and the strategies being employed to manage such risks.[16] With respect to climate-related risks, the NCCR-specific guidance for financial institutions and pensions plan administrators should focus on climate resilience and the transition to net-zero emissions as part of their fiduciary responsibilities.[17]

The CCLI applauds the BCFSA for its "whole of society" approach and commitment to working with other stakeholders to address the causes of climate change, mitigate risk drivers, and build resilience, while meeting its mandate to supervise the financial services sector to identify material risks and to intervene as necessary to ensure the safety and soundness of the financial system and protection of consumers.[18] BCFSA's risk-based approach to identify business practices that are imprudent, unsafe, or unfair, and its early intervention framework allows it to identify issues or problems early on and to take corrective action on a timely basis.[19] BCFSA's analysis indicates that NCCR are material, and potentially systemic to the safety and soundness of BC's financial services sector and BCFSA must act to ensure that the entities it regulates exercise prudent risk management.

Physical risks include the increasing frequency and severity of climate-related physical events, such as flooding, heat waves, wildfires, wind, and winter storms; the indirect effects of climate change such as biodiversity and ecosystem losses and longer-term sea level rise and ocean acidification risks.[20] In 2021 alone, the June heat wave, summer wildfires, and the November floods in BC resulted in $10.6 to $17.1 billion total damage.[21] BCFSA has also recognized the transition risks associated with transitioning to a lower-carbon economy, such government policies to reduce emissions, technological advancements, and changes in investor or consumer sentiment.[22]

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[12] BC Financial Services Authority 2022/23 Annual Service Plan Report, note 5 at 9.

[13] BCFSA, "2023/24 – 2025/26 Service Plan" (February 2023) at 10, BC Financial Services Authority ("BCFSA") 2023/24 - 2025/26 Service Plan (gov.bc.ca).

[14] *Natural Catastrophes and Climate-Related Risks,* note 2 at 3.

[15] *Natural Catastrophes and Climate-Related Risks,* note 2 at 3.

[16] *Natural Catastrophes and Climate-Related Risks,* note 2 at 4, 5.

[17] *Natural Catastrophes and Climate-Related Risks,* note 2 at 4.

[18] *Natural Catastrophes and Climate-Related Risks,* note 2 at 5.

[19] *Natural Catastrophes and Climate-Related Risks,* note 2 at 7.

[20] *Natural Catastrophes and Climate-Related Risks,* note 2 at 9.

[21] M Lee and B Parfitt, Canadian Centre for Policy Alternatives, *A Climate Reckoning The economic costs of BC's extreme weather in 2021* (November 2022), https://policyalternatives.ca/sites/default/files/uploads/publications/BC%20Office/2022/11/ccpa-bc_Climate-Reckoning_web.pdf; British Columbia Coroners Service, *Extreme Heat and Human Mortality: A Review of Heat-Related Deaths in B.C. in Summer 2021* (7 June 2022), Extreme Heat Death Review Panel Report (gov.bc.ca)

[22] *Natural Catastrophes and Climate-Related Risks,* note 2 at 9.

Importantly, the BCFSA has recognized that NCCR, including climate change, may amplify conventional prudential risks, including credit, market, operational, reputational, liquidity, strategic, and insurance risks; in turn creating risks that consumers could be treated unfairly, primarily through a lack of transparency, mis-selling, and poor product suitability/availability.[23] BCFSA has acknowledged that provincial and federal governments' legislative commitments to achieve net-zero greenhouse gas (GHG) emissions by 2050 and the transition to a lower-emissions economy could impact financial institutions and pension plans with material exposures to carbon-intensive assets.[24] Guidance is needed to ensure financial institutions appropriately capture risks and ensure a consistent and comprehensive approach across the financial services sector.[25]

CCLI supports BCFSA's objective of increasing the resilience of financial services providers, specifically, their capacity to withstand or recover quickly from difficulties by ensuring the operational resilience to respond swiftly to climate impacts; ensuring that financial services providers can respond to plausible but severe climate scenarios.[26] Consumers' resilience will be enhanced by access to information and financial products and services that provide financial protection, making consumers' best interests the priority and an integral part of what financial services providers consider in setting business priorities.[27]

The CCLI supports BCFSA's stated intention to develop an NCCR Management Guideline that would establish expectations for financial institutions to identify, measure, and manage NCCR for both their business and consumers, including integrating NCCR into governance, strategy, and risk management processes and frameworks.[28] BCFSA is considering recent guidance developed by OSFI for financial institutions and the Canadian Association of Pension Supervisory Authorities (CAPSA) for pensions plan administrators.[29] BCFSA is proposing to develop a guideline that will require BC-incorporated insurance companies and credit unions to identify, measure, and manage NCCR in a way that is proportionate to the risk posed to their business and to consumers.[30] The proposed guideline should align as much as possible with OSFI's B-15 Guideline on Climate Risk Management, understanding that there may need to be some modifications based on the unique characteristics of BC's regulated financial institutions.[31] However, our view is that the CAPSA guidance is too weak to meaningfully support BCFSA's substantive objectives in managing climate-related financial risk.[32] The scope of OSFI's B-15 should be extended to pension funds.

The CCLI appreciates that many BCFSA-regulated entities are small and many are not publicly traded; and BCFSA acknowledges that there may be initial challenges acquiring climate-risk data that is high-quality,

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[23] *Natural Catastrophes and Climate-Related Risks,* note 2 at 13.
[24] *Natural Catastrophes and Climate-Related Risks,* note 2 at 15.
[25] *Natural Catastrophes and Climate-Related Risks,* note 2 at 17.
[26] *Natural Catastrophes and Climate-Related Risks,* note 2 at 19.
[27] *Natural Catastrophes and Climate-Related Risks,* note 2 at 19, 20.
[28] *Natural Catastrophes and Climate-Related Risks,* note 2 at 21.
[29] *Natural Catastrophes and Climate-Related Risks,* note 2 at 21.
[30] *Natural Catastrophes and Climate-Related Risks,* note 2 at 7, 30, BCFSA has included earthquakes in its definition of NCCR, meaning insurance companies would also need to consider their earthquake exposure. It notes that given that BCFSA already expects B.C. incorporated insurers to comply with OSFI's B-9 Earthquake Exposure Sound Practices Guideline, BCFSA's approach is not anticipated to have a significant impact on how insurers manage seismic risk.
[31] *Natural Catastrophes and Climate-Related Risks,* note 2 at 21.
[32] See CCLI submission on CAPSA Guideline for Pension Plan Risk Management for Plan Administrators, September 2023, CCLI-Submission-to-CAPSA-29-September-2023.pdf (ubc.ca) and CCLI submission on CAPSA Guideline Environmental, Social and Governance Considerations in Pension Plan Management 6-September-2022-Submission-to-CAPSA-from-the-Canada-Climate-Law-Initiative.pdf (ubc.ca).

reliable, and comparable.[33] The CCLI also supports BCFSA's announced plans to update the Capital Adequacy Return (CAR) for credit unions and develop a Capital Management Guideline and to ensure financial institutions take NCCR into consideration when understanding their risks and assessing how much capital they need to support business activities.[34]

BCFSA has developed a financial model to estimate the impact of physical risks to lending portfolios of BC credit unions, including scenario analysis, an important tool in supervision of regulated entities.[35] The CCLI applauds the BCFSA for updating loan data reporting requirements for credit unions to include NCCR data and its goal of aligning data with national and international standards regarding reporting, transparency, and best practice.[36] We appreciate that BCFSA will consider how best to adopt and/or adapt the climate scenarios developed by OSFI, but urge it to achieve as much consistency as possible in order to allow investors and consumers to compare information across entities and over time.

We agree that increased transparency around governance, corporate strategy, and risk management is essential so that consumers and investors know the exposure of financial institutions and pension plans to NCCR and strategies they employ to address risks.[37] We applaud BCFSA's statement that external assurance is important to help ensure that financial institutions' and pension plans' disclosures related to sustainability are accurate, not misleading, and aligned with emerging best practices and standards.[38] Now that BCFSA has completed consultation on its NCCR report, it is critically important to act swiftly to issue the guideline.

The CCLI submits that BC's adoption of a guideline on climate risk management would recognize that building resilience against climate-related risks requires financial institutions to address vulnerabilities in their business model, their overall operations, and their balance sheet using forward-looking approaches that are holistic, integrated, and built on reliable empirical data and sound analyses.[39] It does not preclude investments in energy-intensive trade exposed sectors, but informs and unlocks investments through a transparent and evidence-based lens with the understanding that investments in transition projects are critical and globally relevant to a net-zero Paris Agreement-aligned future. Guideline B-15 recognizes that climate risks and vulnerabilities will vary with a financial institution's size, nature, scope, complexity of its operations, and risk profile.[40] We submit that BC should adopt the five principles in Guideline B-15 to align the safety and soundness of the financial services sector. Specifically, the BC guideline should adopt:

> Principle 1: The financial institution should have the appropriate governance and accountability structure in place to manage climate-related risks; should disclose the board of directors' oversight of climate-related risks and opportunities and management's responsibility for assessing and managing climate-related risks and opportunities; and consider whether senior management compensation policies and practices should incorporate climate-related risk considerations.

[33] *Natural Catastrophes and Climate-Related Risks,* note 2 at 21.
[34] BCFSA's expectations are outlined in the Internal Capital Adequacy Assessment Process (ICAAP) Guideline for credit unions and Own Risk and Solvency Assessment (ORSA) Guideline for Insurers; *Natural Catastrophes and Climate-Related Risks,* note 2 at 24.
[35] *Natural Catastrophes and Climate-Related Risks,* note 2 at 24.
[36] *Natural Catastrophes and Climate-Related Risks,* note 2 at 24.
[37] *Natural Catastrophes and Climate-Related Risks,* note 2 at 26.
[38] *Natural Catastrophes and Climate-Related Risks,* note 2 at 26.
[39] Guideline B-15, note 8 at 1.
[40] Guideline B-15, note 8 at 2.

> Principle 2: The financial institution should implement a "climate transition plan" in line with incorporating climate risk management in its business plan and strategy to guide its actions to manage increasing physical risks from climate change and the risks associated with its transition towards a low-GHG economy, assessing achievability of its plan under different climate-related scenarios and measuring progress through internal metrics and targets.
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> Principle 3: The financial institution should manage and mitigate climate-related risks in accordance with its Risk Appetite Framework and Enterprise Risk Management framework, monitoring and reporting relevant internal metrics, limits, and indicators to assess the effectiveness of its climate risk management.
>
> Principle 4: The financial institution should use climate scenario analysis to assess the impact of climate-related risks on its risk profile, business strategy, and business model.
>
> Principle 5: The financial institution should maintain sufficient capital and liquidity buffers for its climate-related risks, incorporating climate-related risks into its Internal Capital Adequacy Assessment Process (ICAAP) or Own Risk and Solvency Assessment (ORSA) process.[41]

The CCLI submits that BCFSA should adopt OSFI's three expected outcomes, specifically, that BC-regulated financial institutions and pension funds understand and mitigate against potential impacts of climate-related risks to their business model and strategy; should have appropriate governance and risk management practices to manage identified climate-related risks; and that they remain financially resilient through severe, yet plausible, climate risk scenarios, and operationally resilient through disruption due to climate-related disasters.[42] The guideline should be clear that disclosure of climate-related risk management and transition plans must be embedded in financial reporting and subject to officer certification and independent third-party assurance. The financial institution should report information that is clearly defined, collected, and recorded; disclosing clear, balanced, and understandable information. Scenario analyses should be based on data used for investment decision-making and risk management.

The CCLI submits that BC's guidance should require financial institutions to disclose Scope 1, 2, and 3 GHG emissions (absolute basis) on a phased-in basis; disclose the standard used to calculate and disclose the emissions; and if the reporting standard used is not the GHG Protocol Corporate Standard, disclose how the reporting standard is comparable with the GHG Protocol Corporate Standard.[43] We appreciate that Scope 3 data will initially be challenging to assess and may initially have to be estimated; however, considering that Scope 3 emissions comprise the majority of end-to-end carbon emissions, it will be important to estimate, particularly for projects in which the credit union provides debt or equity financing. For financed, facilitated, and insured Scope 3 GHG emissions, the financial institution should use the latest Partnership for Carbon Accounting Financials (PCAF) Global GHG Accounting and Reporting Standard for the Financial Industry (PCAF Standard), and if the reporting initiative used by the financial institution is not the PCAF Standard, then disclose how the reporting initiative used is comparable with the PCAF Standard.[44] The financial institution should describe the targets it uses to manage climate-related risks

[41] Guideline B-15, note 8 at 4-6.
[42] Guideline B-15, note 8 at 2.
[43] Guideline B-15, note 8 at 16.
[44] Guideline B-15, note 8 at 16.

and opportunities and the financial institution's performance against and progress towards these targets. These requirements would align with OSFI's Guideline B-15.

Adoption of a guideline for BC-regulated financial institutions would align with BCFSA's current eight key supervisory principles regarding risk assessment, specifically:

> Principle #1 Focus on material risk to a provincially-regulated financial institution (PRFI), including the potential for loss to depositors, policyholders, or beneficiaries.
>
> Principle #2 Risk assessment is forward-looking, which facilitates the early identification of problems and timely intervention where corrective actions need to be taken.
>
> Principle #3 Proportionality - risk assessment will consider size, scale, complexity, and nature of the PRFI's risk profile when applying the assessment criteria for rating the quality of risk management.
>
> Principle #4 Risk assessment relies on sound, predictive judgment with a clear, supported rationale.
>
> Principle #5 Risk assessment requires an understanding of the drivers of material risk to a PRFI, including business model, strategies, risk appetite, and knowledge of the PRFI's external and internal risk drivers and how they may expose vulnerabilities in the PRFI's risk management and mitigation.
>
> Principle #6 Risk assessment requires differentiation between the risks inherent to the activities undertaken by the PRFI and its management of those risks at both the operational and oversight levels.
>
> Principle #7 Dynamic Adjustment - risk assessment is continuous and dynamic to ensure that changes in risk, arising from both the PRFI and its external environment, are identified early.
>
> Principle #8 Assessment of the whole institution – supervision culminates in a consolidated assessment of risk to a PRFI, combining an assessment of earnings and capital in relation to the overall net risk from the PRFI's significant activities, as well as an assessment of the PRFI's liquidity, to arrive at a composite view.[45]

BCFSA has stated that its framework for risk-based supervision is informed by federal and international standards, including set by the Basel Committee on Banking Supervision and International Association of Insurance Supervisors, and adjusted for local market realities.[46] The CCLI supports a prudential framework that recognizes the importance of BC-regulated financial institutions building financial resilience against intensifying climate-related risks in each aspect of their business plans. We note that OSFI's Guideline B-15 aligns with the framework recommended by the Financial Stability Board's (FSB) Taskforce on Climate-related Financial Disclosures (TCFD)[47] and the International Financial Reporting Standards (IFRS) Foundation's International Sustainability Standards Board (ISSB) S2 Climate-related Disclosures,[48] which

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[45] BCFSA, *Supervisory Framework For Provincially Regulated Financial Institutions*, note 4 at 8-9.
[46] BC Financial Services Authority 2022/23 Annual Service Plan Report, note 5 at 9; BCFSA, *Supervisory Framework For Provincially Regulated Financial Institutions,* note 4 at 4.
[47] Financial Stability Board's Task Force on Climate-Related Financial Disclosure (TCFD) Framework.
[48] International Financial Reporting Standards (IFRS) Foundation, International Sustainability Standards Board (ISSB), *IFRS S2 Climate-related Disclosures* (2023), IFRS - IFRS S2 Climate-related Disclosures.

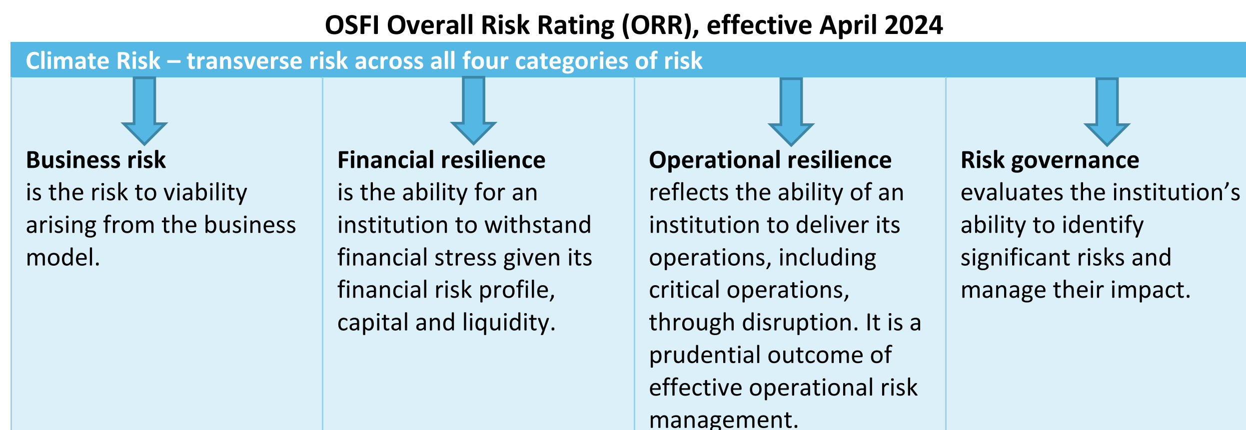
will ensure Canada keeps pace with regulatory developments for financial institutions globally. The embedding of oversight and management of climate-related risks and opportunities in governance, strategic planning, risk management, targets, and metrics will reduce risks of credit union or other financial institution failure from the growing frequency and intensity of acute events and the longer-term risks of chronic impacts.

CCLI's recommendations also support the BC government's five principles of putting people first, lasting, and meaningful reconciliation, equity and anti-racism, a better future through fighting climate change and meeting GHG commitments, and a strong, sustainable economy that works for everyone.[49]

Further, the CCLI urges BCFSA to consider adopting OSFI's approach in its new Supervisory Framework to federally-regulated financial institutions, effective April 2024, to consider climate risk a "transverse risk" that crosses all areas of financial risk.[50] The framework is aimed at capturing the impact of systemic risks by introducing four risk categories – business risk, financial resilience, operational resilience and risk governance. OSFI has observed:

> Climate risk is an important area of focus and we've developed the new framework to support this work. Climate risk considerations can impact all of the new rating categories. We therefore show climate as a transverse risk. Significant climate-rated risks will be reflected in our rating of the relevant category. When we communicate with institutions it will be clear when climate risk is an issue.[51]

The chart below demonstrates the importance of climate risk to OSFI's entire supervisory framework.



Created by CCLI based on OSFI framework[52]

[49] BC Financial Services Authority 2022/23 Annual Service Plan Report, note 5 at 5.
[50] Ben Gully, Deputy Superintendent, OSFI, Supervisory Framework Renewal – Briefing – Fall 2023, OSFI, (2023), Ben Gully – Supervisory Framework Renewal – Briefing – Fall 2023 (osfi-bsif.gc.ca). See also OSFI Notice, OSFI's New Supervisory Framework, (4 October 2023), OSFI's New Supervisory Framework (osfi-bsif.gc.ca).
[51] Ben Gully, Deputy Superintendent, OSFI, Supervisory Framework Renewal – Briefing – Fall 2023, note 50.
[52] Ben Gully, Deputy Superintendent, OSFI, Supervisory Framework Renewal – Briefing – Fall 2023, note 50.

Recommendation 2: Endorse the Sustainable Finance Action Council's (SFAC) Green and Transition Finance Roadmap and proposed Taxonomy, and co-operate as a member of the proposed Taxonomy Council's Indigenous, Provincial, and Territorial Government Stakeholder Advisory Group in advising the Taxonomy Council.

A green and transition finance taxonomy is key to Canada's transition to sustainable finance as it will set standards for climate-related financial instruments and benchmarking climate risk management. The BC government can take a leadership role in endorsing SFAC's Green and Transition Finance Roadmap.[53] Several BC representatives such as Vancity and British Columbia Investment Management Corporation participated in working groups and steering committees to develop the taxonomy, and their input has helped make the roadmap practical and feasible. The federal government in its 2023 Fall Economic Statement announced that the Department of Finance will work in consultation with regulators, the financial sector, industry, and independent experts, to develop a taxonomy that is aligned with reaching net zero by 2050.[54] BC should participate as a member of the proposed Taxonomy Council's Indigenous, Provincial, and Territorial Government Stakeholder Advisory Group in advising the Taxonomy Council as it moves forward.

A taxonomy is primarily a classification system – it outlines a common set of definitions and criteria to create clarity and agreement on what constitutes a "green" or "transition" investment. Taxonomies are a critical tool for solving two urgent and interrelated challenges within Canada's financial system: the ability to attract global capital to invest in Canada's low-carbon transition and to reduce the risk of "greenwashing".[55] Investors need transparency and certainty in order to make strategic investment decisions. A taxonomy does not dictate investors' or companies' investment or capital expenditure choices.

A science-based taxonomy will create the market integrity, clarity, and interoperability necessary to accelerate global capital investment in Canada's low-carbon transition. The SFAC recommendations need to be implemented to facilitate company-level net-zero target setting, transition planning, and effective climate disclosure; evaluate projects against framework criteria to determine whether they are green or transition; and assess projects against "do no significant harm" criteria. The proposed Taxonomy will flow capital to decarbonization opportunities across all major emitting sectors. BC has an important role in helping to develop the Taxonomy in a manner that protects the safety and soundness of the financial system, aligning with BCFSA's key supervisory risk assessment principles noted above. What is important is that the Taxonomy Council's governance is evidence-based, transparent, independent, timely, and results focused.

Recommendation 3: Encourage the Minister of Finance to amend section 51 of the Pension Benefits Standards Regulation pursuant to the BC *Pension Benefits Standards Act* to require that the pension plan administrator's written statement of investment policies and procedures (SIPP) includes a statement on how its policies and procedures address climate-related financial risks, including the plan's climate resilience (mitigation and adaptation) and how it weighs the risks and benefits in decisions with respect to its portfolio of investments and loans in light of the impending transition to a net-zero emissions economy.

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[53] Sustainable Finance Action Council (SFAC) Taxonomy Roadmap Report (2022) (hereafter Taxonomy Roadmap).
[54] Deputy Prime Minister Freeland, "2023 Fall Economic Statement" (21 November 2023), at 63, FES-EEA-2023-en.pdf (canada.ca).
[55] Taxonomy Roadmap, note 53.

It is vitally important that pension plans understand how climate risk impacts their portfolio from a risk adjusted returns perspective. A pension plan should expect its investment manager to report on the fund's carbon footprint, climate value at risk assessment under different scenarios, and the investment manager's strategy to address climate risk and opportunity.

Section 43(1) and (2) of the BC *Pension Benefits Standards Act*[56] specify that the administrator of a pension plan must have a written statement of investment policies and procedures (SIPP) in respect of the plan's portfolio of investments, and ensure that the pension fund is invested in accordance with the SIPP. Section 51 of the Pension Benefits Standards Regulation[57] pursuant to the *Pension Benefits Standards Act* specifies that the administrator of a pension plan, in establishing the SIPP required under section 43 of the *Act,* has regard to all factors that may affect the funding and solvency of the plan and the ability of the plan to meet its financial obligations, including categories of investments, diversification of the investment portfolio; asset mix and liquidity; the lending of cash or securities; and the method of, and the basis for, the valuation of investments that are not regularly traded at a marketplace. The SIPP must include a description of the factors to which the administrator had regard when establishing the statement, and how those factors were applied to establish the policies and procedures set out in the statement.[58] Arguably, this language is broad enough to cover climate risk, given its urgency and the transverse nature of the risk.[59]

However, the CCLI submits that the BC government should amend section 51 of the Regulation to require that the pension plan administrator's SIPP expressly includes a statement on how its policies and procedures address climate-related financial risks, including the plan's climate resilience (mitigation and adaptation) and how it weighs the risks and benefits in decisions with respect to its portfolio of investments and loans, in light of the impending transition to a net-zero emissions economy.

Pursuant to s 35 of the BC *Pension Benefits Standards Act,* the administrator of a pension plan must ensure that the plan and the pension fund are administered in accordance with the *Act*, the regulations and the plan documents. The administrator has a fiduciary duty in relation to plan members and beneficiaries, and has a duty to act honestly, in good faith, and in the best interests of plan members and beneficiaries, and a duty to exercise the care, diligence, and skill that a person of ordinary prudence would exercise when dealing with the property of another person.[60] The administrator also has a duty to make investments in accordance with the *Act,* the regulations, and in the best financial interests of plan members and other persons entitled to benefits under the plan; and pension plan assets must be invested in a manner that a reasonable and prudent person would adopt if investing the assets on behalf of a person to whom the investing person owed a fiduciary duty to make investments, without undue risk of loss, and with a reasonable expectation of a return on the investments commensurate with the risk, having regard to the plan's liabilities.[61]

The duty of impartiality requires trustees and fund managers to balance intergenerational interests in determining short-, medium-, and long-term investments. In order for pension fiduciaries to fulfill their fiduciary duty to act prudently, clear baseline standards with respect to climate governance and risk management are required, including identification, oversight, and management of climate-related risks

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[56] *Pension Benefits Standards Act*, note 10.
[57] Pension Benefits Standards Regulation BC Reg 71/2015, note 9.
[58] Section 51(3), Pension Benefits Standards Regulation BC Reg 71/2015, note 9.
[59] Ben Gully, Supervisory Framework Renewal – Briefing – Fall 2023, note 50.
[60] Section 35, BC *Pension Benefits Standards Act,* note 10.
[61] Sections 60(1) and (2), BC *Pension Benefits Standards Act,* note 10.

and opportunities material to the financial risk-return profile of the pension fund's investments in the transition to a net-zero emissions economy. The amendment would align BC pension fund investment policies with OSFI's Guideline B-15 for financial institutions and enhance BCFSA's supervision of 635 pension plans with $212.2 billion in assets protecting more than 1.2 million members.[62]

Recommendation 4: Amend the regulation BC Business Corporations Regulation pursuant to the British Columbia *Business Corporations Act (BCBCA)* to require large *BCBCA*-registered companies to develop transition plans to address climate-related risks and opportunities. Our proposal would apply to 380 companies with 500 or more employees and, one year later, would be applicable to the 3,411 BC companies with 100 to 500 employees, most of which are not covered by the initiatives being implemented by provincial and territorial securities law or federal financial services regulation.

Fairness suggests that we adopt a whole-economy approach to transition, which should include large privately-held companies. The federal government in its 2023 Fall Economic Statement announced that it will expand the coverage of mandatory climate disclosure, developing options for making climate disclosures mandatory for private companies.[63] The BC government could demonstrate leadership at the provincial level by extending mandatory disclosure to large BC corporations. CCLI's proposal would initially apply to the 380 corporations that have more than 500 employees, and the following year to the 3,411 companies with 100-499 employees.[64] These companies account for 66% per cent of BC's overall gross domestic product (GDP).[65]

Specifically, the CCLI is proposing a new subsection under s 21 of the British Columbia Corporations Regulation,[66] specifically:

> 21(1)(d) The financial statements shall include a climate transition plan to reach net-zero greenhouse gas (GHG) emissions no later than 2050, with 5-year targets for emissions reductions towards the net-zero target, including disclosure of Scope 1, 2, and 3 emissions and annual reporting of progress towards meeting targets.[67]

Pursuant to s 198 of the *BCBCA,* companies must prepare financial statements unless a waiver pursuant to the *BCBCA* has been approved.[68] The Regulation requires third-party assurance in most cases,[69] which

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[62] As discussed at note 5.

[63] Deputy Prime Minister Freeland, "2023 Fall Economic Statement", note 54 at 63.

[64] Statistics Canada. Table 33-10-0717-01 Canadian Business Counts, with employees (June 2023), https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3310071701. Statistics Canada, Canadian Business Counts, with employees (June 2023), Canadian Business Counts, with employees, June 2023 (statcan.gc.ca).

[65] BC Ministry of Jobs, Economic Recovery and Innovation, *Small Business Profile 2022*, note 6 at 3, 38.

[66] BC Business Corporations Regulation, note 11.

[67] The definition of material should align with Canadian securities law, specifically: "information is likely material if a reasonable investor's decision whether to buy, sell or hold securities in an issuer would likely be influenced or changed if the information in question was omitted or misstated", NI 51-107 - Climate-related Disclosure Update and CSA Notice and Request for Comment Proposed National Instrument 51-107 Disclosure of Climate-related Matters [CSA Notice and Request for Comment] (2021) at 10, 51-107 - Climate-related Disclosure Update and CSA Notice and Request for Comment Proposed National Instrument 51-107 Disclosure of Climate-related Matters [CSA Notice and Request for Comment] | BCSC.

[68] Pursuant to s 200 (1), *BCBCA,* note 11, directors are relieved from their obligation under section 198 to produce and publish a financial statement if all of the shareholders of the company, whether or not their shares carry the right to vote, resolve by a unanimous resolution to waive publication of the financial statements, or by court order.

[69] Section 22 specifies that an auditor must make a report on the financial statements and must state in the report whether, in the auditor's opinion, the financial statements present fairly, in all material respects, the financial position of the company at the end of the period, and the financial statements have been prepared in accordance with generally accepted accounting principles.

means that the climate transition plan would be subject to third party assurance, as recommended by the ISSB guidance on climate-related disclosure.[70]

CCLI appreciates the concern that regulation should not be unnecessarily imposed on small businesses. Our proposal leaves unaffected 510,700 (98%) of small *BCBCA*-regulated companies, 60% of which are self-employed with no employees.[71] For large companies, we believe the administrative costs of developing and implementing a transition plan are far outweighed by the benefits accruing in the prevention of massive costs associated with climate impacts. The BC government's economic plan is aimed at clean and inclusive growth, resilient communities, and at creating a "more prosperous BC today and for generations to come".[72] The Ministry of Jobs, Economic Development and Innovation is working to build a clean, inclusive, sustainable, and innovative economy that works for all British Columbians.[73] CCLI believes that climate transition plans are an essential feature of obtaining these goals. The government has already stated that it will build on BC's competitive advantages through the development of an environmental, social and governance (ESG) program,[74] and effective management of climate resilience (mitigation and adaptation) is a critically important part of ESG.

The *BCBCA* specifies that directors and officers of a company, when exercising their powers and performing functions, must act honestly and in good faith with a view to the best interests of the company, exercise the care, diligence, and skill that a reasonably prudent individual would exercise in comparable circumstances, act in accordance with the *Act* and regulations, and act in accordance with the memorandum and articles of the company.[75] There is now considerable legal authority that these duties require directors and officers to identify and management climate-related risks.[76]

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[70] ISSB, *IFRS S2 Climate-related Disclosures,* note 48.
[71] BC Ministry of Jobs, Economic Recovery and Innovation, *Small Business Profile 2022*, note 6.
[72] BC Government, "StrongerBC Economic Plan -- A Plan for Today, A Vision for Tomorrow", (2022) at 6, StrongerBC_Economic_Plan_2022.pdf (gov.bc.ca).
[73] BC Government, "StrongerBC Economic Plan, note 72 at 7. See also BC Ministry of Jobs, Economic Development and Innovation, *2022/23 Annual Service Plan Report* (August 2023), Ministry of Jobs, Economic Development and Innovation 2022/23 Annual Service Plan Report (gov.bc.ca).
[74] BC Government, "StrongerBC Economic Plan, note 72 at 7.
[75] Section 142(1), *BCBCA*, note 11.
[76] See for example, Hansell LLP legal opinion, 'Putting Climate Change Risk on the Boardroom Table", (June 2020), at 22-24, Hansell-Climate-Change-Opinion-1.pdf (ubc.ca), updated 2022, In an updated legal opinion, Hansell reaffirms the role of the boards of directors in addressing climate risk - Canada Climate Law Initiative (ubc.ca). Outside of Canada, see Noel Hutley SC and Sebastian Hartford Davis, "Climate Change and Directors' Duties, Supplementary memorandum of Opinion", (26 March 2019), Australia Centre for Policy Development; "Climate Change and Directors' Duties", Further Supplementary Memorandum of Opinion", Minter Ellison, (23 April 2021), Microsoft Word – Further Supplementary Opinion.docx (cpd.org.au); Noel Hutley SC and Sebastian Hartford Davis, "Climate Change and Directors Duties, Memorandum of Opinion", (7 October 2016), https://cpd.org.au/wp-content/uploads/2016/10/Legal- Opinion-on-Climate-Change-and-Directors-Duties.pdf; "Legal Opinion on Directors' Responsibilities and Climate Change under Singapore Law", (April 2021), Legal-Opinion-on-Directors-Responsibilities-and-Climate-Change-under-Singapore-Law.pdf (ubc.ca); Yoshihiro Yamada, Janis Sarra and Masafumi Nakahigashi, "Directors' Duties Regarding Climate Change in Japan", (February 2021), Directors-Duties-Regarding-Climate-Change-in-Japan.pdf (ubc.ca); S Divan, S Yadav and R Singh Sawhney, "Legal Opinion: Directors' obligations to consider climate change-related risk in India", (7 September 2021), https://ccli.ubc.ca/wp-content/uploads/2021/09/CCLI_Legal_Opinion.India_Directors_Duties.pdf; Alex Stock, SC and Jennifer Fan, "Legal Opinion on Directors' duties and Disclosure Obligations under Hong Kong Law in the Context of Climate Change Risks", Legal Opinion on Directors' Duties and Disclosure Obligations under Hong Kong Law in the Context of Climate Change Risks and Considerations – CCLI (commonwealthclimatelaw.org).

I. The reasons for amending this regulation now are five-fold

Fairness: BCFSA is proposing new guidance for financial institutions on managing and reporting on climate-related financial risks, as discussed above. Publicly-traded companies are currently required to disclose material climate-related risks,[77] with Canadian Securities Administrators developing further guidance under proposed National Instrument 51-107.[78] Yet private companies are not subject to any requirements. There is need for a "level playing field" for all larger Canadian companies so that Canada can meet its commitment to create a net-zero economy and we are not allowing large private companies to externalize the costs of climate onto other businesses and the public. The adverse consequences of climate change will disproportionately affect the elderly, racialized people, young children, low-income individuals, northern and Indigenous communities, and other marginalized communities. Failure to act will impose costs in respect of health, infrastructure, and value chains inequitably absent a whole economy approach. The UK government has recognized this need and is requiring large private companies and limited liability partnerships with 500 employees and turnover of more than £500 million to develop and disclose decarbonization transition plans.[79] It plans to regulate smaller companies by 2025. CCLI's proposed amendment will create greater fairness between companies.

Protection of investors*:* Investors have been very clear on the need for transparency in the disclosure of climate-related risks and opportunities. Transition plans for large *BCBCA*-registered companies will better inform investors how companies are likely to be impacted by climate change; and support a more efficient allocation of capital and more orderly transition, through improved information and shifting investment flows in line with climate risks. Investors need credible information to differentiate levels of climate exposure so that they can make appropriate investment decisions. Canada needs to significantly increase the proportion of companies taking climate action, and disclosing climate-related information will provide investors with the information they need to adequately understand and manage climate-related financial risks.

There is also a fairness element here, as many of BC's and Canada's largest institutional investors are pension funds that protect the financial security of millions of Canadians. In meeting the "pension promise" for current and future generations of pension beneficiaries, pension funds need to be able to assess the ability of BC-regulated companies to effectively manage climate-related risks and opportunities. If exposure to these risks is not properly analyzed, capital may be misallocated, with implications for financial stability, whilst the likelihood of unexpected and unmanageable losses from extreme weather events and "stranded assets" will increase. The TCFD reports growth in investor demand for companies to report information in line with its recommendations,[80] citing Climate Action 100+, where 700 investors with $68 trillion in assets under management (AUM) are engaging the world's largest GHG emitters to

[77] CSA Staff Notice 51-364 Continuous Disclosure Review Program Activities (3 November 2022) Overly Promotional Disclosure (Greenwashing).

[78] NI 51-107, note 67. See also Canadian Securities Administrators, "Canadian Securities Administrators (CSA) welcomes the publication on June 26, 2023 of the International Sustainability Standards Board (ISSB)'s first two sustainability disclosure standards"; CSA, "Canadian Securities Administrators statement on proposed climate-related disclosure requirements" (5 June 2023), Canadian Securities Administrators statement on proposed climate-related disclosure requirements - Canadian Securities Administrators (securities-administrators.ca).

[79] UK Companies (Strategic Report) (Climate-related Financial Disclosure) Regulations 2022, 2022 No 31, in force 6 April 2022; Limited Liability Partnerships (Climate-related Financial Disclosure) Regs 2022; in force 6 April 2022, https://www.legislation.gov.uk/uksi/2022/31/memorandum/contents. See Appendix I for details.

[80] Taskforce on Climate-related Financial Disclosures (TCFD), *Task Force on Climate-related Financial Disclosures Guidance on Metrics, Targets, and Transition Plans* (October 2021), 2021-Metrics_Targets_Guidance-1.pdf (bbhub.io).

develop transition plans and TCFD-aligned climate-related disclosures.[81] In Canada, Climate Engagement Canada (CEC), representing investors with more than $4.9 trillion AUM, is urging companies to promote a just transition to a net-zero economy.[82]

Preventing a "tragedy of the horizon": Another consideration is whether Canada, including BC, faces reasonable costs now or massive costs later. As former Bank of Canada Governor Mark Carney observed, climate change presents a tragedy of the horizon, in that most catastrophic effects will be felt beyond the traditional horizons of most directors and officers, imposing a cost in the future that has little direct impact on the companies' performance today.[83] Risk management measures should be in place so that future generations and companies themselves do not bear the costs of the lack of action now. Mandatory climate transition plan requirements will encourage companies' management and directors to reflect on both current risks and risks the company will be exposed to in the future, even if they are considered to be long-term, and to take action to mitigate or manage these risks. Mr. Carney has remarked that governments globally have agreed to mandatory disclosure because experience with voluntary TCFD guidance revealed that corporate boards were not taking their responsibilities with respect to climate change seriously.[84] He observed that companies need to develop and disclose credible transition plans, including scenario analysis, as most capital now needs to be directed towards transition.[85] CCLI's proposal aligns with OSFI's guidance and with the IFRS/ISSB climate-related accounting standards IFRS S2 Climate-related Disclosures,[86] in force June 2023, effective 1 January 2024. It supports BC's and Canada's commitment to transition towards net-zero emissions. As the UK government has stated, a climate transition plan is integral to a company's overall business strategy.[87] The European Union (EU) requires transition plans for all companies subject to its Corporate Sustainability Reporting Directive, including describing how the plan fits with the company's business model and strategy and progress on the plan.[88] IFRS S2 Climate-related Disclosures also requires disclosure of transition planning.

Benefits to companies: The regulation will lead those *BCBCA*-registered companies affected to develop a much better understanding of the short-term climate-related risks and better equip themselves to develop a strategy to effectively manage those risks over the medium and long term. There are significant opportunities in the transition, both in financing and in scaling up innovative technologies, but a prerequisite to attracting and retaining investment is a transparent transition strategy. Climate-related financial information disclosure is a valuable tool for investors and managers to monitor how companies are preparing and transitioning towards a net-zero emissions economy.

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[81] TCFD 2022 Status Report, 2022 TCFD Status Report: Task Force on Climate-related Financial Disclosures - Financial Stability Board (fsb.org) at 3.

[82] CEC, (2023), Climate Engagement Canada.

[83] Mark Carney, "Breaking the tragedy of the horizon - climate change and financial stability", (29 September 2015), Speech by Mark Carney at Lloyd's of London, Tuesday 29 September 2015 (bankofengland.co.uk).

[84] Mark Carney, Remarks to the International Sustainability Standards Board Symposium (16 February 2023).

[85] Carney, note 83.

[86] International Sustainability Standards Board (ISSB) and International Financial Reporting Standards (IFRS), International Sustainability Standards Board (ISSB), ISSB, *IFRS S2 Climate-related Disclosures,* note 48 and *IFRS S1 General Requirements for Disclosure of Sustainability-related Financial Information*, IFRS - IFRS S1 General Requirements for Disclosure of Sustainability-related Financial Information.

[87] UK Government Transition Plan Taskforce, "The Transition Plan Taskforce Disclosure Framework" (November 2022), TPT-Disclosure-Framework.pdf (transitiontaskforce.net).

[88] European Union (EU), Corporate Sustainability Reporting Directive - Directive (EU) 2022/2464, Amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU (in force January 2023), https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022L2464&from=EN.

Benefits to society: Effective transition plans will have cascade effects through the supply chain, which should facilitate BC's and Canada's ability to reach net-zero emissions and therefore contribute towards the prevention of the devastating long-term effects of a warming climate on people, communities, assets, and natural capital. It will support financial stability by preventing the amplification of systemic climate-related financial risk, as more companies and financial institutions analyze and act upon their climate-risk exposure. The proposed amendments also align with BC's economic plan, aimed at creating sustainable jobs compatible during the transition to net-zero emissions and a climate resilient future that is equitable, fair and inclusive.

II. Amending the BC Business Corporations Regulation will not lead to an unreasonable administrative burden

The government need not reinvent the wheel in amending the regulation. It can adopt the definition of climate-related risks from the OSFI guideline[89] or align with the BCFSA guideline as it is developed. Guideline B-15 requires financial institutions to develop and implement a Climate Transition Plan, in line with the institution's business plan and strategy, that guides the management of increasing physical risks from climate change and the transition towards a sustainable economy.[90] It endorses the TCFD guidance regarding governance, strategy, risk management, and metrics and targets.[91]

The government can also consider the safeguard in IFRS S2 Climate-related Disclosures, which includes the concept of "reasonable and supportable information that is available to the entity at the reporting date without undue cost or effort, including information about past events, current conditions and forecasts of future conditions" to help companies during the initial period.[92] They can use the standard "reasonable and supportable information that is available at the reporting date without undue cost or effort" when identifying sustainability-related and climate-related risks and opportunities; determining the scope of the entity's value chain and measurement of its Scope 3 GHG emissions; determining anticipated effects on an entity's financial position and cash flows; applying climate-related scenario analysis; and calculating the amount and percentage of assets or business activities vulnerable to risks and aligned with opportunities.[93]

The UK Treasury's Transition Plan Taskforce has proposed a "gold standard for private sector climate transition plans" applicable to the UK, but globally transferable.[94] The UK standard states that a "transition plan is integral to an entity's overall strategy, setting out its plan to contribute to and prepare for a rapid global transition towards a low GHG-emissions economy".[95] Appendix I summarizes what the UK

[89] OSFI defines climate-related risks as: "Physical risks" refer to the financial risks from the increasing severity and frequency of extreme climate change-related weather events (ie, acute physical risks); longer-term gradual shifts of the climate (ie, chronic physical risks); and indirect effects of climate change such as public health implications (eg, morbidity and mortality impacts). "Transition risks" refer to the financial risks related to the process of adjustment towards a low-greenhouse gas (GHG) economy. These risks can emerge from current or future government policies, legislation, and regulation to limit GHG emissions, technological advancements, and changes in market and customer sentiment towards a low-GHG economy, Guideline B-15, note 8, Chapter 1, 1.

[90] Guideline B-15, note 8, Chapter 1, 1.

[91] TCFD, note 47.

[92] ISSB, *IFRS S2 Climate-related Disclosures,* note 48 at para 11. See also ISSB, "ISSB ramps up activities to support global implementation ahead of issuing inaugural standards end Q2 2023", (17 February 2023), IFRS - ISSB ramps up activities to support global implementation ahead of issuing inaugural standards end Q2 2023; ISSB Update, January 2023, IFRS - ISSB Update January 2023.

[93] ISSB, *IFRS S2 Climate-related Disclosures,* note 48.

[94] The Transition Plan Taskforce Summary Recommendations (November 2022), TPT-Summary-Recommendationst.pdf (transitiontaskforce.net). Accompanying Implementation Guidance.

[95] *Ibid.*

recommends as simplified but meaningful transition plans, covering a company's high-level ambitions to mitigate, manage, and respond to climate change and to leverage opportunities of the transition to a low GHG and climate resilient economy, with governance and accountability mechanisms that support delivery of the plan.

We look forward to discussing these issues with you.

Sincerely,

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APPENDIX I Summary of United Kingdom Requirements for Climate Transition Plans

The level of detail on UK government developments in this appendix is aimed at providing the BC government with insights as to best practices on disclosure as it moves forward.

The UK has reported that it will become the first G20 country to require mandatory TCFD-aligned climate-related financial disclosures across the entire economy by 2025, with most requirements in place now. Listed companies and large regulated asset owners and asset managers are required to disclose decarbonization transition plans by 2023. It forms part of wider efforts to make climate-related financial disclosures mandatory across the UK's economy as set out in the HM Treasury-led TCFD Taskforce's Interim Report and accompanying Roadmap.[96]

Large private companies and Limited Liability Partnerships (LLP) must disclose how they are managing climate-related risks and opportunities in the transition to net zero, under the Company Regulations and LLP Regulations.[97] Companies and LLP are required to include material disclosures in their annual reports on climate change-related risks and opportunities based on the four-pillar framework established by the TCFD.

The UK Companies (Strategic Report) (Climate-related Financial Disclosure) Regulations 2022,[98] which came into force April 2022, place requirements on large private companies to incorporate TCFD-aligned

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[96] UK Companies (Strategic Report) (Climate-related Financial Disclosure) Regulations 2022, in force 6 April 2022, UK Government Explanatory Memorandum to the Companies (Strategic Report)(Climate-related Financial Disclosure) Regulations 2022, 2022 No 31, https://www.legislation.gov.uk/uksi/2022/31/memorandum/contents, citing https://www.gov.uk/government/publications/uk-joint-regulator-and-government-tcfd-taskforce-interim-report-and-roadmap.
[97] Amending sections 414C, CA and CB *Companies Act 2006.* UK Government Explanatory Memorandum, note 96; Regulations, https://www.legislation.gov.uk/uksi/2022/31/contents/made.
[98] UK Companies (Strategic Report) (Climate-related Financial Disclosure) Regulations 2022, note 96.

climate disclosures in their annual Strategic Report, newly named "Non-Financial and Sustainability Information Statement".[99] The regulation applies to all listed companies and to all privately-held UK registered companies that have more than 500 employees and a turnover of more than £500m; all UK companies that have more than 500 employees and have either transferable securities admitted to trading on a UK regulated market or are banking companies or insurance companies (Relevant Public Interest Entities); UK registered companies with securities admitted to the Alternative Investment Market (AIM) of the London Stock Exchange with more than 500 employees. The Financial Reporting Council may examine contents of reports and apply for a court order for preparation of revised accounts, including the revision of the strategic report, and other such matters the court thinks fit.

The Regulations define "climate-related financial disclosures" as a description of the company's governance arrangements in relation to assessing and managing climate-related risks and opportunities; a description of how the company identifies, assesses, and manages climate-related risks and opportunities; a description of how processes for identifying, assessing, and managing climate-related risks are integrated into the company's overall risk management process; a description of the principal climate-related risks and opportunities arising in connection with the company's operations, and the time periods by reference to which those risks and opportunities are assessed; a description of the actual and potential impacts of the principal climate-related risks and opportunities on the company's business model and strategy; an analysis of the resilience of the company's business model and strategy, taking into consideration different climate-related scenarios; a description of the targets used by the company to manage climate-related risks and to realize climate-related opportunities and of performance against those targets; and a description of the key performance indicators used to assess progress against targets and the calculations on which those key performance indicators are based.[100]

Part 4A specifies that where the directors of a company reasonably believe that, having regard to the nature of the company's business, and the manner in which it is carried on, the whole or a part of a climate-related financial disclosure required is not necessary for an understanding of the company's business, the directors may omit the whole or (as the case requires) the relevant part of that climate-related financial disclosure; however, they must provide a clear and reasoned explanation of the directors' reasonable belief for the omission. Thus, directors are permitted to exercise discretion to omit some or all of certain disclosure requirements on the basis that they are not considered necessary for an understanding of the business; however, if information is omitted, the directors must provide a clear and reasoned explanation of their belief as to why it is appropriate to omit the information.

Disclosures should enable an understanding of how the climate-related financial disclosures relate to the other information presented in the annual report and should not omit information that, if disclosed, would influence the decisions of investors. There is no prescribed format or structure for the climate-related disclosures. However, if any of the required information is not located within the Non-Financial and Sustainability Information Statement, but is included elsewhere in the annual report, the Non-Financial and Sustainability Information Statement must include a specific cross-reference to where it can be found.

The Limited Liability Partnerships (Climate-related Financial Disclosure) Regulations 2022 also came into force in April 2022,[101] requiring LLP to incorporate TCFD-aligned climate disclosures in their annual

[99] UK Companies (Strategic Report) (Climate-related Financial Disclosure) Regulations 2022, note 98. The regulations apply to accounting periods beginning on or after 6 April 2022.
[100] UK Companies (Strategic Report) (Climate-related Financial Disclosure) Regulations 2022, note 98, part 4.
[101] The Limited Liability Partnerships (Climate-related Financial Disclosure) Regulations 2022, in force 6 April 2022, in force 6 April 2022, The Limited Liability Partnerships (Climate-related Financial Disclosure) Regulations 2022 (legislation.gov.uk) amends

reporting. It applies to large LLP that have more than 500 employees and a turnover of more than £500m and traded or banking LLP that have more than 500 employees. LLP must include their disclosures in either the Energy and Carbon Report of their Directors' Report or, if they prepare a Strategic Report, in their Strategic Report. The Financial Reporting Council (FRC) may examine contents of reports and apply for a court order for preparation of revised accounts and report and other such matters the court thinks fit.[102] The disclosures mirror the companies regulation.

Companies are expected to report at the group level (or at the company level if they are in scope at an individual level but are not included within consolidated group reporting).[103] Subsidiaries whose activities are included within a consolidated group report of a UK parent that complies with the disclosure requirements in the Company Regulations will not be required to report separately.[104]

Where companies and LLP use information generated by a third party to help them assess the climate-related risks to their business (for example, by contracting with a data provider to support the assessment and disclosure of physical risks for certain assets or infrastructure), the Guidance reminds directors that the legal duty to make the climate-related financial disclosures will remain with them as directors.[105]

The UK standard states that a "transition plan is integral to an entity's overall strategy, setting out its plan to contribute to and prepare for a rapid global transition towards a low GHG-emissions economy".[106] The TPT released its Transition Plan Taskforce Disclosure Framework in October 2023, reporting that an effective practice transition plan should do the following:

- A good practice transition plan should clearly articulate the entity's strategic ambition, comprising its objectives and priorities for responding and contributing to the transition towards a low GHG-emissions, climate-resilient economy; setting out whether and how the entity is pursuing these objectives and priorities in a manner that captures opportunities, avoids adverse impacts for stakeholders and society, and safeguards the natural environment.
- A good transition plan should elaborate the entity's strategic approach to supporting an economy-wide transition, while managing the risks and opportunities that arise from its impacts and dependencies, which will provide users with valuable information on how it is protecting and enhancing long-term value.

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parts 5 and 5A of the *Limited Liability Partnerships (Accounts and Audit) (Application of Companies Act 2006*) Regulations 2008, applies to accounting periods beginning on or after that date; UK Government Explanatory Memorandum, https://www.legislation.gov.uk/uksi/2022/46/memorandum/contents.

[102] Full Guidance Document from Department for Business, Energy, Industrial Strategy, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1056085/mandatory-climate-related-financial-disclosures-publicly-quoted-private-cos-llps.pdf (hereafter Guidance).

[103] Norton Rose, "New climate-related reporting requirements introduced for public and private companies and LLP" (March 2022), https://www.nortonrosefulbright.com/en/knowledge/publications/cb454602/new-climate-related-reporting-requirements-introduced-for-public-aend-private-companies-and-llps.

[104] UK companies should report on their global operations or just their UK operations - when a UK group is in scope, the top UK parent will be expected to report, within its annual report, on the global operations of the UK group (regardless of whether activities are conducted through a UK subsidiary or an overseas subsidiary). UK companies with an overseas parent company will be exempt – while there is an exemption from the disclosure requirements at company level where an in scope company's activities are included in a consolidated report from a UK parent company, if a UK company has an overseas parent which reports on a consolidated basis, the exemption will not apply so that UK company will need to make its own disclosures.

[105] Norton Rose, note 103.

[106] Norton Rose, note 103.

The TPT reports that three guiding principles of ambition, action, and accountability should drive good practice.[107]

- "Ambition" means the entity should consider the actions that it can take now to capture opportunities, minimize future risks, and protect and enhance its long-term value. Entities should consider three inter-related channels in designing their transition plan – decarbonizing the entity, responding to the entity's climate-related risks and opportunities, and contributing to an economy-wide transition; disclosing whether and how it has identified, assessed, and taken into account the impacts and dependencies of the transition plan on the entity's stakeholders, society, the economy, and the natural environment, throughout its value chain, that may give rise to sustainability-related risks and opportunities.[108]

- "Action" means that a transition plan should translate ambitious objectives and priorities into concrete steps to be taken in the short-, medium-, and long-term; it should emphasize in its disclosure a roadmap of planned actions that will contribute to meeting its strategic ambition; and good practice transition plans should consider Scope 1, 2, and 3 emissions and should prioritize decarbonization through direct abatement over purchasing carbon credits.[109]

- "Accountability" means that delivery of a transition plan should be fully integrated into the entity's organizational processes for business and financial planning, and for governance. An entity should define clear roles and responsibilities for the delivery and oversight of its transition plan and should take steps to align culture and incentive structures with the strategic ambition set out in the plan. An entity should report material information about its transition plan within its general purpose financial reports, including annual reporting on progress against quantified and timebound metrics and targets.[110]

The TPT Disclosure Framework offers best practice guidance for transition plans and associated metrics and develops a set of sectoral transition plan templates and guidance on metrics and targets for real economy sectors and financial services sub-sectors, drawing on the TCFD[111] and the new IFRS standards.[112]

The TPT Disclosure Framework notes that private sector entities are not passive participants in the climate transition and that "good practice transition plans should reflect the urgency to act, arising from the observed changes in the climate and the latest scientific findings about climate change."[113] The UK government notes that the TCFD-aligned disclosure requires should include the following:

> **Governance** - Companies and LLP need to explain how risks and opportunities relating to climate change are identified, considered, and managed within their governance structure, including which person or committee is responsible for identifying and considering climate-

[107] TPT, "Transition Plan Taskforce Disclosure Framework" (October 2023), TPT_Disclosure-framework-2023.pdf (transitiontaskforce.net) (Transition Plan Taskforce Disclosure Framework).
[108] TPT, "Transition Plan Taskforce Disclosure Framework", note 107 at 16.
[109] TPT, "Transition Plan Taskforce Disclosure Framework", note 107 at 17.
[110] TPT, "Transition Plan Taskforce Disclosure Framework", note 107 at 18.
[111] TCFD Status Report, 2022, note 81.
[112] TPT, Transition Plan Taskforce Disclosure Framework, note 107.
[113] *Ibid* at 16.

related risks and opportunities, how frequently those matters are considered, and the extent to which the board considers them, and who has responsibility for managing those risks and opportunities.

Strategy – Strategy requires information to be provided about the systems and processes in place to enable such risks and opportunities to be identified, assessed and managed, including whether they are identified at subsidiary level and reported up through the group or at group level only, as well as the frequency of the risk identification exercise.

Risk Management - Companies and LLP should explain the extent to which climate-related risk is currently integrated into their overall approach to risk management or whether the identification, assessment and management of climate-related risks are subject to separate processes and procedures. The principal climate-related risks are those risks that have the potential to have a significant negative or positive impact on a company or LLP's business model and/or strategy. Wherever possible, companies and LLP should categorize the risks and opportunities into short, medium, and long term, with an explanation of how these time periods have been determined. Assessment of appropriate time periods should take into account the nature of the company or LLP's business and operations and give examples of factors that may be relevant, such as asset lives, length of financing arrangements, and the periods over which climate risks and opportunities are expected to affect the business. The guidance also notes that it may be relevant to distinguish between physical climate change risks such as increased frequency of extreme weather events or sustained impacts from temperature rises, for example, to supply and distribution arrangements, and transition risks associated with transition to a net-zero economy, which might prompt review or adaptation of business models. Describing the actual and potential impacts should be as granular as is necessary to understand the impact of crystallization of that risk and should be specific and in describing the actual or potential impact. Both the actions being put in place now and contingency plans for possible future actions should be considered.

Metrics/Targets - Targets should be clearly explained, including their relevance to the future operations of the company or LLP, and include a timeframe over which the company or LLP intends to meet those targets and how it monitors and assesses progress in meeting them. The company or LLP should explain which climate-related key performance indicators (KPI) it uses to assess progress against these targets to manage climate risks and opportunities, how they are calculated, and, if different from the targets set, how the KPI relate to targets. If a company or LLP changes a climate-related KPI used to manage its climate-related risks and opportunities, the reason for the change should normally be disclosed with explanations of why the new KPI is more effective than the previous measurements.

Scenario Analysis - Companies and LLP should select scenarios that are most relevant to their business, and disclosures should enable a reader to understand which scenarios have been used, including, where appropriate, the source of those scenarios, and the effect that operating within them would have on the resilience of the current business model and strategy. Disclosures should also enable a user of the accounts to understand why a particular scenario has been chosen; assumptions and estimates should be disclosed so that a reader can judge whether they are reasonable and in line with similar companies or LLP. Where assumptions and estimates change year on year, the disclosures should enable a user of the accounts to understand how and why they have changed. While the Regulations do not

require quantitative scenario analysis (using narratives to explore implications of different possible climate impacts), some companies and LLP may find it useful to do so to support their strategy and risk management considerations. Recommended to evaluate and disclose resilience of the business model and strategy according to the scenarios used.

The UK's rationale for regulating across its economy was that while there is much support for the TCFD framework, levels of disclosure overall are low and many companies are not disclosing in line with the TCFD recommendations; thus regulatory action was needed in order to require relevant disclosure to ensure that all UK companies above certain thresholds give due consideration to climate change in risk assessment and decision making while providing a good level of information to financial markets and other interested parties.[114]

[114] Explanatory Memorandum, note 96 at 7.4.