# Roadmap to a Sustainable Financial System in Canada

## Achieving Alignment Through Credible Climate Plans

**November 2, 2022**

environmental defence

ecojustice

shift ACTION FOR PENSION WEALTH AND PLANET HEALTH

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## Ecojustice

Ecojustice uses the power of the law to defend nature, combat climate change, and fight for a healthy environment. Its strategic, public interest lawsuits and advocacy lead to precedent-setting court decisions and law and policy that deliver lasting solutions to Canada's most urgent environmental problems. As Canada's largest environmental law charity, Ecojustice operates offices in Vancouver, Calgary, Toronto, Ottawa, and Halifax.

## Environmental Defence

ABOUT ENVIRONMENTAL DEFENCE (environmentaldefence.ca):
Environmental Defence is a leading Canadian advocacy organization that works with government, industry and individuals to defend clean water, a safe climate and healthy communities.

## Shift:Action

Shift: Action for Pension Wealth and Planet Health is a charitable initiative that works to protect pensions and the climate by bringing together beneficiaries and their pension funds on the climate crisis. We help Canadians understand where their retirement wealth is invested by tracking pension fund investments and strategy.

# 1. Executive Summary

When it comes to Canada's climate policies, there is a widely overlooked frontier: finance. In this policy briefing, Ecojustice, Shift: Action and Environmental Defence lay out an actionable pathway to address how Canada should regulate climate-alignment within our financial system. The brief shows how financial alignment is a critical piece of the broader climate package needed to achieve Canada's legally binding climate obligations.

We are in the midst of a worsening global climate emergency. A generation of warnings from the scientific community have failed to provoke the needed collective action and we now face a uniquely challenging crisis. Our inaction has already locked-in significant warming, creating harm and climate disruption now being felt across the globe. This crisis is still accelerating. Without immediate and unprecedented action to stop greenhouse gas (GHG) emissions, primarily by eliminating global dependency on fossil fuels within just a few short decades, the climate emergency will have unthinkable consequences for our economies, our ecosystems, and our society.

With growing understanding that further inaction is simply not an option, our governments and institutions are grappling with understanding this crisis and acting with the urgency and ambition required. As part of Canada's commitment to the Paris Agreement, the government pledged to cut emissions by at least 40-45 per cent below 2005 levels by 2030. This is part of a commitment to achieve net-zero greenhouse gas emissions by the year 2050, which is cemented into Canadian law. In an effort to achieve those goals, the Canadian government has released a series of new policy and regulatory measures designed to cut emissions across a variety of sectors. However, Canada has yet to implement required measures to ensure alignment of these financial flows with these climate goals. Without enforceable rules to address this gap, we will fail to deliver the necessary climate action and risk exposing our financial system to unmanageable levels of risk.

Discussion of policy frameworks to put Canada's financial flows on track for climate alignment have been inconsistent and slow to develop. There is now growing recognition that regulators, institutions, and companies cannot only focus on managing exposure to external climate-related risks if we are to meet our objectives for relative climate safety. Rather, our financial institutions, corporations and their regulators must adopt an approach which considers the impact of financial decisions on society and the planet. This is not just for moral or social good - the risks associated with climate change threaten the financial system to increasing degrees of harm.

Canada has a global reputation for sound financial regulation. But Canada can only address the climate crisis with robust standards, independent oversight, and rigorous enforcement to align the financial sector with its climate commitments. Decisions made behind closed doors by our banks, asset owners and managers, insurance companies, governments, and corporations shape our society and the path it takes.

The Paris Agreement specifically requires "Making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development." This names the need for a global reallocation of capital away from the primary causes of the climate emergency, namely economic activities reliant on fossil fuels, and into proven climate solutions including improving energy efficiency, clean energy development, clean transportation, and sustainable agriculture; activities which increase resiliency to the worsening climate disruption we face. Government climate policy must ensure alignment of these closed-door financial decisions with national climate objectives.

> *"Making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development."*

Finance institutions have increasingly adopted a disclosure-based approach to managing climate-related financial risk, based on guidance from the Task Force on Climate-Related Disclosure (TCFD). While this is an essential step in managing climate related risks and ensure high quality information, it is inadequate to appropriately manage these risks or align the financial system with climate commitments. New voluntary coalitions of global financial institutions have formed to move beyond disclosures and promote climate-alignment under the umbrella of the Glasgow Financial Alliance for Net Zero (GFANZ).

These voluntary initiatives prove that science-based climate alignment is realistic and achievable for the finance sector. But their inconsistent participation and lack of enforcement reveal the need to enshrine these standards through regulation. The UN-backed Race to Zero campaign which oversees GFANZ states: "voluntary action has had an enormous impact, but it is not enough to achieve the goals of the Paris Agreement." We must move to "clear ground rules" for a climate-aligned economy. Regulation of the financial sector is clearly required to align pathways with required climate action, set credible standards, restore public trust, and ensure a fair and level playing field across financial institutions.

The federal government has already made public commitments to align Canada's financial flows with its climate commitments, including phasing out public subsidies for fossil fuels by Crown corporations and requiring federally regulated financial institutions, pension funds and government agencies to issue net-zero plans. This Roadmap proposes a package of the regulations that the federal government can introduce to deliver on these promises.

The recommendations made in this briefing focus on achievable federal measures, but several key aspects of the financial system in Canada are within provincial authority. The key principles and recommendations in this Roadmap should inform the development of climate-aligned financial flow at the provincial level as well. The Roadmap's cornerstone recommendation is to require the adoption of a Credible Climate Plan by financial institutions, federal entities and corporations. The Credible Climate Plan would formalize, standardize, and extend commitments that many Canadian financial institutions have already made under voluntary initiatives like GFANZ.

A Credible Climate Plan rests on three pillars. First, institutions must adopt five-year targets to align with keeping warming below 1.5°C, starting from 2025. These targets must be science-based and include all scope one, two and three of emissions. Institutions must then publish plans to deliver these targets, including policies to phase out high-emitting assets, scale up green investments, and align lobbying activities. Institutions would be required to annually report to regulators on their progress against their emission reduction targets. The Credible Climate Plan should ensure respect for Indigenous rights, and alignment with equity, justice, and proactive adaptation. Climate-related risk disclosure should be mandated across the economy as part of a Credible Climate Plan but is not sufficient in itself.

Most of the recommendations in this Roadmap can be implemented relatively quickly through a combination of regulations, guidance, and directions made under existing legislation. In view of the need to rapidly shift financial flows towards alignment with Canada's climate goals, this should be favoured wherever possible. However, legislative change is required in the longer-term, both to ensure that reforms are durable and subject to proper legislative scrutiny, and to implement those recommendations that are not currently possible through regulation.

Canada has a closing window to limit the worst impacts of a warming world. Policy action is needed now from our governments to protect both the stability and health of our financial system as well as our shared climate. It is time to extend Canada's world-class reputation for effective and prudent financial regulation through these practical and achievable measures.

**The numbers and letters below correspond with report chapters and sub-sections*

| **Recommendations*** |
| --- |
| 5.A Require FRFIs to publish, implement and annually report on Credible Climate Plans.<br><br>5.B Require FRPPs to publish, implement and annually report on Credible Climate Plans.<br><br>5.C OSFI to review Credible Climate Plans and approve or require improvements.<br><br>5.D OSFI and Bank of Canada to lead an expanded program of stress testing and scenario analysis.<br><br>5.E Amend capital and prudential requirements based on at risk high carbon assets.<br><br>5.F Place investment and lending limits on assets that are subject to high climate risk. |
| 6.A Minister of Finance to publish annual report on climate risks and opportunities for the federal public administration that sets the gold standard for Credible Climate Plans.<br><br>6.B Require financial Crown corporations and departments to develop, publish and report on Credible Climate Plans, subject to review and approval by the Finance Minister with input from Net Zero Advisory Board (NZAB) |
| 7.A Require large federally regulated companies to prepare Credible Climate Plans.<br><br>7.B Credible Climate Plans to be reviewed by appropriate regulators. |
| 8 Emphasize in guidance and in legislation that the current fiduciary duties of corporate directors and pension fiduciaries require assessment, disclosure, and positive action to manage climate change risk and opportunities. |

9.A Empower regulators to tackle greenwashing.

9.B Adopt a green taxonomy.

9.C Empower the public to tackle greenwashing.

9.D Publish guidance for industry and advertisers on environmental and climate claims.

## 2. Glossary of Key Terms

| Term | Description |
|---|---|
| **Bank of Canada** | A Crown corporation and Canada's central bank. |
| **Canadian Association of Pensions Supervisory Authorities (CAPSA)** | A national association of pension regulators that works to coordinate and harmonize regulation of pensions across Canada. |
| **Carbon budget** | The carbon budget is the maximum amount of cumulative net global anthropogenic CO2 emissions that, with a given likelihood, would result in limiting global warming to a given level, taking into account the effect of other anthropogenic climate forcers.[1] |
| **Carbon capture utilisation & storage (CCUS)** | Systems that capture carbon emissions, divert them from the atmosphere, and store or use them. |
| **Carbon dioxide removal (CDR)** | Systems that remove carbon emissions from the atmosphere. |
| **Climate-aligned finance** | Alignment with the Paris Agreement target of limiting global warming to below 1.5°C through credible and net-zero business models. |
| **Competition Bureau** | An independent agency that protects competition and investigates and enforces misrepresentations. |
| **Credible Climate Plan** | Plans that private and public financial institutions, pension plans, public bodies, and large corporations should be required to prepare, publish, implement, and report to regulators in accordance with and minimum standards to align the financial institution's activities with limiting global warming to 1.5°C.<br><br>This concept is introduced in Section 4 and is given further definition for private financial institutions and pension plans in Section 5, for the federal government and financial Crown corporations in Section 6, and for large corporations in Section 7. |

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| **Disclosure** | Financial institutions' disclosure of climate-related risks. |
| **Divestment** | Disposing of investments that are not climate-aligned. |
| **Double materiality** | Considers the risks that climate change poses to businesses and the risks that businesses pose to the climate. |
| **Export Development Canada (EDC)** | A Crown corporation and Canada's export credit agency. EDC's mandate is to: (a) support and develop, directly or indirectly, domestic business, at the request of the relevant Ministers; (b) support and develop, directly or indirectly, Canada's export trade and Canadian capacity to engage in that trade and to respond to international business opportunities; and<br>(c) provide, directly or indirectly, development financing and other forms of development support in a manner that is consistent with Canada's international development priorities.[2] |
| **Federally regulated financial institutions (FRFIs)** | Private financial institutions regulated by the federal government, including banks and federal credit unions, trust and loan companies, and insurance companies. |
| **Federally regulated pension plans (FRPPs)** | Private pension plans regulated by the federal government. |
| **Fiduciaries** | A party (the fiduciary) with duties to act in the best interests of another party (the beneficiary). |
| **Financial Crown corporations** | A subset of Crown corporations that are part of the federal public administration with significant control over financial flows including: EDC, Canada Infrastructure Bank, Business Development Bank of Canada, and Canadian Development Investment Corporation. |
| **Financial institutions** | In this report, the term financial institutions refers to FRFIs and FRPPs defined above and described in Section 5, as well as the federal institutions described in Section 6. |

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| **Free, Prior, and Informed Consent (FPIC)** | An international human rights standard that Indigenous peoples have the right to self-determination and to freely pursue economic, social, and cultural development. |
| **Greenhouse gas (GHG) emissions** | All those accounted for in Canada's National GHG Inventory, including carbon dioxide (CO2), methane (CH4), nitrous oxide (N2O), perfluorocarbons (PFCs), hydrofluorocarbons (HFCs), sulphur hexafluoride (SF6) and nitrogen trifluoride (NF3). |
| **Green taxonomy** | A classification system for climate-aligned investment. See Section 9B for further information on the necessary requirements recommended for a green taxonomy. |
| **Greenwashing** | Misleading or unsubstantiated claims on the environmental aspects of a product, service, or organization. Includes advertising net-zero commitments without taking science-based action to deliver on targets, selectively disclosing progress on climate-aligned segments of a business while obscuring information about misaligned segments, and relying on unrealistic levels of emission offsets and removals.[3] |
| **Glasgow Financial Alliance for Net Zero (GFANZ)** | The largest global coalition of leading financial institutions that have committed to transitioning the economy to net-zero GHG emissions. GFANZ was launched in April 2021 by the UN Special Envoy on Climate Action and Finance and the COP26 presidency, in partnership with UNFCCC Race to Zero campaign. Member financial institutions must commit to science-based transition to net-zero. Its purpose is to expand the number of net zero-committed financial institutions and to establish a forum for addressing sector-wide challenges associated with climate goals, to ensure high levels of ambition met with credible action. GFANZ connects the financial community to the Race to Zero campaign, climate scientist, experts, and civil society.[4] |

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| **International Energy Agency (IEA)** | An international organization that provides authoritative data, analysis, and policy recommendations on the global energy sector, intending to guide sustainable energy for all countries. It is an independent intergovernmental organization. It was established in 1974. |
| **International Panel on Climate Change (IPCC)** | A body of the United Nations which assess scientific, technical, and socio-economic information concerning climate change. The IPCC does not conduct original research, but aggregates conclusions from leading global studies to publish an objective and comprehensive analysis. Thousands of scientists and experts contribute to each report. It was established in 1988. |
| **International Sustainability Standards Board (ISSB)** | An international board that sets global standards for sustainability-related financial disclosures. |
| **Negative screens** | Assessing financial institutions' environmental, social, and governance (ESG) performance relative to competitors. |
| **Office of the Superintendent of Financial Institutions (OSFI)** | An independent federal government agency of Canada that regulates and supervises FRFIs and FRPPs. |
| **Paris Agreement** | A legally binding international treaty on climate change. It was adopted by 196 parties at the United Nations Climate Change Conference (COP21) on December 12, 2015 and entered into force on November 4, 2016. Canada is a party to the Paris Agreement.<br><br>The goal of the Paris Agreement is to limit global warming to well below 2°C, preferably to 1.5°C, compared to pre-industrial levels. To achieve this long-term temperature goals, the aim is to reach global peaking of GHG emissions as soon as possible to achieve a climate neutral world by mid-century. The implementation of the Paris Agreement requires economic and social transformation based on the best available science. It works on a 5-year cycle of increasingly ambitious climate action carried out by countries.[5] |

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| **Responsible Investment Association (RIA)** | A voluntary membership organization that promotes responsible investment in Canada's retail and institutional markets. |
| **Statement of Investment Policies and Procedures (SIPPs)** | Is a document that contains information about investment policies and procedures in respect of a pension plan's portfolio of investments and loans. |
| **Sustainable finance** | Financial activities that (i) align the financial system with global sustainability including climate goals and (ii) organize and motivate the investment required to transition to global sustainability. |
| **Task Force on Climate-Related Financial Disclosures (TCFD)** | An international organization that recommends the types of information that companies should disclose regarding climate-related risks. |
| **Truth and Reconciliation Commission (TRC) Calls to Action** | A commission that offered 94 recommendations to address Canada's historical and ongoing harms to Indigenous peoples. |
| **United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)** | An international declaration that sets out national obligations to uphold Indigenous peoples' rights, including their rights to self-determination, dignity, and well-being. |
| **Universal ownership** | The principle that institutional investors own, affect, and represent the global financial market. |

# 3. Introduction

This Roadmap outlines how Canada's federal government can lead reforms to align finance with Canada's climate commitments and climate science. This section summarizes Canada's existing domestic and international legal commitments, the current climate science, and explains the implications of both for financial policy and regulation.

## A. Canada's existing legal obligations

Canada has committed to climate action in both international law and domestic legislation. As a party to the 2015 Paris Agreement, it committed to limiting global warming to 2°C and "pursuing efforts" to limit keep warming below 1.5°C[6] and making finance flows "consistent with a pathway towards low greenhouse gas emissions and climate-resilient development."[7]

Further to its obligations under the Paris Agreement, Canada committed to reducing emissions by 40-45% below 2005 levels by 2030 through its Nationally Determined Contribution (NDC).[8] Canada formalized its main obligations under the Paris Agreement, including its NDC, through the *Canadian Net-Zero Emissions Accountability Act* (CNZEAA).[9]

Canada's current NDC of a 40-45 per cent reduction is inadequate considering the best available climate science and the principles of equity and "common but differentiated responsibility" enshrined in the Paris Agreement.[10] Canada's historic responsibility for emissions,[11] continuing high emissions per capita, and status as a wealthy and economically advanced nation obligate it to advance further and faster than its current NDC.[12]

Both the Paris Agreement and CNZEAA only allow targets to be revised upwards (made more stringent). Therefore, Canada's targets under the Paris Agreement and CNZEAA should be the floor on ambition. Canadian financial institutions should be more ambitious, recognizing that Canada's targets will only become more stringent over time in accordance with the principles of justice and equity.

CNZEAA introduces several innovations in climate governance to ensure the federal government is accountable for achieving its targets. These innovations need to extend to the financial sector to hold it accountable for meeting climate goals. Accountability helps to address the "Tragedy of the

Horizons" problem, a term coined by Mark Carney, former governor of the Bank of England and the Bank of Canada. This "tragedy" recognizes that most business and political decisions are made based on short-term cycles, but the harms of the climate crisis are felt over the longer term.[13] Climate policy must align short-term decision-making with long-term objectives through transparency and accountability.

CNZEAA bolsters a net-zero target for 2050 with shorter-term interim targets for every five years, detailed planning, regular reporting, and oversight by third-party expert bodies (the Net-Zero Advisory Body and the Commissioner for Environment and Sustainable Development). These measures foster rigour, accountability, and transparency in climate policy. Given the importance of the financial sector to Canada meeting its targets, financial regulation should adopt the same features.

Canada is also a signatory to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP)[14] and enacted legislation that implements its obligations under it. While detailed recommendations as to how to implement those obligations in the context of financial regulation are beyond the scope of this Roadmap, the federal government should ensure that financial regulation to meet climate obligations is aligned with its commitments to UNDRIP, including the principle of Free, Prior and Informed Consent (FPIC).

## B. The current state of climate science

**Science-based Constraints for 1.5°C alignment**

**"Pathways limiting global warming to 1.5°C with no or limited overshoot require rapid and far-reaching transitions in energy, land, urban and infrastructure (including transport and buildings), and industrial systems. These systems transitions are unprecedented in terms of scale, but not necessarily in terms of speed, and imply deep emissions reductions in all sectors, a wide portfolio of mitigation options and a significant upscaling of investments in those options."**

- Intergovernmental Panel on Climate Change Special Report: Global Warming of 1.5ºC (IPCC SR15) Summary for Policy Makers[15]
-

**"There is no need for investment in new fossil fuel supply in our net zero pathway Beyond projects already committed as of 2021, there are no new oil and gas fields approved for development in our pathway, and no new coal mines or mine extensions are required."**

- International Energy Agency. Net Zero by 2050: A Roadmap for the Global Energy Sector (IEA NZE)[16]

**"We calculate that global stranded assets as present value of future lost profits in the upstream oil and gas sector exceed US$1 trillion under plausible changes in expectations about the effects of climate policy. Stranded fossil fuel assets translate to major losses for investors in advanced economies. Most of the market risk falls on private investors, overwhelmingly in OECD countries, including substantial exposure through pension funds and financial markets."**

- Semieniuk et al. Stranded fossil-fuel assets translate to major losses for investors in advanced economies. Nature Climate Change. May 2022.[17]

**"For oil, Canada has much higher unextractable estimates than in other regions, at 83%. This includes 84% of the 49 billion barrels (Gb) of Canadian oil sands we estimate as proven reserves."**

- Welsby, D., Price, J., Pye, S. et al. Unextractable fossil fuels in a 1.5 °C world. Nature 597, 230–234 (2021). https://doi.org/10.1038/s41586-021-03821-8.

The climate crisis is a global, unprecedented, and existential threat. The Intergovernmental Panel on Climate Change (IPCC) warned in February 2022 that the climate crisis has already "caused widespread adverse impacts and related losses and damages to nature and people."[18] To avoid the worst effects of the climate crisis, we must cooperate globally to keep global warming below 1.5°C above pre-industrial levels. This means cutting greenhouse gas emissions rapidly: global emissions must peak before 2025 and nearly halve by 2030.[19] The financial sector is key to transitioning all sectors of the global economy away from polluting the atmosphere.

Limiting global warming to 1.5°C above pre-industrial levels, rather than 2°C, is essential to avoid more severe climate impacts. More than double the amount of people would be exposed to extreme heat waves if we allow warming to reach 2°C. Surpassing 1.5°C of warming would reduce crop yields, increase water shortages, significantly increase global sea rise, and more than double biodiversity loss.[20] Current emissions levels are expected to result in a 50 per cent chance that global mean temperature temporarily overshoots 1.5°C of warming before 2026.[21] Given climate and nature's complex and interrelated systems, "even if future technologies allow the world to reverse previous warming, it will not be possible to similarly reverse some of the essentially permanent effects of that warming".[22] We must therefore aim to limit warming to 1.5°C without any temporary overshoot.

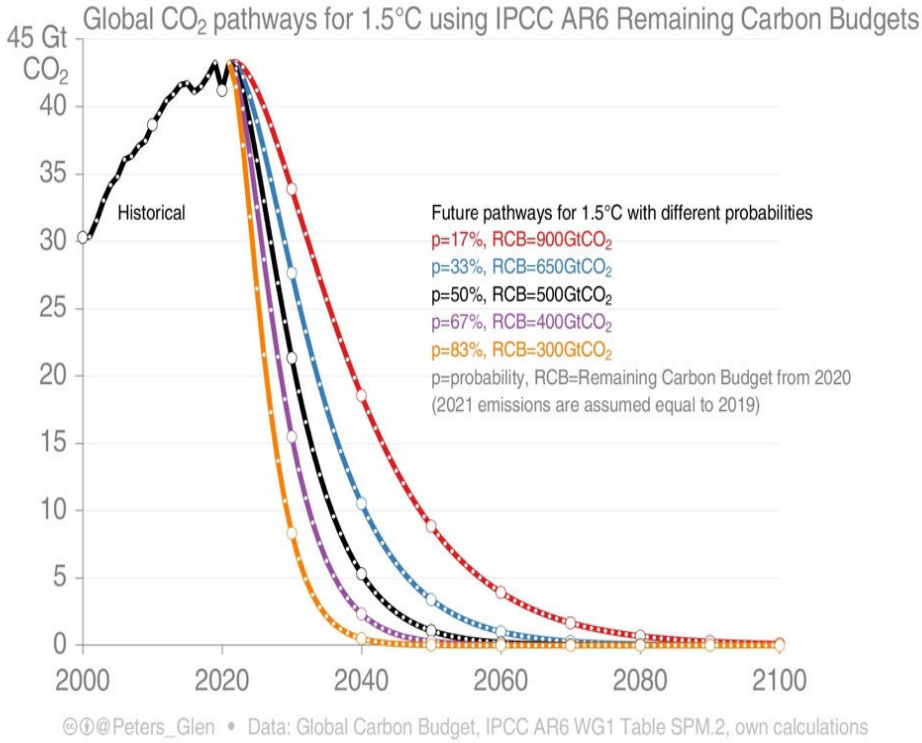



*FIGURE 1 – Global CO2 pathways for 1.5°C using IPCC AR6 Remaining Carbon Budgets* [23]

For a 66 per cent chance of limiting warming to 1.5°C, IPCC AR6 reports that the world has an estimated remaining carbon budget of 360 Gigatonnes of CO2 – or nine years of current emissions (see figure 1 above).[24] [25]

The energy sector, which is predominantly driven by fossil fuels, is the source of around 75 per cent of global GHG emissions.[26] The majority of these emissions are from consuming fossil fuels, with about one-fifth coming from production. Meeting the 1.5°C goal requires global finance to

immediately redirect away from high-emitting activities and towards low-carbon opportunities.

In 2021, the International Energy Agency (IEA) mapped a Net-Zero Roadmap, a "technically feasible, cost-effective, and socially acceptable" pathway to net-zero emissions by 2050 that is consistent with the 1.5°C goal.[27] With respect to fossil fuel development, the IEA concluded that:

- Due to the rapid decline in fossil fuel demand, no new oil and gas fields, coal mines or mine extensions are required beyond projects already committed as of 2021. This includes many of the liquefied natural gas facilities currently under construction or at the planning stage.[28]

- Global annual financial support into any fossil fuel supply must drop drastically over the next 30 years, from $575 billion to $315 billion by 2030 and to $110 billion by 2050 (USD).[29]

- Any remaining investment in fossil fuels is restricted to existing oil and natural gas fields, but production will decline steeply as demand falls. From 2020 to 2050, demand for oil falls steadily by 75 per cent and demand for natural gas falls 55 per cent overall.[30]

The IEA's 2021 World Energy Outlook (WEO) further confirms that the pathway to net-zero emissions by 2050 requires a rapid drop in oil, natural gas, and coal demand.[31]

The world must refrain from extracting 58 per cent of its oil, 59 per cent of its natural gas, and 89% of its coal by 2050 to achieve the 1.5°C goal, as outlined in a 2021 study in the journal *Nature*.[32] This analysis concluded that Canada – which has the third largest oil reserves in the world – must keep 83 per cent of its oil, 81 per cent of its natural gas, and 83 per cent of its coal in the ground, largely because of the high cost of production relative to other major fossil fuel exporters.[33].

The science is clear: to meet the 1.5°C goal, there should be no financial support for new fossil fuel developments and a rapid and steady decline in existing fossil fuel production and associated financial support.

There are currently plans to produce 110 per cent more fossil fuels in 2030 than would be consistent with limiting warming below 1.5°C and 45 per cent more than the 2°C goal.[34] By contrast, emissions from Canada's production of oil and gas was forecasted to reach 200 million tonnes (Mt) by 2050, the same year Canada is supposed to achieve net-zero emissions![35] This planned expansion of fossil fuels is incompatible with the Paris Agreement.

## C. Climate change as a risk to the financial system

Financial experts and central banks warn that the climate crisis exposes the financial system to new and poorly understood risks.[36] The Bank of Canada and the Office of the Superintendent of Financial Institutions (OSFI) warn that slow action on climate change will increase the related financial risks, concluding that "delaying climate policy action increases the overall economic impacts and risks to financial stability."[37] This propagates climate-related business risk through the Canadian financial system and the global economy.

If the financial sector fails to transition away from and phase-out high emitting assets, USD$1-4 trillion of assets are at risk of becoming obsolete or stranded.[38] $100 billion dollars of assets within Canada's financial system alone are at risk.[39]

The damages of climate change are "increasingly complex and […] will interact, resulting in compounding overall risk and risks cascading across sectors."[40] While many financial institutions attempt to model these projected damages, the effects are non-linear and therefore nearly impossible to predict accurately. Physical climate damage is happening faster and with greater impact than previously expected. The severity of climate damages in 2022, like heatwaves and wildfires, were a surprise to many scientists; many expected this severity of damages to not occur until mid-century.[41]

These risks affect all types of financial institutions. For example, Canadian insurers paid out over $1 billion per year between 2010 and 2019 in insured losses from natural disasters, and in 2021 only severe weather events caused $2.1 billion in insured damage in Canada. This is compared to an average of $400 million for the prior 26 years.[42]

In the 2022 Financial System review, the Bank of Canada highlighted climate change as one of the key vulnerabilities in the financial system.

*"Delayed action would need to be more aggressive in the future to achieve the same goal, making a sudden repricing of carbon-intensive assets more likely and leaving investors exposed to sudden financial losses. Mispricing can defer investments needed to achieve such a transition."*[1]

The Bank of International Settlements, an international financial institution owned by central banks, proposed that central banks and regulators should fight climate change within their existing financial stability mandates.[43] Experts recommend a precautionary approach – advanced, decisive action – to limit emissions quickly given the severity and "radical uncertainty" of climate change.[44] A growing segment of financial regulators, like the European Central Bank and the European Systemic Risk Board, have implemented micro and macroprudential policies to limit both climate-related financial risks and the financial sector's contribution to worsening the climate crisis.[45]

These challenges are interrelated: On one hand, financial institutions contribute to climate change when they finance polluting economic activities. On the other hand, financial institutions are exposed to climate-related financial risks, both individually and systemically. Global warming and natural catastrophes are already among the top business risks of 2022.[46] But these risks will become more severe if financial institutions continue to fund GHG polluting activities. Climate action failure or doing too little to mitigate the effects of climate change, will be a leading business risk over the coming decade. The World Economic Forum proposes that a "disorderly transition" will be caused by slow and belated policies, not by boldness.[47] The "insufficient nature of current commitments" is the top global business threat.[48] Many Canadian financial institutions ignore these warnings, in some cases invoking an "orderly transition" as an excuse for ongoing investments in polluting industries.[49]

### D. The risk that the financial system poses to the climate system

To date, Canadian policymakers and regulators have focused mainly on the risks that climate change poses to the financial system. Consequently, policy responses are focused on promoting disclosure of climate-related financial risk (reporting on the climate-related risks that affect an organization). Disclosure is a basic first step to provide market participants with the correct information since climate-related risks affect business and financial performance. It helps promote climate literacy in strategic decision making. However, it is inadequate on its own to remedy the market failures that contribute to climate change.[50]

Rather, financial institutions must reduce real-world emissions by phasing out high emitting assets and investing in low emitting climate solutions. Financial institutions must mitigate the effects of their lending,

underwriting, and investing on the climate to reduce systemic risk, not just attempt to insulate individual portfolios from discrete risks. In other words, managing climate risk is insufficient unless investors aim to align with climate goals.[51] Based on principles of double materiality and universal ownership, the best way to reduce climate-related financial risks is to reduce the impacts of climate change.[52] This requires countering geographical and historical inequities, and "taking into consideration vulnerable groups, communities and ecosystems."[53]

To limit global warming to 1.5°C, the IPCC estimates that by 2030 the global financial sector needs to invest three to six times more capital in climate action than it does today. There is sufficient capital and liquidity to deliver climate commitments if government policies incentivize financial sector transition and transparency.[54]

## E. From voluntary to mandatory: the need for regulation

Aligning financial institutions and businesses with Canada's climate commitments is an essential component of climate policy in Canada but has been largely overlooked. The federal government outlined emission-reduction pathways for each economic sector but did not include the financial sector.[55] The private sector's ability to transition to net-zero must be supported by strengthening and clarifying the rules governing investment, underwriting, banking, and insurance.

An Expert Panel on Sustainable Finance (Panel) was tasked in 2019 with identifying measures to mobilize finance for sustainable growth in Canada. The Panel's final recommendations included useful and constructive steps to lay a groundwork for future regulation, but many of the recommendations have still not been implemented.[56]

One of the Panel's key recommendations to create a Sustainable Finance Action Council (SFAC) has been implemented but without the required participation of diverse climate experts including civil society. The SFAC only includes financial sector representatives, resulting in the financial sector regulating itself and leaving a significant gap in independent climate expertise. The SFAC mandate was recently revised to include making recommendations to mobilize private capital to achieve Canada's 2030 and 2050 climate goals. The SFAC was tasked to consider climate-related financial disclosure, data, and disclosure. Any framework for ensuring climate-alignment across Canadian financial systems has yet to develop.

Several international coalitions of financial institutions have formed to promote climate-alignment under the Glasgow Financial Alliance for Net Zero (GFANZ),[57] formally launched at the COP26 climate conference in Glasgow, Scotland in 2021. The coalition names that "Achieving the objective of the Paris Agreement to limit global temperature increases to 1.5°C from pre-industrial levels requires a whole economy transition." It currently includes 450 members from across the global financial sector, representing more than $130 trillion in assets, including all of Canada's big five banks and some of Canada's largest pension funds. To date, some coalitions have failed to enforce their membership criteria but are moving towards doing so in the near future.

These science-based climate-alignment coalitions and their significant membership from Canadian financial institutions demonstrate that such goals are realistic and achievable, and also the need to level the playing field through regulation in line with Canada's climate obligations. Canada's major banks have not met the newly published standards, and face the possibility of being ejected from GFANZ if significant new measures are not adopted by next year.[58] The banks have expressed misgivings about the science-based criteria underlying GFANZ obligations.[59] Since the Paris Agreement in 2015, financial institutions have committed over four trillion USD to fossil fuels, which are the leading cause of climate-damaging emissions.[60] Canada's big six banks alone committed nearly 700 billion USD, making them some of the world's biggest financiers of fossil fuels.

The quality, consistency, and credibility of net-zero commitments varies considerably. Most commitments lack clear or accurate definitions of what net-zero by 2050 means for the institution, recognizable standards and baselines for comparability, or any sort of credible pathway for achieving these goals. A gap between commitments and action, or between commitments and science – both forms of greenwashing - undermines the ability of markets to drive progress towards achieving our climate goals and public trust in our institutions. Greenwashing erodes trust in the financial system and distorts the market.

Voluntary commitments for climate-aligned finance are important[61] but they are not a substitute for regulation. Take up of voluntary initiatives is inconsistent, since only select institutions choose to engage. The frameworks guiding voluntary initiatives are inconsistent and would benefit from greater uniformity. Further, there are few effective ways to hold signatories to their commitments.

Canadian policymakers must implement uniform and binding rules to align Canada's financial sector with its legislated targets and Paris Agreement commitments. Regulators must be empowered with the resources, direction, and expertise needed to enforce these standards. The recommendations in this Roadmap draw from the best principles from various voluntary initiatives and implement them into Canadian law. This would establish a level playing field that rewards leaders and exposes laggards. Institutional investors and financial consumers, including retail investors, depositors, and pensioners, would benefit from clearer climate-aligned financial policies. Regulations and standards that ensure credible climate-alignment would generate a more stable and efficient financial system.

## F. Scope & how to read the Roadmap

This Roadmap recommends policy and regulatory levers that are available to the Federal government, primarily under the remit of the Ministry of Finance. Essential aspects of financial policy fall under provincial jurisdiction, in particular securities regulation. The Roadmap does not make recommendations for provincial reforms. However, the Federal government should set the gold standard for climate aligned financial regulation and work with provincial governments and regulators to ensure a consistent pan-Canadian approach.

The Roadmap focuses on "climate-aligned finance." Climate-related issues cut across environmental, social, and governance (ESG) issues. The damages from the climate crisis are consequential to environmental protection, human rights, and equity considerations, as well as public and private governance.

Recommendations relate to the largest and most significant federally regulated actors in Canada's financial industry, focusing on federally regulated financial institutions (FRFIs), federally regulated pension plans (FRPPs), financial Crown corporations, and large corporations. Some proposals would have wider implications for corporate governance in Canada, such as rules to combat greenwashing and clarify fiduciary duties.

Most of the key recommendations in the Roadmap can be implemented through regulations adopted under existing legislation: this strikes the optimal balance between the need for legal certainty and parliamentary

scrutiny with the need for swift action commensurate with the urgency of the climate crisis. In a few cases, new or amended legislation is necessary.

Much more could be said about actuarial standards and analysis, underwriters, asset managers, service providers, credit rating agencies, competitive practices, the actions of governmental bodies domestically and internationally, and climate science. This Roadmap is limited to the necessary first steps for Canada's financial system to begin aligning with the Paris Agreement temperature and financial commitments.

Each section of the Roadmap builds on the previous one, but they can also be read independently.

Section four introduces the key regulatory tool for aligning Canada's financial system with its climate obligations: the Credible Climate Plan. This is the foundational recommendation that features throughout the Roadmap.

Sections five, six, and seven apply the Credible Climate Plan to specific parts of the financial system: private financial institutions; public financial institutions; and large federally regulated corporations.

Section eight addresses overarching challenges in climate finance, poor climate governance caused by confusion over the concept of the interpretation of fiduciary duty.

Section nine addresses the enforcement gap: making recommendations for enhancing the powers of regulators and empowering the public to oversee and enforce alignment with climate goals through the adoption and implementation of Credible Climate Plans and rules to combat greenwashing.

Each section begins with a rationale and outline for recommendations, then identifies options for implementation through policy, regulations and/or legislation.

# 4. Credible Climate Plans

The foundational recommendation of this Roadmap is for financial institutions (both public and private) as well as large corporations, to be required to prepare, publish, and implement a "Credible Climate Plan": a plan that contains minimum prescribed "essential elements" to ensure that it is aligned with climate goals. The purpose of these plans is to move beyond disclosure, towards action that aligns with climate goals.

Mandatory Credible Climate Plans for private financial institutions, federal public bodies, and large private corporations are necessary as voluntary commitments and initiatives have not led to action at the pace and strength needed. The standards for climate action in Canada are unclear. Many institutions have a lack of expertise, knowledge, and motivation to drive climate action where competing priorities take precedence over climate action. Mandating Credible Climate Plans for public and private financial institutions, pension plans and large corporations will begin to align financial flows with Canada's climate commitments and a 1.5°C pathway. Credible Climate Plans will assist these organizations by establishing clear standards, common criteria and providing a shield against legal or other challenges to the credibility of their climate commitments.

Although individual institutions are best placed to determine what specific action to take to align their business with 1.5°C, plans must be based on standardized, uniform minimum standards to ensure transparency, comparability, and accountability.

Credible Climate Plans should be reviewed and/or approved by the relevant regulator, and regularly reported on through integration into existing reporting frameworks such as annual financial statements. Regulators must be required to review Credible Climate Plans within a certain timeframe, and either approve or request amendments if they do not meet minimum requirements. Regulators must publish Credible Climate Plans and the results of their review on an easily accessible website to promote transparency.

The requirement to adopt a Credible Climate Plan containing these essential elements should be required by regulation, while the key principles should be advanced through accompanying guidance.

Imposing these requirements on public and private entities is anticipated to have a ripple effect through the Canadian economy. For example, financial institutions would in turn expect Credible Climate Plans from the companies and projects they finance or invest in. Through this process, climate

commitments would cascade through the financial sector value chain. Financial institutions rely on data from portfolio holdings. Obligations on financial institutions need to be mirrored by obligations for large corporations so this information can feed into Credible Climate Plans.

The essential elements of the Credible Climate Plan draw from and build on international best practices, including voluntary initiatives that Canada's financial institutions have already committed to (see table at Annex A), including:

- The Glasgow Financial Alliance for Net Zero (GFANZ) has produced detailed guidance for transition plans and phasing out high-emitting assets.[62]
- The United Nations "Race to Zero" has issued further guidance to provide additional clarity and transparency to apply its criteria.[63] All GFANZ members must meet the Race to Zero criteria and have committed to achieving net-zero GHG emissions by 2050.
- The Responsible Investment Association's (RIA) *Canadian Investor Statement on Climate Change* has guidance for setting targets, aligning governance, and centring just transition principles.[64]
- The Task Force on Climate-Related Disclosure (TCFD) has issued *Guidance on Metrics, Targets and Transition Plans*.[65]
- The International Sustainability Standards Board (ISSB) has published draft general requirements for disclosure of sustainability-related financial information.[66]

These organizations make it clear that credible plans are an essential step to aligning with climate commitments. Although the standards set by these voluntary initiatives are becoming more detailed and demanding and are starting to converge, they still suffer from a lack of uniformity, with different levels of stringency and deadlines making it difficult to compare performance and hold institutions to account for delivery. Our recommendations for Credible Climate Plans would overcome these deficiencies.

Further, as the above are voluntary initiatives, they lack effective means of enforcement as there are few effective sanctions for non-compliance. Credible Climate Plans must be enforceable by regulators and comprehensible to investors and the concerned public. Financial consumers and institutions are better protected by enforceable and binding obligations. Strong enforcement establishes a level playing field, rewarding leaders and exposing laggards. The requirement to publish, implement and regularly

report on a Credible Climate Plan must therefore be embedded across Canada's financial system.

The essential elements of the Credible Climate Plans also mirror those of the *Canadian Net-Zero Emissions Accountability Act* (CNZEAA), Canada's climate accountability law, namely:

- Long-term targets;
- Interim five-year targets;
- Detailed planning;
- Regular reporting; and
- Third party oversight.

We set out below the essential elements of a Credible Climate Plan. This forms the main recommendation for each of Sections five, six and seven, where the content of Credible Climate Plan are replicated in summary form and tailored to the specific circumstances of public financial institutions, private financial institutions and corporations. We conclude this section with the high-level principles for policymakers and regulators to consider when developing and implementing Credible Climate Plans.

# Essential Elements of a Credible Climate Plan

## Guiding Key Principles

**Respect** Indigenous Rights, Sovereignty and Governance

**Prioritize** Climate Equity and Justice

**Advance** Adaptation and Biodiversity, not just Mitigation

**Focus** on Climate Impacts, not just Risks

## TARGET

**1.** Set targets that align the financial institution's activities with limiting warming to 1.5°C

**1.1** Long-term target of net zero by 2050 at the latest

**1.2** Interim targets set in five years starting with 2025 and 2030

**1.3** Long-term and interim targets to set trajectory consistent with:

- The global carbon budget of available emissions to keep global warming to 1.5°C with no/low overshoot.
- Emissions to peak by 2025.
- Maximum effort toward or beyond a fair share of the 50% global reduction in $CO_2$ emissions by 2030.
- Beating Canada's NDC and legislated GHG targets in view of principles of equity and global fair share.
- Mitigation pathways from credible sources e.g., IPPC, IEA.

**1.4** All targets to encompass scope 1-3 emissions

**1.5** All targets to encompass all greenhouse gases, including short-lived climate pollutants[1].

**1.6** All targets to be expressed as absolute emissions reductions (as opposed to other metrics such as emissions intensity)

## PLAN

**2.** Implement policies and procedures to deliver on targets

**2.1** Commit to immediate action (within a timeframe of months) to align with currently available science, including the IEA's conclusions that fossil fuel expansion and thermal coal are incompatible with its 1.5°C pathway.

**2.2** Set out key policies and procedures, including:

- Scaling up investments in green and nature-positive investment areas
- Prioritising emissions reductions ahead of removals and offsets
- Policy for managed phase out of high emitting assets.
- An engagement Escalation Policy
- Aligning executive compensation schemes with objectives of the CCP
- Aligning lobbying activities with the objectives of the CCP

**2.3** Explain how policies and procedures will achieve targets, using quantitative and qualitative analysis, and explaining key assumptions and methodologies.

**2.4** Include a timeline for implementation of key actions, policies and procedures.

**2.5** Explain how CCP is aligned with organization's overall strategy, including financial plans.

**2.6** Explain how the targets and plan integrate UNDRIP and specifically the principle of Free, Prior and Informed Consent

**2.7** Actions to address data limitations.

## REPORT

**3.** Report to regulators annually on progress against targets

Annually report (through statutory disclosures e.g., annual reports or financial statements) on:

**3.1** Climate-related risks and opportunities

**3.2** Progress towards interim and long-term targets in terms of quantified, absolute emissions reductions.

**3.3** Key challenges experienced and positive action to address them (e.g., data gaps, implementation delays, non-aligned investments)

[1] To include all those greenhouse gases accounted for in Canada's national greenhouse gas emissions inventory: including carbon dioxide (CO2), methane (CH4), nitrous oxide (N2O), perfluorocarbons (PFCs), hydrofluorocarbons (HFCs), sulphur hexafluoride (SF6) and nitrogen trifluoride (NF3).

## *1. Targets*

### 1.1 Long-term net-zero target for 2050 (at the latest)

While both state and non-state actors are increasingly making commitments to reach net zero by 2050, such commitments are largely meaningless unless supported by action in the short and medium term. Long-term commitments without interim steps can serve as a cover for inaction.

### 1.2 Interim targets in five-year intervals

A Credible Climate Plan must therefore also include short-term interim targets, on a more meaningful time horizon that will actually drive day to day business and investment decisions. To align with Canada's targets under CNZEAA and the UN Framework Convention on Climate Change (UNFCCC) target and reporting cycle, they should be set in five-year increments, starting with 2025 and 2030.

### 1.3 Targets must be consistent with 1.5°C

The long-term and interim targets should be based on a trajectory that is consistent with the goal of limiting global warming to 1.5°C with low/no overshoot, not merely reaching net-zero emissions by 2050.[67] The UN-convened Race to Zero's criteria, affiliated with GFANZ, stipulates that financial institutions must align with 1.5°C with no overshoot.[68] The signatories to RIA's Canadian Investor Statement on Climate Change, which includes 40 Canadian institutional investors, also commit to "keeping planetary warming to no more than 1.5°C."[69]

### 1.4 Targets must include Scope 1-3 emissions

Targets must cover all emissions, including indirect or "Scope 3" emissions so as not to obfuscate the core aspects of a business or institution to credibly achieving a 1.5°C pathway. For example, indirect emissions represent 87 per cent of total emissions within the energy sector and 99 per cent within the financial sector.[70] Ignoring Scope 3 emissions results in greenwashing.

Although obtaining high quality Scope 3 emissions data may be a challenge,[71] it is not an excuse for inaction and data gaps must be proactively addressed (see 2.7).

### 1.5 Targets must reflect absolute emissions reductions

Similarly, targets must be based on absolute emissions reductions, not emissions intensity. Emissions intensity targets measure greenhouse gas emissions relative to a chosen metric (such as revenues, units of power generation, or sales), a reduction in emissions intensity does not necessarily translate to lower emissions; lower emissions intensity could even occur with higher emissions overall. Targeting and measuring absolute emissions reductions is necessary to ensure alignment, combat greenwashing, and keep emissions within the available carbon budget.

### 1.6 Targets must encompass all GHG emissions

Targets must tackle all climate pollutants, including short-lived climate pollutants such as methane and black carbon, which must be rapidly reduced to meet the 1.5°C temperature goal, and can also deliver significant and immediate benefits for human health.

## *2. Plans*

### 2.1 Commit to immediate action

Given the urgency of the climate crisis, and the clear conclusions from several authoritative studies that fossil fuel expansion is incompatible with a credible 1.5°C-aligned pathway, a Credible Climate Plan should prioritize immediate action based on the clear conclusions from credible mitigation pathways such as the IEA net zero pathway and IPCC SR 1.5 e.g., screening out investment in thermal coal investments or fossil fuel expansion projects.

### 2.2 Set out key policies and procedures, including:

*Scaling up investments in green and nature-positive investment areas*

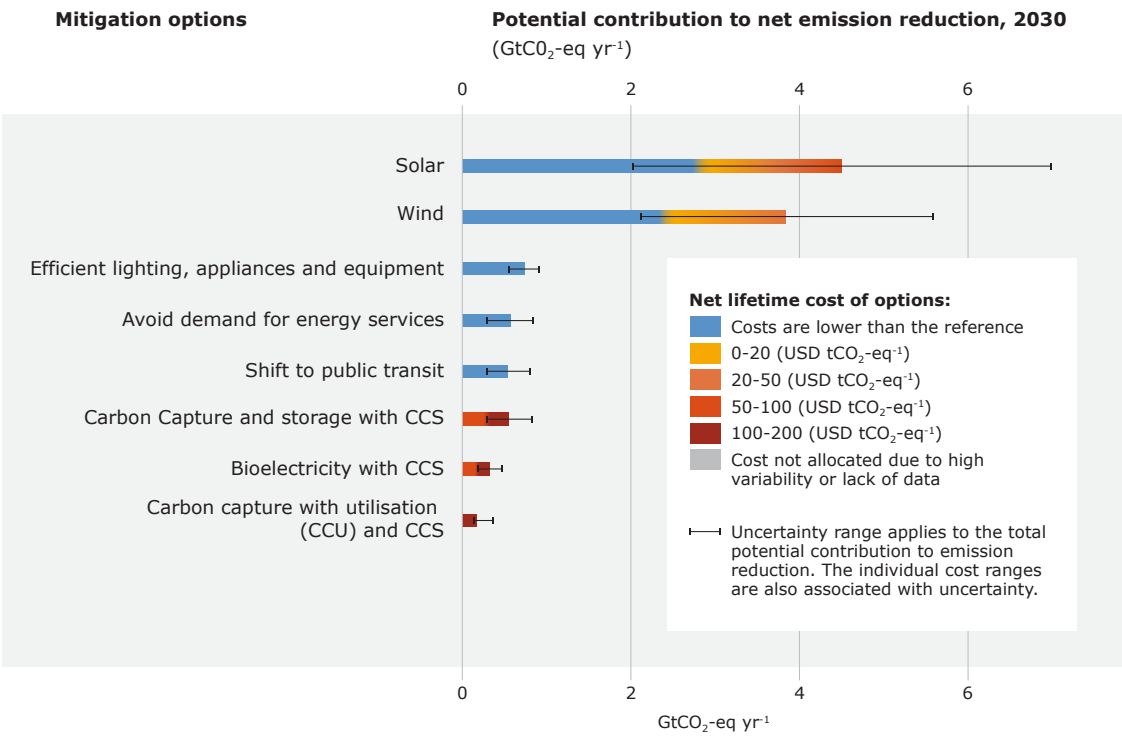
Credible Climate Plans must scale up investments in green and nature-positive investments. The amount of global climate finance must increase nearly eightfold to $5 trillion per year by 2030 and be sustained through 2050 to meet the needs for energy, transportation, water and sanitation, nature-based solutions and adaptation by the IPCC, IEA, and UN Environment Programme (UNEP). To keep the world hospitable and limit global warming to 1.5°C, the IPCC estimates that the global financial sector needs to invest between three to six times more capital than today by 2030 in climate action.[72]

*Prioritising emissions reductions ahead of removals and offsets*

Credible Climate Plans must prioritize reducing emissions in the short-term. They cannot rely on carbon removals through unproven technologies such as Carbon Capture Utilisation & Storage (CCUS) or nature-based climate solutions.

CCUS is less effective at reducing GHGs and more costly than mitigation technologies for efficiency, electrification, and renewable energy. These mitigation technologies are cheaper, commercially proven, and scalable.[73] CCUS has underperformed assumptions about costs, effectiveness, and market deployment rates for over a decade (despite significant government subsidies). Most carbon capture projects are utilized for enhanced oil recovery, EOR, which leads to producing more oil for combustion and therefore increasing net emissions.[74]

Leading energy pathways for 1.5°C like the IEA Net-Zero by 2050[75] and IPCC SR15[76] include only narrow and limited use of CCUS, primarily for non-energy based industrial sectors that are hard to abate (e.g., fertiliser and cement production), not for the lifecycle of fossil fuel production or combustion. CCUS does not credibly or profitably cut emissions from the lifecycle of fossil fuels and is not a pathway for the energy sector to decarbonize. Over-reliance on CCUS in climate plans undermines long-term climate objectives and increases financial risks from stranded assets.




The limits and high cost of CCS can be compared in Figure 2 above, which provides the IPCC's estimates of costs and GHG reduction potentials for mitigation options. For the energy sector, wind and solar have a significant GHG reduction potential and low lifetime cost (shown by the blue colour of the bars). In contrast, CCS in both energy and industry sectors has low reduction potential and high cost (shown by the red colour of the bars).

Carbon Dioxide Removal (CDR) technologies like Direct Air Capture (DAC) can be considered separate from CCUS. While still nascent, CDR may have a role in reducing the harms of climate pollution already emitted. But these technologies cannot be used to justify new emissions. Assuming CDR will be scalable or competitive with abatement fosters unacceptable carbon lock-in and stranded-asset risks.

Carbon offsets are not a substitute for real world emission reductions and cannot be included in Credible Climate Plans. Offsets are supposed to be additional, permanent, and verifiable. But there is little evidence that offsets currently available on the market meet these standards in the long term. Financial institutions can invest in offsets and credit-based initiatives but cannot use them to demonstrate compliance with emissions reduction targets. They should only be applied above and beyond actions to meet science-based targets through emissions abatement.

To demonstrate that it prioritizes reducing emissions, a Credible Climate Plan must explain how it has satisfied the following criteria:

1. Limit use of technologies to achieve interim targets to those that are feasible and deployable within the timeframe of the target (i.e., within two years for the 2025 target). This will rule out most carbon removal technologies in the short-term while incentivizing innovation in the longer term.
2. Explain assumptions used around cost and availability of removal technology and the plan's sensitivity to those assumptions, with alternatives solutions in the event that technology does not deliver projected emissions reductions.
3. Limit use of CCUS to "hard to decarbonize" sectors (i.e., non-energy based industrial sectors with emissions in the production process that are hard to abate). A green taxonomy can define these sectors (see Section 9B).
4. Limit removals to addressing residual emissions after fully deploying technically feasible emission reduction measures.

### *Policy for managed phaseout of high emitting assets*

A 1.5°C-aligned world requires plans to ensure the decommissioning of existing high emitting infrastructure. The IPCC concluded that emissions from existing fossil power plants and other infrastructure exceed the carbon budget for 1.5°C by 30 per cent. A Credible Climate Plan needs to include retirement plans for infrastructure that is not consistent with its 1.5°C-aligned targets.

GFANZ has published guidance on facilitating the early retirement of high-emitting assets. It describes that a managed phaseout should include developing forward-looking metrics and targets, creating tools to identify assets that need to be retired early, developing guidance on financing mechanisms, integrating managed phaseout in financing policies and conditions, ensuring credible transition pathways for high-emitting sectors, and steering public policy to support a managed phaseout.[77]

### *Implement escalating engagement strategies – with sell discipline*

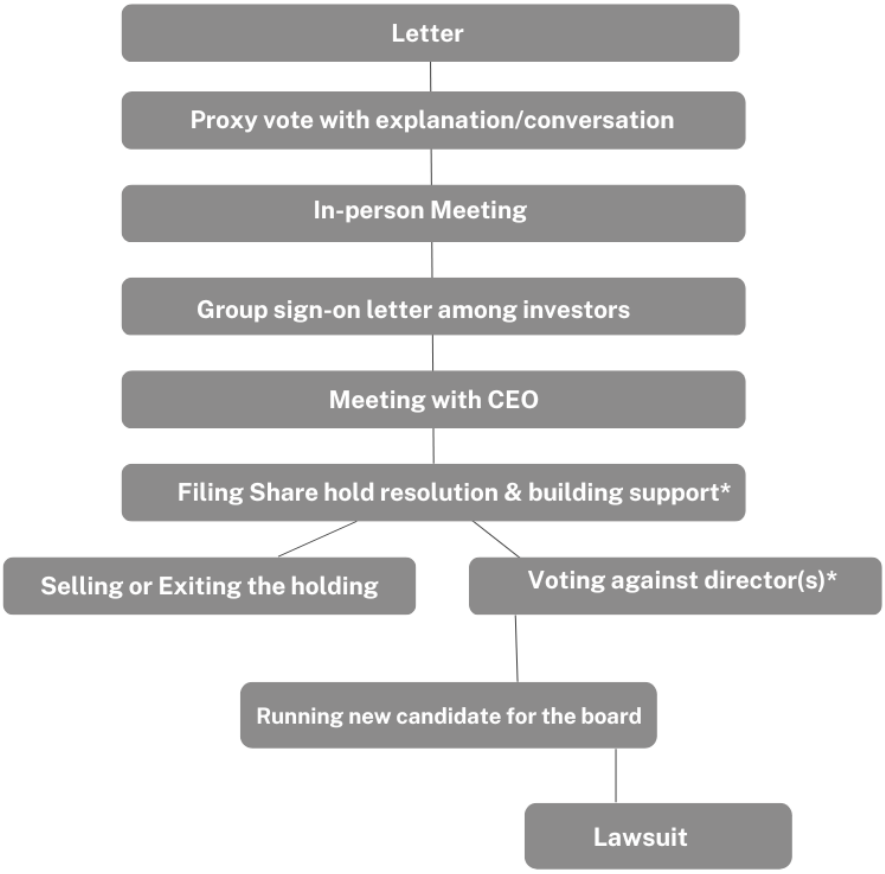
Divestment and engagement are often presented as competing approaches but are complementary tools for climate alignment and risk management.

Engagement can be a strategy for financial institutions to ensure that a holding (used to denote any investment counterparty, like a portfolio company) acts on a stated climate plan. For any climate-related engagement to be effective, a financial institution must set expectations for a holding to develop and execute a Credible Climate Plan – including a business model that contributes to 1.5°C and is viable in a net-zero economy. For example, engagement with fossil fuel holdings should align with a "managed phaseout," meaning winding down the asset sooner than would happen without the investor's engagement and on a timeline that aligns with limiting warming below 1.5°C.[78]

An engagement strategy must escalate to subsequent steps if initial conversations are unsuccessful. Escalation is essential for engagement efforts to have teeth. Any engagement should have clear timelines and automatically escalate to the next step if a counterparty fails to meet the timeline to respond and amend activities. The final step on the engagement ladder (presented below) is exiting a holding that fails to deliver on science-based emissions reduction targets.

The optimal engagement strategy combines a fixed time limit for each step of engagement, clear expectations, and a credible threat of sale if expectations are not met. This blended approach – with escalating engagement and a strong sell discipline – has been taken by several pension funds internationally, including the New York State Common Retirement Fund and the Brunel Pension Partnership in the United Kingdom.

**The Ladder of Engagement for Equities**




**If a public company*
*Adapted from Ceres, 2017*

But financial institutions are not always in a position to influence a holding. A holding may ignore or resist engagement efforts, such as when the institution has diluted ownership in public or private equity. Any engagement strategy must culminate with sound sell discipline. The next step is voting against directors and a planned exit. After exiting a holding that disregarded engagement efforts or refused to become climate-aligned, a financial institution should share and explain this publicly to the extent it is legally feasible.

Engagement strategies have limits even when implemented properly. Some business models and economic sectors do not have viable business models for climate-alignment. For a high-emitting asset, a financial institution must demonstrate a willingness to exit a holding that expands fossil fuel production (based on the IEA's 1.5°C Pathway). Engagement is unlikely to be effective where the holding's core business revenues rely on exploring for, extracting, producing, transporting, refining, or burning oil, gas, or coal. Engagement cannot effectively prevent the climate damages caused by expanding fossil fuel exploration and production, nor can it evade the related financial risks these companies face through structural decline and demand-driven destruction.[79]

> *The Ontario Teacher's Pension Plan's green bond framework outlines that "For the avoidance of doubt, any investment that increases the use of fossil fuels would not support a transition to a low carbon economy."*

Engagement and other risk management tools are often discussed regarding equity investments, but financial institutions should be strict with high-polluting holdings in their debt portfolio as well. In fact, negative screens for new fossil fuel expansion projects are essential. The majority of the capital that finances expansion comes from bank lending and bond issuances.[80] Policies should rule out debt (through purchasing bonds. providing loan capital, or lines of credit) to new oil, gas, and coal infrastructure or other infrastructure that would not comply with 1.5°C. Negative screens against financing expansion projects would limit exposure to financial risk and ensure the integrity of a Credible Climate Plan. Screening out high-risk, high-emitting assets – particularly in the debt markets – is in line with most asset owners' and managers' fiduciary obligations.

### *Align compensation with climate targets*

Most financial institutions have performance-based compensation schemes to align employees with the organization's goals. The Caisse de Depots et Placement Quebec (CDPQ) has one of the most effective models globally for ensuring employees respect the institution's carbon budget which should serve as a model for Credible Climate Plans.

**Case study: CDPQ's executive compensation scheme**

Since 2018, CDPQ has linked its employees' variable compensation to CDPQ's progress on its climate targets.[1]

This means that CDPQ's Board considers whether employees contributed to reducing the fund's carbon footprint, supporting the climate strategy, and helping to achieve the climate targets in assessing whether its employees achieve performance objectives when determining employees' pay beyond their base salary.[1]

For example, the CEO's compensation in 2021 was determined in part by his renewed climate action and adoption of new targets and distinctive measures.[1]

Financial institutions have influence through government lobbying, both related to financial policy and in sectors related to their investments. A climate-aligned institution must align policy engagement with science-based climate action. This includes lobbying directly and indirectly through association memberships. An institution should "publicly remove" membership from trade associations that advocate against net-zero policies.[81]

## Recognized Importance of Lobbying

Many voluntary net-zero commitments require lobbying and political activities to align with climate commitments.

The RIA Canadian Investor Statement on Climate Change, signed by over forty Canadian institutional investors, states: "as institutional investors, we will [...] ensure that any climate-related policy advocacy we undertake supports a just transition and the ambition of achieving global net-zero emissions by 2050 or sooner, and engage with our industry associations to encourage climate advocacy efforts that are consistent with these goals."[1]

GFANZ writes that a financial institution should "ensure that direct and indirect lobbying and public-sector engagement advocate for policies that support or enable an accelerated and orderly transition to net zero, and do not contravene any net-zero commitments of the institution. Review portfolio companies' lobbying and advocacy efforts and utilize engagement levers to encourage consistency with the institution's own net-zero objectives."[1]

### 2.3 Explain how policies and procedures will achieve targets

While not every measure in a plan will be quantifiable in metrics such as tons of GHG emissions reductions, Credible Climate Plans should contain a mix of qualitative and quantitative analysis to explain how the measures they include will actually deliver progress towards targets. This replicates the requirements for federal Emission Reduction Plans under CNZEAA.

### 2.4 Timelines for implementation of key measures

This is essential to ensure that measures are implemented in a timely manner that recognizes the urgency of the climate crisis. It also allows regulators and investors to assess whether the Credible Climate Plan is being implemented in a timely manner. This mirrors a requirement from CNZEAA.

### 2.5 Explain how Credible Climate Plan aligns with the organization's overall strategy

Corporations and financial institutions need to explain in their Credible Climate Plan how their operations and overall strategy remain viable and profitable in relation to the targets established in the plan. This analysis is crucial to ensure consideration is given to the time horizons for which a corporation may remain viable during a just transition and in turn supports actions and business, investor, and consumer knowledge.

### 2.6 Explain how the targets and plan are aligned with UNDRIP

UNDRIP[82] establishes a requirement to uphold the human rights of Indigenous peoples, including rights to self-determination, dignity, and well-being (see further information on UNDRIP in Section 4B(1)). UNDRIP must be considered in the creation of Credible Climate Plans. Further, Credible Climate Plans must explain how the targets and plan are aligned with UNDRIP.

### 2.7 Actions to address data limitations

There will inevitably be gaps in the data, particularly in the early iterations of Credible Climate Plans. However, this should not be used as an excuse to delay action, and the plan should detail how data will be improved.

## *3. Reports*

Annual reporting is essential to reassure regulators and investors that progress is being made to implement a Credible Climate Plan.

Credible Climate Plans will be iterative, as regular reporting ensures that they improve over time, keeping pace with advances in climate science and mitigation and adaptation technology, and becoming more detailed and rigorous as improved data becomes available.

Crucially, reports must be included in annual financial reports to require sign off by company officers and independent third-party assurance.

## G. Key principles

The following key principles should be followed by the federal government in developing standards for Credible Climate Plans and should also guide financial institutions, pension plans, and corporations in developing and implementing their Credible Climate Plans. While more high level and subjective than the "essential elements" described above, these principles are nonetheless essential for the transition to net zero to be successful.

### *1. Respect Indigenous Rights, Sovereignty, and Governance*

Indigenous Peoples have key knowledge for biodiversity protection and the fight against climate change.[83] Recognition and respect for Indigenous communities' legal systems; inherent, constitutionally-protected rights; and leadership in addressing the climate crisis is critical for a Credible Climate Plan.

Aligning Canada's financial system with climate goals in a way that respects Indigenous rights, recognizes Nation-to-Nation relationships, and advances reconciliation requires a deeper analysis and a meaningful multi-stakeholder process with Indigenous communities and governments that was not conducted as part of this Roadmap. None of the co-authors of this Roadmap are Indigenous. The intention of this Roadmap is to provide a set of policy proposals that should be developed and implemented by the federal government in partnership with Indigenous governments.

Indigenous rights and sovereignty must be integrated into the standards for Credible Climate Plans, as well as into the process by which the Credible Climate Plans are developed. Federally regulated private and public financial institutions and corporations continue to perpetuate harm on the exercise of Indigenous rights and sovereignty. In developing the more detailed requirements and guidance for Credible Climate Plans, the federal government must learn from these critiques and ensure deep and meaningful engagement with Indigenous Nations.

Further, the creators of Credible Climate Plans must also respect the rights of Indigenous Peoples. UNDRIP, FPIC, and the Truth and Reconciliation Commission (TRC) Calls to Action (see definition box) require Canadian investors and businesses to respect Indigenous governance and the rights of Indigenous people to provide – or deny – consent. This is particularly relevant for resource extraction and land-use projects.

# The United Nations Declaration on the Rights of Indigenous Peoples

UNDRIP, FPIC, and TRC UNDRIP, The United Nations Declaration on the Rights of Indigenous Peoples, was adopted by the UN General Assembly in 2007, and implemented by Canadian parliament in June 2021.[1] It sets out an obligation to uphold the human rights of Indigenous peoples, including their rights to self-determination, dignity, and well-being. UNDRIP reaffirms and formalizes rights that Indigenous people already had.[1]

The Canadian federal government enacted legislation to implement UNDRIP in June 2021. FPIC, or Free Prior and Informed Consent, "is a principle protected by international human rights standards that state, all peoples have the right to self-determination and – linked to the right to self-determination – all peoples have the right to freely pursue their economic, social and cultural development."[1]

The Calls to Action from the TRC, or Truth and Reconciliation Commission, offer 94 recommendations to address the historical and ongoing ways Canada harms Indigenous peoples. Call #92 is directed to businesses. It calls for Canada's private sector to apply UNDRIP and FPIC, build relationships with Indigenous communities, commit to meaningful consultation, ensure equitable access to jobs and education for Indigenous peoples, and teach staff and management about the history and legacy of Canada's treatment of Indigenous peoples, including residential schools.[1]

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*For more information on the history and legacy of residential schools, see: https://nctr.ca/education/teaching-resources/residential-school-history/ and https://nctr.ca/exhibits/residential-school-timeline/*

### *2. Prioritize Climate Equity and Justice*

Climate action requires addressing climate injustice. Climate justice requires those historically responsible for climate change and which have the capacity to pay to "shoulder the burden" of climate action.[84] Wealthier and industrialized countries like Canada are historically responsible for higher emissions, have higher per capita emissions, and have greater capacity to fund mitigation and adaptation to climate change. This responsibility applies to public governments and the private sector. Private financial institutions are in-part historically responsible for climate damages, having funded extractive and emitting industries in the decades before the Paris Agreement and the six-years since.[85]

Inequality drives climate change. It "systematically undermines climate action, decoupling the vulnerable from the powerful."[86] A Credible Climate Plan must acknowledge and aim to reverse these inequities, by considering impacts on vulnerable groups, communities, and ecosystems and the knowledge of Indigenous Peoples.[87]

> Race to Zero recommends to "consider the broader societal/social consequences and impacts of mitigation actions, including on race, gender and intergenerational equity. Seek to enable all actors to contribute to the global transition toward (net) zero through engagement, information sharing, access to finance, and capacity building. Develop pledges, plans, and actions in consideration of justice, drawing notably on the Sustainable Development Goals and Articles 2 & 4 of the Paris Agreement, as well as its Preamble."[1]
>
> This requires an investment strategy that targets positive impacts. Only considering the risks to an individual portfolio, rather than the relationship between social and climatic systems, may exacerbate inequalities and weaken cooperation against climate change.

### *3. Advance adaptation and biodiversity protection, not just mitigation*

The challenges of climate change cannot be addressed by only cutting emissions. The global average temperature has already warmed by 1°C. [88] Climate change is already causing disastrous impacts, including adverse impacts on biodiversity, and loss and damages for vulnerable communities. Investment in adaptation is necessary to reduce the damages from climate change that can no longer be avoided. Bolstering natural resilience through

biodiversity is the most effective solution. Rebuilding biodiversity supports climate resilience and has positive economic and financial impacts.[89] Climate-aligned financial institutions must focus on mitigating emissions as well as enhancing adaptive capacity, strengthening resilience, and reducing vulnerability to climate change. This must be achieved through building the resilience of socioeconomic systems and biological diversity.[90]

### *4. Focus on Climate Impacts, not just Risks*

Institutions and regulators must explicitly prioritize positive impacts towards net-zero. Climate-related disclosure is a foundation for understanding climate risk, but it is not necessarily a step towards aligning with climate action. Many "ESG"-labelled strategies identify environmental, social, or governance (ESG) risks but may not intend to improve the related ESG results. Reducing climate risks for a portfolio does not necessarily positively impact the climate transition.[91] For example, consider if financial institutions avoid areas with high physical climate risk. While this might insulate portfolios from physical climate risk in the short-term, it would result in capital flight from the regions most vulnerable to climate damage, leaving them without funding to invest in adaptation or mitigation and creating a degenerative feedback loop.[92] Instead, the financial institution should focus on the climate impacts of investments, aiming to reduce emissions and build resilience.

The purpose of Credible Climate Plans is to address this gap. A Credible Climate Plan, and the related suite of regulation, captures both the climate-related risks to the financial system and the impacts from finance on society and climate.

Business and financial returns are a product of overall market performance. If the severity of climate change increases, the related financial risks become unavoidable, or "unhedgeable."[93] But if businesses and investors mitigate emissions and build resilience to physical climate damage, a more orderly transition would be possible. Financial institutions have an interest in building a more stable future economy by investing to reduce the damages of climate change.

# 5. Aligning Private Financial Institutions and Pension Plans

This section makes recommendations on aligning federally regulated financial institutions (FRFIs), which includes banks, insurance companies and trust and loan companies, and federally regulated pension plans (FRPPs) with a 1.5°C pathway. The cornerstone of these recommendations is requiring that FRFIs and FRPPs prepare, publish, and report on Credible Climate Plans (as introduced in Section 4), and their review and approval by the Office of the Superintendent of Financial Institutions (OSFI).

In addition, we recommend that OSFI takes supportive action in the form of continuing its program of scenario analysis and stress testing, amending capital adequacy and prudential requirements for high carbon assets, and placing statutory investment and lending limits on those assets.

## Key recommendations for private federally regulated financial institutions (FRFIs) and pension plans (FRPPs)

- 5.A Require FRFIs to prepare, publish, and report on Credible Climate Plans
- 5.B Require FRPPs to prepare, publish, and report on Credible Climate Plans
- 5.C OSFI to review plans and reports within a specific timeframe and approve or request amendments
- 5.D OSFI to jointly lead, with Bank of Canada, an expanded and more rigorous program of stress testing and scenario analysis
- 5.E Amend capital adequacy requirements and align prudential requirements to account for higher risks of high-emitting assets and activities (particularly activities without credible decarbonization pathways)
- 5.F Place statutory investment and lending limits on certain types of assets that have the highest climate risk (i.e., those identified by the International Energy Agency (IEA) as incompatible with keeping warming below 1.5°C, including thermal coal investments and new fossil fuel expansion)

FRFIs and FRPPs wield incredible financial resources in Canada, and so have a major impact on climate change. However, for decades they have been, and they continue to be, financially entrenched in high-emitting industries. Although we are seeing a trend towards them making commitments to net zero under voluntary international climate initiatives, this has not translated into action or concrete plans to align with a credible 1.5°C pathway. Even more dangerously, some of these organizations are continuing to increase financial flows to activities that are incompatible with climate science and that are fuelling the climate crisis.

Canadian financial institutions have signed up to an array of voluntary international initiatives that commit in various ways to the Paris Agreement and achieving net-zero emissions by 2050. Canada's six largest banks have joined the Net-Zero Banking Alliance (NZBA), only three Canadian asset owners have joined the Net-Zero Asset Owner Alliance[94] and several insurance companies who operate in Canada have joined the Net-Zero Insurance Alliance.[95] Many Canadian investors have signed onto the UN Principles of Responsible Investing,[96] and over forty institutional investors have joined the Responsible Investment Association's (RIA) Canadian Investor Statement on Climate Change.[97]

These commitments and affiliations demonstrate that private financial institutions recognize that climate-aligned finance is important and serve as a helpful baseline for the minimum standards for climate-aligned financial policy.

However, these voluntary initiatives alone are insufficient. First, they lack effective means of enforcement and have not proven able to ensure that their standards are followed. Second, they set a range of standards and deadlines, use different terminology, and give signatories wide discretion as to how to demonstrate compliance which makes it difficult for investors and consumers to differentiate between market leaders and laggards, contributing to confusion and greenwashing. Finally, by definition, financial institutions are not required to join voluntary initiatives, so participation has been limited, particularly in the pensions and insurance sectors.

Inside or outside of these voluntary initiatives, the quality, consistency, and credibility of net-zero commitments varies considerably. Commitments usually lack clear or accurate definitions for terms such as "net-zero by 2050," recognizable standards and baselines for comparability, or any sort of credible pathway for achieving these goals. For example, a report by the Institutional Investors Group on Climate Change (IIGCC) in collaboration

with the Transition Pathway Initiative (TPI) gave low scores to the three of Canada's largest banks it surveyed, particularly when it comes to four indicators: interim targets, decarbonization strategies, climate policy engagement, and inclusion of climate metrics in audited financial statements.[98] This report is particularly significant as it comes from the investor community.

Further, despite joining voluntary climate initiatives and committing to net-zero, Canada's largest five banks increased their financial support to the fossil fuel industry from 2020 to 2021. The following chart from the *Banking on Climate Chaos Report* shows all of Canada's big five banks ranked in the top nine of the banks globally who provided the largest increases in financing of fossil fuels:

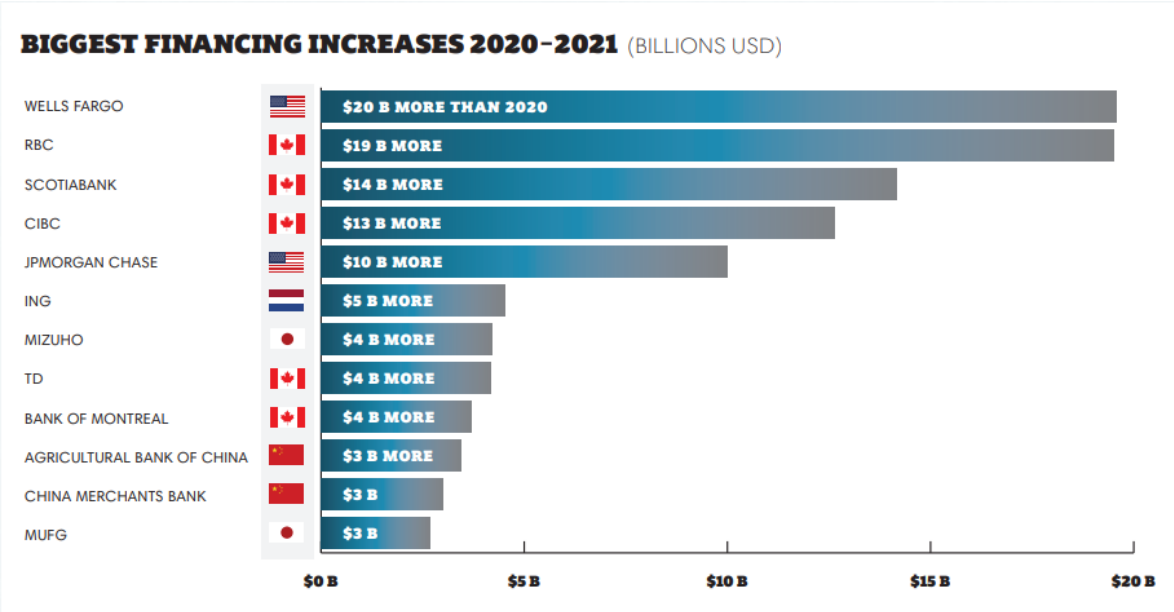


*Chart from Banking on Climate Chaos: Fossil Fuel Finance Report 2022, available online: https://www.bankingonclimatechaos.org//wp-content/themes/bocc-2021/inc/bcc-data-2022/BOCC_2022_vSPREAD.pdf. Page 13.*

These problems go beyond the banking sector. A recent report on two Canadian life and health insurance companies found that despite having made net-zero commitments, they are estimated to finance emissions equivalent to three-quarters of Canada's national emissions and are ranked in the top three biggest Canadian investors in companies on the Global Coal Exit List.[99]

Voluntary initiatives have led to commitments but not action in the financial sector. Regulation is clearly required to align pathways with required climate action, reward leadership, restore public trust, and ensure a fair and level playing field across financial institutions and pension plans. Requiring

Credible Climate Plans, based on clear, standardized metrics, is the key regulatory tool. Credible Climate Plans would give financial institutions the flexibility to determine the specific policies and procedures to align with climate goals, but within a consistent framework and clearly defined parameters that are aligned with Canada's legal obligations and the best available climate science.

The essential elements of a Credible Climate Plan build on the principles from these voluntary initiatives. They must be given the force of law to ensure accountability, transparency, and comparability across financial institutions and over time. Section 4 introduced the Credible Climate Plan, elaborating on the essential elements and the key actions that should result from implementation.

OSFI has a crucial role to play in overseeing the adoption and implementation of Credible Climate Plans and aligning macroprudential regulation with Canada's climate goals, as part of its statutory mandate to protect the safety and soundness of the financial system. It has made some encouraging progress on climate-related finance to date, such as partnering with the Bank of Canada to model transition-related climate risks, concluding that quicker policy action would reduce risks to the financial system.[100]

The recommendations below represent key legal and policy action that could be taken in the near term to move financial flows in Canada to support climate obligations and to a sustainable finance system.

### A. Mandatory Credible Climate Plans for FRFIs

The FRFIs regulated by OSFI include 81 banks, 206 insurance companies, and 57 trust and loan companies.[101]

OSFI has recently proposed guidance[102] on managing climate-related risks for FRFIs. Although the Draft Guideline includes a requirement for FRFIs to have "Climate Transition Plans,"[103] it fails to provide specificity on what metrics make up a *credible* plan. Without prescription on the necessary plan contents the benefits of transparency, comparability, standardization, and financial flow progress will not be realized.

In finalizing the guidance, OSFI has an opportunity to require the adoption of Credible Climate Plans (as explained in greater detail in Section 4). As noted by the Bank of Canada, a "standardized and systemic approach" to climate risk disclosure initiatives is underway domestically and

internationally.[104] The structure of the Credible Climate Plan with specific standards and enforcement by OSFI would provide the clarity, metrics, and enforcement that is missing from the Draft Guideline.

OSFI can and should take a phased approach, first applying more rigorous standards to Canada's domestic systemically important banks (D-SIBs)[105] with effect beginning from the end of 2023, then rolling out to smaller banks over time. Currently, Canada's big six banks are already bound by similar timelines due to their commitments to the NZBA. More importantly, these banks have the sophistication and capacity to deliver on these timelines, and a responsibility to do so given the significance of their financed emissions.

Crucially, FRFIs should be prohibited from claiming to be net-zero, Paris Agreement, or climate aligned until they have publicly released a Credible Climate Plan, to protect consumers and investors from greenwashing in the interim and to incentivize early compliance.

**B. Mandatory Credible Climate Plans for FRPPs**

As the regulator of FRPPs, OSFI oversees an estimated seven percent of Canada's pension plans.[106] These plans represent employees of large federally regulated institutions such as banks, telecommunications (like Bell Canada), and transportation (like Air Canada),[107] providing retirement security for a significant number of Canadians.[108] These FRPPs have not made significant public progress on climate-related disclosure or climate-aligned investing. OSFI must issue clear guidance and regulation to resolve this gap.

OSFI has yet to propose guidelines for managing climate related financial risk for FRPPs, although has indicated that it will do so. It should do so as a priority, based on the proposals outlined above in Section 5A.

Further, OSFI is a member of the Canadian Association of Pensions Supervisory Authorities (CAPSA), which can create guidelines for all pensions, including non-federally regulated plans. By mandating FRPPs to prepare, implement, publish, and report Credible Climate Plans, OSFI would take a leadership role among pension regulators. This is essential to safeguard the hard-earned pensions of employees in federally regulated industries. OSFI should then work with CAPSA and other appropriate

regulators to standardize climate-aligned financial policy across Canadian pension plans.

### C. OSFI to review Credible Climate Plans and approve or request amendments

OSFI must take on the role of reviewing Credible Climate Plans submitted by FRFIs and FRPPs to ensure they include the essential elements. OSFI must be required to issue a formal decision either approving the Credible Climate Plan, or, where it is deficient in one or more of the essential elements, requesting amendments. To ensure progress in implementing Credible Climate Plans, OSFI should review annual progress reports and similarly issue a decision on whether progress is satisfactory, or if not, setting out specific remedial action to be taken.

All plans and reports, and OSFI's decisions in relation to them, should be published on a central online registry to promote transparency.

### D. Expand stress testing and scenario analysis

Pricing climate-related risks accurately is challenging, particularly using backward-looking techniques. OSFI and the Bank of Canada must expand stress testing and scenario analysis. These exercises must align with limiting warming below 1.5°C, assess both physical and transition risk and include regional and sector specific scenarios.

### E. Amend capital adequacy requirements

Capital adequacy requirements (or capital requirements) define the amount of capital a bank or other financial institution must have on hand relative to its risk-weighted credit exposure. This percentage ratio is set by the regulator based on perceived risks. Financial institutions are incentivized to make decisions that reduce the capital they must have on hand, so a higher capital requirement would disincentivize an investment.

Capital requirements traditionally (yet incorrectly) perceive high-emitting assets as lower risk because they often attract a high credit rating and are profitable over the short-term. This favours climate polluting assets like fossil fuel infrastructure and misconstrues the high risk over the medium- and long-term. Regulators must amend and reinform their risk perception of high-emitting assets based on climate science and 1.5°C demand

scenarios. This would naturally increase the risk profile and resulting capital requirements for fossil fuels.

Traditional capital adequacy requirements disincentivize greener investments for the same reason. Although many green technologies, like solar, are mature technologies, they may still be less understood by finance institutions. They are therefore evaluated as higher risk simply due to relative novelty and may be underfunded as a result.

The Bank of Canada recognized that the risk from high-emitting assets is misrepresented without differentiated capital requirements. Not fixing this is "making a sudden repricing of carbon-intensive assets more likely and leaving investors exposed to sudden financial losses. Mispricing can defer investments needed to achieve such a transition."[109]

Fossil fuel activity is significantly exposed to climate-related transition risks (and is a leading cause of worsening the climate crisis through GHG emissions).[110] Expanding fossil fuel infrastructure is particularly risky. OSFI should integrate climate science into its risk analyses, so these activities would be understood as higher risk and would yield higher capital requirements to reflect this risk. OSFI outlined the high transition risk for Canadian fossil fuel assets in its scenario analysis pilot study but has not yet integrated these findings into regulation.[111] Both the risk of the asset, and the systemic risk resulting from the asset, are important: continued combustion of fossil fuels poses a systemic risk to the financial system's stability by worsening climate-related damages. Exploring for and expanding fossil fuel development poses an even higher risk, as this is clearly incompatible with keeping warming below 1.5°C.[112]

The Basel Committee on Banking Supervision recently proposed higher capital requirements for cryptocurrency assets, recognizing these assets risk generating instability throughout the financial system.[113] They proposed a "one-for-one" holding requirement. Based on the risks to the financial system and global climate associated with fossil fuel expansion and exploration, OSFI must similarly apply higher capital adequacy requirements.

Capital requirements for FRFIs must be informed by climate science, including credible pathways consistent with a 1.5°C temperature limit given the systemic risks if this level of warming is exceeded.[114] Similarly, actuaries

to FRPPs should be required to consider climate-related risk factors when conducting plan valuations.

### F. Statutory investment and lending limits on high climate risk assets

For certain types of assets that are subject to exceptionally high climate risk (e.g., thermal coal investments and new fossil fuel expansion projects), hard investment and lending limits should be introduced.

## Implementation of Section 5 Recommendations

| Implementation |
| --- |
| **Recommendations 5.A (Require adoption of Credible Climate Plan by FRFIs) and 5.C (Review and approval by OSFI)** |
| <u>Step 1:</u><br><br>OSFI to revise proposed guidance, Draft Guideline B-15, to:<br><br>• establish the essential elements of a Credible Climate Plan;<br>• require inclusion of a Credible Climate Plan in annual financial report; and<br>• outline that OSFI will be the principal body for reviewing Credible Climate Plans and approving or requiring amendments.<br><br><u>Step 2:</u><br><br>Adopt Regulations under the *Bank Act*,[115] *Trust and Loan Companies Act*[116] (TLCA), *Insurance Companies Act*[117] (ICA), and *Cooperatives Credit Associations Act*[118] (CCAA) outlining the minimum content of a Credible Climate Plan and requiring its inclusion in the annual financial statement. Define OSFI as the principal body for reviewing these Credible Climate Plans and approving or requiring amendments.<br><br>Adopt Regulations[119] to place a prohibition on marketing of climate-related claims unless a bank has published an approved Credible Climate Plan and made required disclosures e.g., fossil fuel holdings, scenario analysis. |

| **Recommendations 5.B (Require adoption of Credible Climate Plan by FRPPs) and 5.C (Review and approval by OSFI)** |
|---|
| Step 1:<br><br>OSFI to issue guidance on climate risk management for FRPPs, either through new guidelines or amending current guidelines to require:<br><br>• that Statements of Investment Policies and Procedures acknowledge climate change as a material systemic risk to investments;<br>• the prudent management of climate change risk in investments requires setting targets that align with 1.5°C and adopting a Credible Climate Plan;<br>• the preparation of actuarial reports includes an assessment of alignment with 1.5°C;<br>• disclosure of a Credible Climate Plan and climate risk reporting in annual regulatory returns;[120] and<br>• an explanation of how OSFI will use its powers to give directions to administrators where climate risk is not being properly assessed or managed. [121]<br><br>Step 2:<br><br>Adopt Regulations under the *Pension Benefits Standards Act*[122] (PBSA) outlining the minimum contents of a Credible Climate Plan and requiring a Credible Climate Plan to be included in an FRPP's annual regulatory returns.[123] Define OSFI as the principal body for reviewing these Credible Climate Plans and approving or requiring amendments. |
| **Recommendation 5.D (Require scenario analysis and stress testing)** |
| OSFI to build on the pilot project with the Bank of Canada to align scenario analysis and stress testing to limit warming to 1.5°C. |
| **Recommendation 5.E (Amend capital adequacy requirements and align prudential requirements)** |
| Option 1:<br><br>OSFI to revise the Capital Adequacy Requirements (CAR) Guideline[124] to align with Canada's climate commitments and its scenario analysis, by ensuring that the risk weighting for investment (including loans, bonds or |

derivatives) for fossil fuel resources or infrastructure is proportionate to the risk.

OSFI to amend Life Insurance Capital Adequacy Test (LICAT) Advisory[125] (for federally regulated life insurers) and Minimum Capital Test[126] (MCAT) Guidance (for federally regulated property and casualty insurers) to include chapters on calculation of climate-related risks.

OSFI to issue directions to actuaries under the ICA[127] covering:

- weighting of high-risk assets; and
- higher likelihood of pay out due to climate events.

OSFI to issue guidance under the PBSA[128] relating to appropriate assumptions and methods for calculating climate-related risk in actuarial reports.

Option 2:

Adopt regulations under the *Bank Act*,[129] TLCA,[130] and ICA[131] introducing capital requirements based on high-risk carbon holdings.

Amend the *Pension Benefits Standards Regulation*[132] (PBSR) to require that the Statement of Investment Policies and Procedures include policies and procedures pertaining to the differentiated risk weighting of high-risk carbon intense assets.

**Recommendation 5.F (Statutory investment and lending limits)**

Amend portfolio investing and lending limits to interests in thermal coal and oil and gas expansion under:

- the *Bank Act*[133];
- the TLCA[134]; and
- the ICA.[135]

# 6. Aligning the Federal Public Administration including Crown Corporations

This section makes recommendations on actions to align the federal public administration, including federal Crown corporations, with a 1.5°C pathway through mandatory Credible Climate Plans.

## Key Recommendations:

- 6.A Minister of Finance to publish annual report on climate risks and opportunities for the federal public administration that sets the gold standard for Credible Climate Plans

- 6.B Require financial Crown corporations and departments to develop, publish and report on Credible Climate Plans, subject to review and approval by the Finance Minister with input from Net Zero Advisory Board (NZAB)

Canada ranks highest among all G20 countries for providing public financing for fossil fuels.[136] The federal government has committed to eliminate fossil fuel subsidies by 2023 and develop a plan to phase-out all public financing to the fossil fuel sector, including from Crown corporations.[137] Despite these commitments, the federal government and its agencies continue to subsidize or provide support for fossil fuel expansion.[138] This works against Canada's obligations pursuant to the Paris Agreement and is not aligned with limiting global warming to 1.5°C.[139] As a wealthier and industrialized country, Canada should be a leader in aligning public financing with 1.5°C.[140] All federal departments, agencies, and Crown corporations must work to deliver Canada's international treaty commitments under the Paris Agreement and commitments under the CNZEAA. As a first step, the federal government must align the federal public administration, including Crown corporations, with its commitments under the Paris Agreement by requiring Credible Climate Plans. The essential elements of a Credible Climate Plan are described in section four.

### A. Annual climate reporting by the Minister of Finance

Under s. 23 of CNZEAA, the Minister of Finance is required to publish an annual report on the key measures taken by the federal public administration to manage "financial risks and opportunities related to climate change."[141] The Minister of Finance must fulfil this obligation "in

cooperation with" the Minister of Environment and Climate Change Canada. This whole of government approach is essential in addressing the climate crisis. Yet more than a year after CNZEAA became law, s. 23 of CNZEAA still has not been brought into force.[142]

Certain action suggests the Minister of Finance has begun designing a strong process for the government to report on climate-related financial risks, such as a mandate to partner with the Minister of Environment and Climate Change Canada[143] and Export Development Canada.[144] However, the Governor in Council should bring s. 23 into force as soon as possible and the Minister of Finance should publish the first annual report by the end of April 2023.

For the Minister of Finance to have high-quality information about the governments' activities, a Credible Climate Plan must be devised and reported on for the federal public administration including Crown corporations. Therefore, to standardize high quality planning and reporting, the Minister should adopt regulations as soon as possible to formalize requirements for and mandate the creation of Credible Climate Plans.

### B. Mandatory Credible Climate Plans from financial Crown corporations

Crown corporations are government organisations that have a mixture of commercial and public policy objectives but operate at arm's length following a private sector model. They are directly owned by the Government of Canada and are usually established through legislation which sets their mandate, powers, and objectives.[145] They are a significant portion of Canada's economy; - annual revenues for Crown Corporations (federal, provincial, and municipal) are equivalent to more than seven percent of Canada's GDP – more than all of Atlantic Canada, or Saskatchewan and Manitoba combined.[146]

Crown corporations could be a significant lever for the government to advance climate action and promote climate opportunities, but instead they continue to subsidize fossil fuels.[147] In 2021, the government mandated that federal Crown corporations would have to report climate-related financial risks using the Task Force on Climate-Related Disclosure (TCFD): by 2022 for large Crown corporations (entities with over $1 billion in assets) and by 2024 for smaller entities.[148] But considering and reporting climate-related financial risks does not necessarily mean an institution is advancing positive climate impacts or aligning with climate goals.[149]

Crown corporations act at arm's length from the government, but ministers shape the way they operate. Every federal Crown corporation is ultimately accountable to Parliament for the conduct of its affairs, and most are part

of the federal public administration. Cabinet can issue directives to the Crown corporation if it is considered in the public interest. A Crown corporation can then be required to report on progress to the relevant minister. Even without specific directives, most Crown corporations must provide an annual corporate plan to the relevant minister, and in some instances to the Minister of Finance, for Cabinet approval.[150] Therefore, Parliament is accountable for the Crown corporation's activities. Corporate plan duties can easily be extended to require Credible Climate Plans.

Certain federal Crown Corporations – financial Crown corporations – are particularly important for climate change due to the role they currently play in financing fossil fuel extraction or exports, the magnitude of their assets, and/or the opportunity for them to provide leadership. This includes:

- Export Development Canada (EDC);
- Business Development Bank of Canada;
- The Canada Infrastructure Bank; and
- The Canadian Development Investment Corporation[151]

Cabinet should require these financial Crown corporations to present Credible Climate Plans to relevant ministers as part of the Crown corporations' annual corporate plan and reporting requirements.[152] The relevant minister(s) must review the Credible Climate Plans to ensure they are compliant and must request amendments where necessary. Progress against delivering Credible Climate Plans should be reported annually and publicly.

## Case Study: Export Development Canada

EDC is Canada's export credit agency. It provides almost $14 billion of annual support to oil and gas companies on average.[1] EDC provides this support through project financing, general corporate loans to fossil fuel companies and with financing through the Canada Account. In July 2021, EDC committed to net-zero emissions by 2050, but the details do not address the key ways EDC contributes to worsening climate change and is therefore insufficient. EDC set oil and gas targets, but they do "not imply an end to EDC support for Canadian oil and gas producers." They also indicate ongoing support for methane-based natural gas.[1] EDC must stop supporting new fossil fuel production to avoid lock-in and align with limiting warming below 1.5°C.

For EDC to align with the goals of the Paris Agreement,[1] it must immediately end support for any projects or companies engaged in new fossil fuel production or expansion. The Minister of Finance and Minister of Small Business, Export Promotion and International Trade should make regulations that prevent EDC from transactions that would provide financial support to a project or company with plans to expand fossil fuel production.[1] EDC must be mandated to develop a Credible Climate Plan, which can be achieved through Cabinet issuing a directive that Crown corporations include a Credible Climate Plan in their annual corporate plan.[1]

The Canada Account is used to support export transactions that the Minister of Small Business, Export Promotion and International Trade determines to be in the national interest, but EDC deems too risky. Canada Account obligations are paid from the Consolidated Revenue Fund, burdening federal taxpayers with the (climate and financial) risks when the Canada Account finances fossil fuel projects. The Ministers of Finance and Small Business, Export Promotion and International Trade should adopt a policy to not authorize any financing through the Canada Account that supports the expansion of fossil fuel production or infrastructure (e.g., pipelines) as these activities are presumptively not in the national interest due to the climate emergency. The Ministers have direct and explicit control over the Canada Account so can easily enforce this requirement.[1]

## Implementation of Section 6 Recommendations

| Implementation |
| --- |
| **Recommendation 6.A (annual reporting and Credible Climate Plans by the Minister of Finance)** |
| Bring s. 23 CNZEAA into force immediately.<br><br>Minister of Finance to publish s. 23 annual report by April 2023.<br><br>Adopt regulations under CNZEAA[153] prescribing minimum content of a Credible Climate Plan for the federal public administration, including Crown corporations that must be included in the Minister's annual report under s. 23. |
| **Recommendation 6.B (require Credible Climate Plans in annual corporate plan)** |
| Issue cabinet directive requiring financial Crown corporations to include a Credible Climate Plan in the annual corporate plan.[154]<br><br>Cabinet to implement regulations under the *Financial Administration Act* (FAA) laying down minimum requirements for alignment with climate goals in corporate plans and stating that the Minister will refuse to approve/require amendment where the corporate plan does not meet minimum standards of a Credible Climate Plan.[155] These regulations should include that the Minister will consult with the Net-Zero Advisory Body established by the CNZEAA when establishing minimum standards of a credible plan and assessing credible climate plans.<br><br>Amend s. 122(3) FAA to require corporate plans to include a Credible Climate Plan.[156] |

# 7. Aligning Large Federally Regulated Corporations

While the Roadmap focuses largely on the financial sector, wider alignment with a 1.5°C goal is necessary throughout the economy if Canada is to meet its climate obligations. To begin this process, large federally regulated corporations[1] should be required to prepare Credible Climate Plans.

## Key Recommendations:

- 7.A. Require large federally incorporated corporations (i.e., those with an annual revenue of approximately $300 million or more) to prepare Credible Climate Plans as part of their annual financial information
- 7.B. Require large corporations to provide information on Credible Climate Plans as part of their Annual Return to Corporations Canada and then make legislative changes to require Credible Climate Plans be submitted to, reviewed, and published by Corporations Canada

### A. Mandatory Credible Climate Plans for large federally regulated corporations

A recent report revealed that Canadian companies are performing poorly on climate disclosure and planning:

- 61 per cent of companies mention the Task Force on Climate-Related Disclosure (TCFD) in their reporting, but only 26 per cent actually disclose details for its 11 recommendations.
- Only 8 per cent of companies disclose quantitative details when assessing potential climate-related risks.
- Less than 18 per cent of companies discuss how climate-related risks are fully integrated into the overall risk-management process.
- Only 32 per cent of companies disclose clear engagement on climate risk with multiple stakeholders (i.e., supplies, customers, policymakers).[157]

Financial institutions rely on high quality data from their portfolio companies. Obligations on financial institutions and pension plans need to be mirrored by obligations for large companies to report on financial risk and opportunities and prepare, implement, and annually report on Credible Climate Plans. These obligations should take a phased approach, applying first to larger corporations (as is the case in the UK and New Zealand, for example) and those that have made public net-zero pledges or similar

climate commitments, then roll out to cover the whole economy. The threshold for large companies should be set at $300 million in annual revenues.[158]

Given that the Roadmap focusses on federally regulated actors, the focus of these recommendations is on federally regulated corporations, particularly corporations regulated by the *Canada Business Corporations Act* (CBCA). Federally registered corporations accounted for approximately 86.9% of market value of all corporations listed on the TSX and TSX Venture Exchange as of 2018, so this would have a substantial impact.[159]

**B. Require information on Credible Climate Plans in annual return**

Corporations Canada should ensure that Credible Climate Plans are completed by large corporations through the annual return. The Director of Corporations Canada should update the form of the annual return to require federally regulated corporations to identify if they meet the standard of a 'large' corporation (i.e., $300 million in annual revenues) and if so, require confirmation in the annual return form that a Credible Climate Plan with all requisite elements has been created and made publicly accessible by the corporation.

For a subset of these large corporations, Credible Climate Plans will be submitted as part of the existing requirement that annual financial statements for distributing corporations to be submitted to the Director under the CBCA. [160]

Corporations Canada will need to be equipped with new powers and capacity to fulfil this role (see further at Section 9).

## Implementation of Section 7 Recommendation

| Implementation |
| --- |
| **Recommendation 7.A (Require large corporations to prepare Credible Climate Plans)** |
| As described further in Section 8 below, amend CBCA to emphasize that large corporations must address material financial risks from climate change to act in the best interests of the corporation, as prescribed in regulation.[161]<br><br>Adopt Regulations under the CBCA stating that acting in the best interests of the corporation requires all large companies to adopt Credible Climate Plans and publish their Credible Climate Plan as part of their annual financial statements.[162] The Regulation should also require that information on the requirements to complete a Credible Climate Plan form part of the Annual Return.<br><br>Corporations Canada should issue guidance for large corporations on the requisite elements and standards (as described in Section 4 of this Roadmap) of a Credible Climate Plan. |
| **Recommendation 7.B (Require Information on Credible Climate Plans in Annual Return)** |
| Step 1:<br><br>The Director should amend the Annual Return form[163] to require federally incorporated corporations to identify if they meet the 'large' threshold and if so, require confirmation in the form that a Credible Climate Plan has been completed, including the requisite essential elements.<br><br>This information should be published in the Corporations Canada Federal Corporation database.<br><br>Step 2:<br><br>Amend s. 160 of the CBCA to require all large federally incorporated companies to send their Credible Climate Plans and annual reports to the Director of Corporations Canada to ensure compliance. The Director should be empowered to review and reject Credible Climate Plans that do not address the requisite essential elements. Authority to publish the Credible Climate Plans on the Federal Corporation database should also be included in the legislative amendment. |

# 8. Equipping corporate boards and pension administrators to act on climate

This section reviews the legal duties on corporate directors and pension administrators to act on climate change issues, under a legal concept known as the fiduciary duty. Guidance and legal amendments are needed to designate environmental, social and governance factors, including climate change, as material, so that action on climate change is taken to align large corporations and pensions with 1.5°C.

## Key Recommendations:

- Provide guidance on the standard that corporate directors and pension fund administrators must meet to fulfil their current legal duties, including:

- Corporate boards (including boards of federally regulated financial institutions) to consider and manage material financial risks to the corporation from climate change, including by following guidance to align with Canada's emission targets and the goal of limiting climate change below 1.5°C

- Pension administrators to consider and manage material financial risks to the pension fund from climate change, including by aligning with Canada's emission targets and the goal of limiting climate change below 1.5°C

- Pension administrators to manage actual and perceived conflicts by requiring that board members who also sit on boards of fossil fuel companies without Credible Climate Plans recuse themselves from decisions regarding how the pension fund will address climate risk and the fossil fuel sector

Then implement the requisite standards into legislation and regulation.

Canada's slow progress in aligning finance with 1.5°C can be partly attributed to poor corporate governance related to climate change, contributing to resistance and inertia on the boards of corporations and financial institutions, despite the law being clear that they must consider and manage material climate-related impacts, and avoid conflicts of interest. Conflict of interest issues with respect to pension plans and climate change have recently been highlighted in a report that found seven of Canada's ten largest pension funds have at least one director who also sits on the board of a fossil fuel company.[164]

Despite the fact that there is a consensus among legal scholars that both corporate directors and pension administrators must assess and manage the financial risks from climate change as part of current Canadian law, this understanding is not yet routinely reflected in mainstream business practice, with evidence suggesting that there is still confusion around the correct application of the fiduciary duty when it comes to climate change.[165] As noted by the federal Expert Panel on Sustainable Finance, "widely used interpretations of fiduciary duty and materiality are lagging the evolving reality of climate change and its financial implications."[166]

This lag seems to be based on outdated perceptions that the fiduciary duty requires a narrow focus on the short-term financial interests of the shareholder or beneficiary, and that climate change is not a financial concern. This contributes to fiduciaries taking an overly cautious approach that prioritizes short-term financial gain over long-term financial sustainability in the face of climate change.

Emphasizing the current state of the law of fiduciary duty on climate change and providing specific direction on what is required to meet these duties through guidelines and legislation will help overcome institutional inertia and accelerate climate-alignment.

Crucially, this should go beyond emphasizing that the existing law requires consideration of material financial risks from climate change. The government and regulators should direct that prudently managing climate risk requires alignment with Canada's emission targets and the 1.5°C temperature goal. Requiring a Credible Climate Plan provides the regulatory tool with which fiduciaries can demonstrate alignment.

**Explainer on Fiduciary Duty**

In Canadian law, fiduciary duties refer to duties that arise from a relationship in which one party (the fiduciary) is responsible for looking after the best interests of another party (the beneficiary). Corporate directors and pension administrators are fiduciaries with significant decision-making power over financial flows that affect other people.

There are two primary duties flowing from a fiduciary relationship:

- First, the duty of loyalty – to act honestly and in good faith in the best interests of the beneficiary (e.g., corporate directors must act in the best interests of the corporation and pension administrators must act in the best interests of pension plan members).

- Second, the duty of care/prudence – to exercise the care, diligence, and skill that a reasonably prudent person would exercise in comparable circumstances.

Most pension administrators have a higher duty of care created by legislation: they must make investment decisions exercising the care, diligence and skill that a reasonably prudent person would exercise in dealing with the property of others.

When making investment decisions, fiduciaries may be concerned with their ability to consider environmental, social, and governance factors when investing, because of their duties of prudence and loyalty. However, in current Canadian law, fiduciaries in fact must consider environmental, social, and governance factors like climate change when they present a material risk to returns.[167] Further, they may consider other factors if relevant for advancing the purposes of an organisation or fund or if considering those other factors would not be financially detrimental to the fund and would be in the best interests of the corporation or beneficiaries.

## A. Clarifying fiduciary duties to align with 1.5°C

### *i. Current state of corporate directors' fiduciary duty related to climate change*

Under Canadian law, corporate directors and officers "may" consider the environment, and the long-term interests of the corporation and the interests of a wide range of stakeholders when considering what is in the

best interests of the corporation.[168] Canadian courts have not yet considered corporate fiduciary duties in the specific context of climate change.

While this approach allows directors of a company to make business decisions to align with climate goals, it does not expressly require them to. This permissive language, coupled with the wide deference given by the courts to corporate directors and officers under the "business judgment principle," contribute to an inconsistent approach. Further, federal legislation regulating other corporations such as banks, insurance companies, or trust and loan companies does not have the same explicit language that directors may include these considerations in determining the best interests of the corporation.

This permissive legislative language (i.e., "may consider") also does not align with the opinions of leading legal scholars and practitioners that because climate change is a systemic risk, corporate directors must inform themselves about the risks that climate change poses for the business of the corporation and be satisfied that those risks are appropriately managed.[169] It is clear that corporate directors must consider environmental, social, and governance risks, including climate change risks, when financially material.

### *ii. Current state of pension administrators' fiduciary duty related to climate change*

Similarly, pension administrators must consider a broad array of factors relevant to risks and returns when fulfilling their obligation to act prudently and in the best interests of contributors and beneficiaries when making investment decisions.

This requires pension administrators to carefully and clearly justify how they invest plan members' money, including considering the long-term nature of the pension fund when creating the investment strategy, taking appropriate expert advice where necessary, diversifying investments, monitoring the performance of the fund, and responding to changing market conditions and material systemic risks. If pension administrators delegate investment decisions to an investment manager, they must be satisfied that the investment manager is addressing material risks and they must prudently and reasonably supervise the investment manager in their management of the fund.

In addition to their elevated duty of care, pension administrators also have a specific duty of loyalty to act in the long-term best interests of pension fund beneficiaries by ensuring that the plan meets its obligations to provide pensions to current and future beneficiaries. This requires pension administrators to be loyal to the terms and purposes of the pension plan. Pension administrators must act impartially and even-handedly between beneficiaries, meaning they cannot inequitably allow for the short-term interests of, for example, current retirees to privilege the interests of those beneficiaries scheduled to retire in the future. In addition, the duty of loyalty requires pension administrators to avoid and properly manage conflicts of interests between plan beneficiaries and potentially conflicting interests of the administrator or anyone else.

When these duties are applied to climate risk, pension administrators likely have the duty to:

- **understand and assess** climate-related risks for the full scope of emissions across the entire portfolio;

- reasonably **manage** identified climate-related risks to avoid the worst financial impacts of climate change, including divestment or exclusion in certain circumstances;

- honestly and accurately **disclose** climate-related risks and policies to beneficiaries; and

- **avoid** or properly manage conflicts of interest when making investment decisions about climate-related risks.[170]

Leading Canadian scholars and lawyers argue that the broad framing of the fiduciary duty in Canadian law and the evolving context of climate change clearly requires pension fiduciaries to identify and manage financial and other risks related to climate-change.[171] As put in a recent opinion written by senior pensions lawyer Randy Bauslaugh:

> ". . .as far as climate change is concerned, the legal question is not whether [pension] fiduciaries are permitted to take climate change into account when managing plan assets, but rather, in view of the consensus evidence of the materiality of climate-related risks and opportunities, whether they can ever be excused for not taking those risks and opportunities

> into account when investing and managing plan assets … or for not reasonably disclosing what they are doing about it"[172]

### *iii. Guidance is needed on the fiduciary duty*

Responding to the risks and opportunities from climate change will require fiduciaries to take a long-term view of the corporation's or pension beneficiaries' best interests, even if that may involve foregoing high short-term returns (e.g., from high oil prices) to avoid exposure to greater long-term financial risks from the inability to develop fossil fuel reserves or damage to physical assets from increased extreme weather. There needs to be a shift from the overly cautious approach that prioritizes short-term financial gain over long-term financial sustainability. Consistently assessing and managing climate risks in a credible way requires guidance from government.

Further, without government direction, corporate directors and pension administrators may focus only on managing material financial impacts to the corporation or pension fund, which may have little impact in actually contributing to alignment with Canada's emission targets or the 1.5°C temperature goal.[173] This is despite the fact that it is in the best interests of the financial system as a whole to avoid catastrophic global warming to minimize the physical risks from climate change.

Therefore, it is important for the government to require that corporations and pension plans not only manage and disclose their exposure to climate risk, but also have Credible Climate Plans that are aligned with Canada's climate targets and the 1.5°C temperature goal. By requiring a Credible Climate Plan, the government can ensure that corporations and pension funds are actually reducing their contribution to climate change and ensure that prudent climate risk management includes alignment with climate goals.

As corporate directors and pension administrators have legal obligations to comply with relevant legislation and regulations,[174] setting out the required elements of a Credible Climate Plan in regulation will establish a clear standard and a more easily enforceable duty on corporate directors and pension administrators to align with climate goals and address climate risks.

As an interim step, the Office of the Superintendent of Financial Institutions (OSFI) and the Minister of Innovation, Science and Industry should immediately issue statements emphasizing that the current fiduciary duties

of corporate directors and pension administrators not only permit consideration of environmental, social and governance risks including climate change, but imposes a positive obligation to consider and manage any material risks, with a presumption that climate change poses a systemic material risk to all businesses. OSFI should also provide statutory guidance on the application of the duty to managing conflicts of interest for pension plans. However, amendments to key federal legislation and regulations are needed to provide further certainty and establish a clear legal requirement to have a Credible Climate Plan.

**Implementation of Section 8 Recommendations**

| Implementation |
| --- |
| **Recommendation 8 (Guidance on fulfilling fiduciary duties)** |
| Initial step: OSFI, with respect to federally regulated financial institutions (FRFIs) and federally regulated pension plans (FRPPs), and the Minister of Innovation, Science and Industry, with respect to federally regulated corporations, issue guidance:<br><br>• Articulating that their current fiduciary duties require them to consider and manage material environmental, social and governance factors, including climate change, and that climate change is presumptively a systemic and material risk.<br><br>• Stating that this duty requires them to credibly assess, disclose and manage risks from climate change according to industry standards, including federal standards for Credible Climate Plans based on the essential elements and principles set out in Section 4.<br><br>• Stating that FRPPs in particular should prevent potential conflicts by requiring that board members who also sit on boards of fossil fuel companies without Credible Climate Plans recuse themselves from decisions regarding how the pension fund will address climate risk and the fossil fuel sector.<br><br>Subsequent step:<br><br>For federally incorporated corporations:<br><br>• Amend s. 122(1) of the *Canada Business Corporations Act*[175] (CBCA) to codify the current law that directors must consider and manage |

environmental, social and governance risks that pose a material risk to the corporation, as prescribed in regulation;

AND

- Adopt regulations under CBCA[176] that establish that climate change is presumptively a material and systemic risk and prescribe that directors of large corporations (see Section 7 above) must develop a Credible Climate Plan as part of their risk management framework for climate-related risks.

For banks, insurance companies, trust and loan companies, and cooperative credit associations, make corresponding amendments to:

- *Insurance Companies Act* (ICA);[177]
- *Bank Act*;[178]
- *Trust and Loan Companies Act* (TLCA);[179] and
- *Cooperative Credit Associations Act* (CCAA).[180]

For federally regulated pension plans:

- Amend the *Pension Benefits Standards Act* (PBSA) to add s. 8(4.5) to codify the current law that a pension administrator's standard of care requires them to assess, disclose and manage material environmental, social and governance risks from climate change, as prescribed;

  AND

- Adopt regulations under the PBSA stating that climate change is presumptively a systemic and material risk and that pension funds must adopt a Credible Climate Plan (as defined in Section 5) for their investment of the assets of a pension fund.[181]

# 9. Enhanced Enforcement of 1.5°C Alignment

As outlined in Section 3, financial flows in Canada are currently not aligned with Canada's climate targets or the 1.5°C temperature goal. The preceding sections propose a revised legal framework to align Canada's financial system with those climate objectives. However, any legal framework is only as strong as its enforcement. This section therefore makes complementary recommendations to strengthen enforcement and address greenwashing, two key and interrelated barriers to aligning finance with 1.5°C.

## Key Recommendations:

- 9.A Strengthen the powers of existing federal bodies (OSFI, NZAB, CESD, FCAC, Corporations Canada, and the Competition Bureau) to oversee the adoption of Credible Climate Plans and combat greenwashing
- 9.B Adopt a green taxonomy
- 9.C Create a new climate-related misrepresentation cause of action to enable private enforcement
- 9.D Publish guidance for industry and advertisers

Greenwashing leads to lower quality information – driving capital in the wrong direction, delaying climate action, and increasing exposure to climate-related risks. It erodes trust in the financial market by generating cynicism about financial products with green labels. Common greenwashing examples include advertising net-zero commitments without taking science-based action to deliver on them, or selectively disclosing progress on climate-aligned segments of a business while ignoring those that are not (such as financed or exported emissions), or relying on unrealistic levels of emission offsets and removals.[182] Greenwashing can be deliberate (where sustainability is led primarily by marketing teams instead of integration throughout investments) or accidental (where investment teams are built without sufficient climate literacy and scientific knowledge).

A lack of standards and guidance exacerbates the problem of greenwashing as does the lack of effective enforcement mechanisms.[183]A strong guidance, oversight and enforcement regime would ensure institutions develop and deliver on Credible Climate Plans and would combat greenwashing. The Minister of Finance and the Minister of Innovation, Science and Industry should strengthen the roles of existing federal bodies to support aligning Canada's financial system with 1.5°C. Further, a green taxonomy should be adopted to ensure climate finance claims and advertisements are objectively assessable, comparable, and not rooted in greenwashing along with stronger investigatory and private enforcement options to combat climate misrepresentations in advertising.

## A. Strengthen existing federal bodies

At the federal level, OSFI is the key regulator of private financial institutions which includes Canada's largest banks and insurance companies, as well as certain pension plans. Due to the scale and importance of these entities on the financial system in Canada, OSFI has a central role to play in shifting the financial flows to align with 1.5°C and advance sustainable finance action. However, OSFI's actions alone will not be sufficient, so below we recommend giving other federal regulators a supporting role to provide oversight and enforcement and to better protect consumers and investor.

### *i. Office of the Superintendent of Financial Institutions (OSFI)*

OSFI has broad regulatory authority with respect to the financial institutions and pension plans it oversees, including advancing a regulatory framework to control and manage risk, supervising the sound financial condition of the entities it regulates and evaluating system-wide or sectoral developments that may negatively impact the financial condition of financial institutions.[184] This gives OSFI a clear mandate to address the systemic climate change risks impacting our financial sector with respect to federally regulated financial institutions (FRFIs) and federally regulated pension plans (FRPPs). OSFI should take a leadership role in setting a high standard to influence other federal and provincial regulators. Given the urgency of the climate crisis, OSFI should be using all available tools to ensure that financial institutions and pension plans align with keeping warming below 1.5°C. [185]

OSFI's mandate also requires it to supervise FRFIs' and FRPPs' compliance with their governing statutes.[186] Therefore, once Credible Climate Plans are mandated in legislation (see Step 2 of Recommendations 5A and 5B), OSFI would be required to supervise compliance.

OSFI has a world-leading reputation as a prudential regulator and there are encouraging signs that it is moving towards playing a leadership role in aligning Canada's financial sector with climate commitments. For example, OSFI is engaging in a major hiring drive to staff its work on climate-related finance[187] And its proposed guidance on climate risk management, Draft Guideline B-15, is the strongest seen in Canada to date.[188] The Draft Guideline include an expectation that financial institutions develop and implement transition plans,[189] demonstrating that OSFI's mandate is broad enough to encompass requiring the similarly conceptualized Credible Climate Plan outlined in this Roadmap. This view is supported by two of the goals outlined in OSFI's strategic plan: to improve FRFIs and FRPPs preparedness and resilience to the next financial stress event, as well as to better prepare FRFIs and FRPPs to identify and develop resilience to these risks before they negatively affect financial condition.[190] Requiring Credible Climate Plans and providing guidance on and review of such plans falls squarely within these goals.

Despite encouraging signs of progress, OSFI is not yet leveraging all the available tools and is not moving at the pace required given the escalating urgency of the climate crisis. This may be due in part to a narrow interpretation of its mandate.

OSFI's statute should therefore be amended to give it an explicit duty to not just manage the risk posed by climate change to the financial system, but also to reduce the risk Canada's financial sector poses to the global climate system by promoting alignment with Canada's commitment to the 1.5°C goal. OSFI should also be defined as the principal body for reviewing climate disclosures and Credible Climate Plans and approving them or requiring amendments.

### *ii. Net-Zero Advisory Body (NZAB)*

NZAB provides independent advice to the Minister of Environment and Climate Change Canada on achieving net-zero emissions by 2050. This includes advising on emissions targets, emissions reduction plans, and measures and sectoral strategies to reach emissions targets.[191]

The Minister of the Environment and Climate Change Canada should request NZAB to guide and review the initial Credible Climate Plans for federal bodies (like Crown corporations) and advise whether plans meet requirements or need amendments.[192] NZAB should submit assessments to the Minister of the Environment and Climate Change Canada and the Minister of Finance. These assessments should be made public and conclude

whether public financial institutions' plans align with limiting warming below 1.5°C.

### *iii. Commissioner of Environment and Sustainable Development (CESD)*

The CESD is responsible for monitoring sustainable development strategies of federal departments and auditing the federal government's management of environmental and sustainable development issues, among others.[193]

In the *Canadian Net-Zero Accountability Act* (CNZEAA), the CESD was given the role of reporting on the Government of Canada's implementation of measures aimed at mitigating climate change, including the GHG emissions target. The CESD may include recommendations to improving the effectiveness of the implementation of climate change mitigation measures committed to in an emissions reduction plan. The first report is due by the end of 2024.[194]

Due to its auditing function and expertise, the CESD should play a role in overseeing progress on implementing Credible Climate Plans. Specifically, CESD should assess the annual reporting completed by federal bodies on their progress to meeting their climate targets. To fulfil this expanded role, CESD would require further resources.

### *iv. Corporations Canada*

Corporations Canada is the federal corporate regulator that administers laws to create and maintain a corporation in Canada (other than financial institutions which are incorporated by OSFI).

As outlined in the introduction, financial institutions require information from the corporations they finance or invest in. Federally incorporated companies should have to devise and execute Credible Climate Plans. Corporations Canada should be required to collect, ensure completion of, and make the Credible Climate Plans of federally incorporated companies publicly accessible. Corporations Canada already fulfils a similar role in receiving and reporting on disclosure related to diversity on boards.[195] Corporations Canada should update its publicly accessible repository on federally incorporated companies to include these Plans. Corporations Canada should also issue guidance for the impacted large corporations to assist in meeting these obligations.

### v. *Financial Consumer Agency of Canada* (FCAC)

FCAC is responsible for monitoring and supervising financial institutions and external complaints bodies that are federally regulated. Its objectives include protecting the rights and interests of consumers of financial products, supervising compliance of federally regulated financial entities with their public commitments, and strengthening financial literacy in Canada.[196] FCAC does not appear to engage in climate-related finance to date.

FCAC's Commissioner has the power to review and monitor compliance of any financial institution's voluntary commitment.[197] FCAC has a role, pursuant to its mandate to protect financial consumers, to ensure federally regulated financial entities comply with their public commitments.[198] A financial institution's climate-related commitments, including voluntary engagements like the Glasgow Financial Alliance for Net Zero (GFANZ) and the Net-Zero Banking Alliance (NZBA), meet the standard for a public commitment that warrants FCAC taking action to protect the rights and interests of customers.[199] Once the recommendation in Section 5 is in force (i.e., financial institutions cannot advertise their climate commitments unless they have an approved Credible Climate Plan), FCAC would also be responsible for enforcing this advertising condition. FCAC should act on its mandate to promote and monitor financial institutions' implementation of climate-related commitments.

### *vi. Competition Bureau Canada*

The Competition Bureau is an independent law enforcement agency that protects and promotes competition. It has enforcement authority and skills in investigating and enforcing against misrepresentations. These powers should be bolstered to combat greenwashing because it hinders competition and fairness in the markets.

The Competition Bureau should take a lead role in investigating and enforcing against climate related misrepresentations, and recruit staff with the necessary expertise in climate and finance to do so.

Amendments to the *Competition Act* would empower the Competition Bureau to better combat greenwashing. The *Competition Act* contains provisions wherein false or misleading representations are offences and are also reviewable by the Competition Bureau.[200] For either provision to be triggered, a representation must be false or misleading in a material respect. Under current guidance, it may be difficult to meet the requisite

"material" standard for greenwashing misrepresentations, particularly when the representation relates to an institution's goals or ethos. [201] There are currently two complaints before the Commissioner on misleading advertising of climate-related commitments by a bank and carbon neutral claims by a fossil fuel company.[202] It is not clear how the Competition Bureau currently interprets climate representations in the advertising of businesses and in relation to products.

**B. Adopt a green taxonomy**

A green taxonomy to define what is a "green" investment would help provide clarity to the market and combat greenwashing. However, developing a green taxonomy is challenging. Taxonomies are inherently flawed, but there are few better options for ensuring consistency and accountability.[203] The purpose of a taxonomy is to import integrity to products that are labelled with terms such as "green" or "sustainable". Canada's Sustainable Finance Action Council was tasked to begin a green taxonomy. The process to develop the taxonomy must:

- Promote public transparency, and be led by climate experts, including civil society and climate scientists
- Be informed by the best available science,
- Culminate in a taxonomy that is incorporated into regulation and aligns with the principles outlined below.

## Principles for a green taxonomy

A taxonomy should reflect scientific and physical climate constraints. To be credible internationally, the taxonomy must align with limiting global warming to 1.5°C with no/low overshoot. It should consider economic opportunities based on limiting global warming to 1.5°C – it should not bend the science to suit existing economic activities.

Like the key principles and actions outline for a Credible Climate Plan, a green taxonomy in Canada must:

1. Require that green investments positively contribute to at least one of the sustainability objectives listed in the taxonomy. These objectives should include reducing absolute greenhouse gas (GHG) emissions to align with Canada's climate targets and the 1.5°C temperature goal, supporting adaptation to climate change

2. Impacts, and protecting and restoring biodiversity and ecosystems.

3. Require that green investments do no significant harm to any of the environmental objectives listed in the taxonomy.

4. Ensure that all green-labelled investments align with scientific guidance from bodies such as the International Energy Agency (IEA) and the Intergovernmental Panel on Climate Change (IPCC) for limiting warming below 1.5°C without overshoot. An investment cannot be designated as "green" if it supports thermal coal, oil and gas field expansion, or supporting infrastructure.

5. Include Scope 3 emissions when determining if a business or activity positively contributes to or is aligned with climate goals.

6. Prioritize emission reductions rather than removals or offsets and be based on realistic short-term assumptions for technologies (like carbon capture, utilisation, and storage (CCUS)). A green investment cannot be based on unfeasible carbon removal or offsetting.

Consider the climate damage from all GHG pollutants, such as the higher warming potential of methane gas (which is the primary component of "natural gas") when determining if a business or activity positively contributes to or is aligned with climate goals.

### C. Create a new climate-related cause of action to enable private enforcement

Enhancing the enforcement ability of regulators alone may not be sufficient to combat greenwashing alone: regulators may have a lack of capacity or expertise, competing interests, or be at risk of a reduction in resources or regulatory capture. Even with greater resources and expertise, regulators cannot have a pulse on every product, service or corporate claim made in Canada and therefore may not be able to identify and respond to all dubious climate claims.

The threat of potential civil legal action implicit in the creation of this new climate-misrepresentation cause of action would act as a deterrent against greenwashing due to the open nature of the courts and evidentiary process, as compared to the more closed or private regulatory investigation scheme. Corporations and financial institutions would be incentivized to avoid the reputational risk associated with a civil action and to take extra caution to ensure representations on climate commitments and attributes are accurate and verifiable.

Legal actions for climate-related misrepresentations are currently difficult to advance. The largest hurdle is the requirement to prove damages,[204] which although not explicit in law, generally has been interpreted to require proof of extra cost due to climate-related features of a product or service. This can be difficult with respect to a product, but it is nearly impossible for claims about the overall ethos or climate-alignment of an organisation.[205] Since damages from climate change are often long-term and forward-looking, attributing costs is difficult. A secondary hurdle is the need for a consumer making a claim to have a direct relationship with the offending organisation. A climate-related misrepresentation cause of action in the *Competition Act* would remove these hurdles.

The new climate-related misrepresentation cause of action should: (1) allow a statutory cause of action to be advanced by an individual regardless of whether there is a direct purchase or relationship with the entity alleged to be making the misrepresentation; (2) not require proof of reliance on the misrepresentation (similar to the current deceptive marketing and misrepresentation regime in the *Competition Act*);[206] and (3) not require the plaintiff to experience cost damages as an element of the cause of action. The court should be empowered to: award damage based on the harm to the environment caused by the commercial practices directed at consumers, grant declaratory relief and/or award nominal damages.

## D. Publish guidance for industry and advertisers on environmental and climate claims

### *i. Competition Bureau industry and advertising guidance*

The Competition Bureau should publish guidance for industry and advertisers on environmental and climate-specific terms. This would help clarify competitive practices between businesses and combat greenwashing.

Financial institutions need guidance to know if they are acting appropriately. The Competition Bureau previously had guidance for industry and advertisers on environmental claims, created in conjunction with the Canadian Standards Association. This guidance was archived in November 2021.[207] The Competition Bureau should now publish up to date guidance that includes definitions of common climate-related terms like "carbon neutral," "net-zero," and "climate-aligned." The Competition Bureau should reference the green taxonomy as a tool for defining climate alignment.

**Examples of advertising guidance to combat Greenwashing: From the United Kingdom**

The UK leverages consumer protection and competition law to combat greenwashing. The UK government engaged with the Competition and Markets Authority, who recommended that legislation should define commonly used environmental terms to help meet the UK's climate goals. They recommended that consumer protection remedies should address harm to the environment caused by commercial practices directed at consumers.[1] In 2021, the UK Financial Conduct Authority issued guidance setting out how ESG fund managers should approach fund design and disclosure to prevent misleading investors.[1]

### *ii. OSFI advertising guidance*

Financial institutions should only be permitted to advertise themselves as aligned with climate action or net-zero if they have published and are beginning to deliver Credible Climate Plans, as recommended in Section 5. This standard should be set in guidance by OSFI, and then subsequently incorporated into a legal standard as described in Recommendation 5A. This advertising standard would help protect consumers and investors from greenwashing and would incentives early adoption of Credible Climate Plans. Institutions can say that they are working to develop Credible Climate Plans but cannot claim to be climate aligned, or other such terms, until they have published an approved plan.

For example, various Canadian banks have marketed themselves as committed to net-zero through their commitments to the NZBA.[208] But a report from the investor community (the Institutional Investors Group on Climate Change (IIGCC) and the Transition Pathway Initiative (TPI)) found that the Canadian banks they selected to evaluate have a long way to go to deliver on these commitments, particularly in setting targets and adopting credible decarbonization strategies.[209]

## Implementation of Section 9 Recommendations

| Implementation |
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| **Recommendation 9.A (Strengthen mandates of existing regulators)** |
| i) OSFI<br><br><u>Option 1</u>:<br><br>Amend OSFI's Supervisory Framework[210] and Blueprint[211] to include managing climate risk and promoting alignment with 1.5°C in its objects.[212]<br><br><u>Option 2</u>:<br><br>Amend the *Office of the Superintendent of Financial Institutions Act*[213] to specifically include alignment with Canada's climate commitments, including alignment with the Paris Agreement, as an object of OSFI for financial institutions, pension plans, and generally.<br><br>Amend sector-specific legislation that imposes obligations on Financial Institutions to report to OSFI, including the *Bank Act*,[214] the *Insurance Companies Act* (ICA),[215] the *Trust and Loans Companies Act* (TLCA),[216] and the *Canada Cooperative Associations Act* (CCAA).[217]<br><br>ii) NZAB<br><br>The Minister of Environment and Climate Change Canada should refer to NZAB to create standards for and review the Credible Climate Plans of the federal public administration and Crown corporations to ensure the appropriate standards are included.[218] NZAB's terms of reference should be revised to incorporate this role.<br><br>iii) CESD<br><br>CESD should review and audit the annual reports on Credible Climate Plan progress by federal bodies as part of its mandate and report in 2024.[219]<br><br>To provide a yearly audit of federal bodies' progress on Credible Climate Plan commitments, s. 24 of CNZEAA should be amended to require CESD to review, audit, and report publicly on this progress. |

iv) Corporations Canada

Corporations Canada should issue guidance for large corporations on the requisite elements and standards (as described in Section 4) of a Credible Climate Plan.

The Director should amend the Annual Return form[220] to require federally incorporated corporations to identify if they meet the 'large' threshold and if so, require confirmation in the Annual Return form that a Credible Climate Plan, with all the essential elements, has been completed. This information should be published in the Corporations Canada Federal Corporation database.

Amend s. 160 of the *Canada Business Corporations Act* (CBCA) to require all large federally incorporated companies to send their Credible Climate Plans and annual reports to the Director of Corporations Canada to ensure compliance. The Director should be empowered to review and reject Credible Climate Plans that do not address the requisite essential elements. Authority to publish the Credible Climate Plans on the Federal Corporation database should also be included in the legislative amendment.

v) FCAC

The Minister of Finance should write to FCAC to review and report on financial institutions' voluntary climate commitments under her legislative power to provide direction.[221]

FCAC should act on its mandate to review and monitor compliance of any financial institution's voluntary commitment, [222] by reviewing Canadian bank's advertised climate commitments in relation to the institution's actions on financing and support that is aligned and that is misaligned with a 1.5°C goal.

Amend the *Financial Consumer Agency of Canada Act*, to include alignment with Canada's climate commitments, including alignment with the Paris Agreement, as an object of FCAC.[223]

vi) Competition Bureau Canada

The Minister of Innovation, Science and Industry should immediately write to the Commissioner of the Competition Bureau of Canada to ask whether (1) current competition laws/rules are supporting Canada's goals to align with the Paris Agreement, (2) there are amendments or new laws that could support the Bureau assisting with Paris alignment;

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| and, (3) what rules, policy tools or resources would be helpful to the Bureau to align with Canada's climate commitments.[224]<br><br>Amend the *Competition Act*[225] to add a new subsection to Part VI (Offences in Relation to Competition) and Part VII.1 (Deceptive Marketing Practices) to state that all representations regarding climate-alignment, climate goals, and emissions of its operations, business, products, or services are material. These representations should include representations regarding agreement or alignment with the Paris Agreement, net-zero, or a temperature pathway.<br><br>The Competition Bureau should be resourced with dedicated capacity to address climate and climate-finance issues. |
| **Recommendation 9.B (Adopt a green taxonomy)** |
| Step 1:<br><br>A green taxonomy, that is aligned with key principles and actions in this roadmap, should be implemented and incorporated into new advertising and industry guidance to be issued by the Competition Bureau to maintain consumer protection, fair competition, and integrity when green-related claims are made.<br><br>Step 2:<br><br>The green taxonomy should then be implemented through regulation, which could be accomplished as new regulation under the *Competition Act*[226] or other legislation.[227] |
| **Recommendation 9.C (Create a new climate-misrepresentation cause of action to enable private enforcement)** |
| Amend the *Competition Act*[228] to include a new statutory cause of action for greenwashing. |
| Recommendation 9.D (Publish guidance for industry and advertisers on environmental and climate claims) |
| The Competition Bureau should create and publish new guidance for industry and advertisers which reflects the principles and standards in this Roadmap, the green taxonomy, and the Credible Climate Plan.[229] Defining climate representations as material should also be incorporated into the greenwashing guidance. This adoption into guidance could occur prior to the suggested legislative amendment outlined in Recommendation 9.A. |

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[130] TLCA, S.C. ch. 45 s. 473(2) (1991).
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[148] "Budget 2021: 5.3 Advancing Canada's Climate Plan." *Government of Canada*. Department of Finance, April 19, 2021. https://www.budget.gc.ca/2021/report-rapport/p2-en.html#chap5.

[149] Caldecott, "Climate Risk Management," 1-2.

[150] FAA, R.S.C. ch F-11 s. 122 (1985).

[151] Three other financially important Crown corporations, the Bank of Canada, Canada Pension Plan Investment Board (CPPIB), and Public Sector Pension Investment Board (PSPIB), are not part of the federal public administration according to legislation and are exempted from the corporate plan requirements for Crown corporations. However, the Bank of Canada and PSPIB can still be required by regulation to report to the Minister on whether they have met the criteria for a Credible Climate Plan as part of their annual reporting requirements to the Minister. For the CPPIB, the Chief Actuary could be required by law to report on whether the CPP meets the criteria of a Credible Climate Plan in its annual report.

[152] FAA, R.S.C. ch. F-11 s. 122 (1985).

[153] CNZEAA, S.C. ch. 22 s. 26(1) (2021).

[154] FAA, R.S.C. ch. F-11 s. 89(1) (1985).

[155] FAA, R.S.C. ch. F-11 s. 122(7) (1985).

[156] FAA, R.S.C. ch. F-11 s. 122(3) (1985).

[157] "How Canadian Companies Are Reporting on Climate, Diversity and Indigenous Reconciliation: 2022 Canadian ESG Reporting Insights." PwC. Accessed October 18, 2022. https://www.pwc.com/ca/en/today-s-issues/environmental-social-and-governance/esg-reporting-insights/climate-diversity-and-indigenous-reconciliation.html.

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[162] CBCA, R.S.C. ch. C-44 s. 155, 261(1)(a)-(a.1); CBCR, S.O.R./2001-512 s. 72(1) (2001).

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[169] "Climate Change Risk on the Boardroom Table." Toronto: Hansell LLP, June 6, 2022. https://www.hanselladvisory.com/content/uploads/Climate-Change-Risk-on-the-Boardroom-Table-00094165xD4A96.pdf. 29.

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[173] Caldecott, "Climate risk management," 1-2.

[174] PBSA, R.S.C. ch. 32 s. 7.4(1), 8(4.1) (1985); CBCA, R.S.C. ch. C-44 s. 122(2) (1985).

[175] CBCA, R.S.C. ch. C-44 s. 122(1) (1985).

[176] CBCA, R.S.C. ch. C-44 s. 261(1)(a) and (a.1) (1985).

[177] ICA, S.C. ch. 47 s. 166(1)(a) (1991).

[178] Bank Act, S.C. ch. 46 s. 158(1)(a) (1991).

[179] TLCA, S.C. ch 4 s. 162(1)(a) (1991).

[180] CCAA, S.C. ch. 48 s. 168(1)(a) (1991).

[181] PBSA, R.S.C. ch 32 s. 39(1)(n.11)(p).

[182] de Freitas Netto et al., "Concepts and Forms of Greenwashing."
[183] Greenwashing occurs when a business, like a financial institution, makes misleading or unsubstantiated claims about environmental performance. It is when businesses "mislead and/or overstate advertised performance in the context of climate change." See Bhargava, Akriti, et al. "Climate-Washing Litigation: Legal Liability for Misleading Climate Communications." Providence: The Climate Social Science Network, January 2022. https://www.lse.ac.uk/granthaminstitute/wp-content/uploads/2022/01/CSSN-Research-Report-2022-1-Climate-Washing-Litigation-Legal-Liability-for-Misleading-Climate-Communications.pdf. 4.
[184] Office of the Superintendent of Financial Institutions Act (OSFIA), R.S.C. ch. 18 s. s. 4(2) (1985); "Mandate." *Office of the Superintendent of Financial Institutions* (OSFI). Government of Canada, January 26, 2016. https://www.osfi-bsif.gc.ca/Eng/osfi-bsif/Pages/mnd.aspx#:~:text=OSFI%20advances%20a%20regulatory%20framework%20designed%20to%20control%20and%20manage%20risk.&text=OSFI%20supervises%20federally%20regulated%20financial,meeting%20regulatory%20and%20supervisory%20requirements.
[185] Section 5 details the key action that OSFI should take using its existing powers. It has a wide range of regulatory tools under its governing statute and the sectoral legislation.
[186] Office of the Superintendent of Financial Institutions Act (OSFIA), R.S.C. ch. 18 s.s. 4(2)(a), (2.1)(a) (1985). With respect to FRPPs, OSFI's mandated supervisory role is with respect to compliance with the requirements of the PBSA, PRPPA and related regulations.
[187] "Job Opportunities." *Office of the Superintendent of Financial Institutions* (OSFI). Government of Canada, August 17, 2022. https://www.osfi-bsif.gc.ca/Eng/osfi-bsif/emp/Pages/default.aspx.
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[189] OSFI, "Draft Guideline B-15," Principle 1.
[190] "OSFI Strategic Plan 2019-2022." Office of the Superintendent of Financial Institutions Canada (OSFI), n.d. https://www.osfi-bsif.gc.ca/Eng/Docs/strpln1920.pdf. 6.
[191] CNZEAA, S.C. ch. 22 s. 20(1) (2021).
[192] CNZEAA, S.C. ch. 22 s. 20(1)(c) (2021).
[193] Auditor General Act, R.S.C. ch. A-17 s.ss. 2(definition of "Commissioner"), 15.1, 21.1, 21.1, 23(3) (1985); "What We Do." Government of Canada, Office of the Auditor General of Canada. Accessed October 18, 2022. https://www.oag-bvg.gc.ca/internet/english/au_fs_e_371.html.
[194] CNZEAA, S.C., ch. 22 s. 24 (2021).
[195] CBCA, R.S.C. ch. C-44 s. 172.1(3); "Diversity of Boards of Directors and Senior Management of Federal Distributing Corporations – 2021 Annual Report." *Corporations Canada*. Government of Canada, April 6, 2022. https://www.ic.gc.ca/eic/site/cd-dgc.nsf/eng/cs09445.html?open&utm_campaign=cc_diversity&utm_medium=notice&utm_source=web&utm_content=eng#s1.
[196] Financial Consumer Agency of Canada Act (FCACA), S.C. ch. 9 s.s.ss. 3(2)(b), 3(2)(c) and 3(2)(d) (2001).
[197] FCACA, S.C. ch. 9 s. 5(3) (2001).
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[199] "Climate Commitments: RBC Royal Bank." Royal Bank of Canada, 2022. https://www.rbc.com/community-social-impact/environment/our-commitments.html (states that RBC's role in supporting the economic transition for climate change "is firmly aligned with RBC's Purpose to help clients thrive and communities prosper" and that they "help clients as they transition to net-zero").
[200] Competition Act, R.S.C. ch. C-34 s.s.ss. 52(1), 74.01(1)(a) (1985).
[201] Canada (Commissioner of Competition) v. Sears Canada Inc., 2005 CACT 2 (a representation is considered material if it is so pertinent, germane or essential that it could affect the decision to purchase a product).

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[203] Caldecott, Ben. "'Encourages Laziness and Disincentives Ambition': Ben Caldecott Shares His Thoughts on the EU's Green Taxonomy." Responsible Investor, June 14, 2019. https://www.responsible-investor.com/encourages-laziness-and-disincentives-ambition-ben-caldecott-shares-his-tho/.
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[206] Competition Act, R.S.C., ch. C-34 s.ss. 36, 52.01(4), 74.03(4) (1985).
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[212] FCACA, S.C. ch. 9 s. 5.1(1) (2001).
[213] OSFIA, R.S.C. ch. 18 s.s.ss. 4(2)-(2.1), 4(4)-(5) (1985).
[214] Bank Act, S.C. ch. 46 s. 628(1) (1991).
[215] ICA, S.C. ch. 47 s. 664 (1991).
[216] TLCA, S.C. ch. 45 s. 495 (1991).
[217] CCAA, S.C. ch. 48 s. 431 (1991).
[218] CNZEAA, S.C. ch. 22 s. 20(1)(c) (2021).
[219] CNZEAA, S.C., ch. 22 s. 24 (2021).
[220] CBCA, R.S.C. ch. C-44 s.s.ss. 263.

[221] FCACA, S.C. ch. 9 s. 5.1(1) (2001).
[222] FCACA, S.C. ch. 9 s. 5(3) (2001).
[223] FCACA, S.C. ch. 9 s. 3(2) (2001).
[224] Competition Act, R.S.C. ch. C-34 s. 127 (1985).
[225] Competition Act, R.S.C. ch. C-34 s.s.ss. 52, 74.01 (1985).
[226] Competition Act, R.S.C. ch. C-34 s. 128(1) (1985). Adoption of a green taxonomy would align with the purpose of the Competition Act, R.S.C. ch. C-34 s. 1.1 (1985).
[227] Such as under the Federal Sustainable Development Act, S.C. ch. 33 s. 13 (2008) as it relates to goals of sustainable development, or the FCACA, S.C. ch. 9 s. 32 as a green taxonomy is rooted in protection of consumers of financial products and services and the public, or potentially even CNZEAA.
[228] Competition Act, R.S.C. ch. C-34 (1985).
[229] On November 4, 2021, the Competition Bureau archived its prior guide for industry and advertisers on environmental claims. It has not replaced this guide leaving a gap and increasing uncertainty around greenwashing enforcement.

**Roadmap to a Sustainable Financial System in Canada**

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