Response Form

for the

Exposure Draft of the

CFA Institute Diversity, Equity and Inclusion Code (USA and Canada)

Diversity, equity, and inclusion (DEI) is critical to the future of the investment industry. We recognize that a diversity of perspectives will lead to better investor outcomes; an inclusive investment industry will better serve our diverse society. Further, we recognize that an organization, with an inclusive culture, awareness and education, and effective working relationships, is a better place to work.

CFA Institute is developing a voluntary, DEI Code (the "Code"), to be launched firstly in the USA and Canada. The purpose of the Code is to drive greater diversity, equity, and inclusion within the investment industry. The Code has been designed for the investment industry, by members of the investment industry. It is intended to meet industry where it is, define the current state, and drive improvement from a realistic foundation. Organizations from across the investment industry are invited to become signatories, including investment managers, asset owners and consultants.

The Code is supported by Implementation Guidance which is based upon tested practice from our industry research. It will be regularly updated to reflect changing DEI practice in the investment industry and elsewhere. We have designed a Reporting Framework to guide signatories in the process of reporting on their progress, which is included here for information only. Individual signatory reports will be kept confidential by CFA Institute, which will in turn report on industry developments.

The goal for this Exposure Draft is to elicit feedback on the proposed principles and recommendations within the Code. Please refer to the "Providing Feedback" guidelines for submitting comments.

All comments must be received by 4 September 2021 in order to be considered.

Providing Feedback

Public commentary on the Exposure Draft will help shape the final version of the Code, which is expected to be issued in November 2021. Comments should be provided in this Response Form, found here on the CFA Institute website, and submitted to deicode@cfainstitute.org. Designated spaces for comments appear in the Response Form in the order in which the Principles appear in the Exposure Draft. Questions directed toward the Codes' intended users are posed in the Response Form, followed by designated spaces for comments related to the Principles and Implementation Guidance. General or summary comments on the Exposure Draft may be provided in the designated section at the end of the Response Form.

When providing feedback on a specific principle, it may be helpful to consider whether the meaning of the principle is clearly stated and whether the principle will add value for users of the Code. You may provide as few or as many comments as you wish.

The deadline for providing feedback is 4 September 2021. **Comments received after 4 September 2021 will not be considered**. Unless otherwise requested, all comments will be posted on the CFA Institute website.

Guidelines for submission

Comments are most useful when they:

- directly address a specific issue or question,
- provide a rationale and support for the opinions expressed, and
- suggest alternative solutions in the event of disagreement.

Positive comments in support of a proposal are equally as helpful as those that provide constructive suggestions for improvement.

Requirements for submission

In order for comments to be considered, please adhere to the following requirements:

- **Insert responses in the designated areas of the response form.**
- **Assign a unique file name to your response form before submitting.**
- **Provide all comments in English.**
- **Submit the response form as a Microsoft Word document.**
- **Submit the response form to** deicode@cfainstitute.org **by 5:00 PM E.T. on 4 September 2021.**

General Information (required)

Respondent: *(Please enter your full name if you are submitting as an individual or the name of the organization if you are submitting on behalf of an organization.)*	Click or tap here to enter text.
Stakeholder Group: *(Please select the stakeholder group with which you most closely identify.)*	Investment Professional
Region: *(If you are submitting as an individual, please select the region in which you live. If you are submitting on behalf of an organization and the organization has a significant presence in multiple regions, please select "Global". Otherwise, please select the region in which the organization has its main office.)*	North America
Country: *(If you are submitting as an individual, please enter the country in which you live. If you are submitting on behalf of an organization, please enter the country in which the organization has its main office.)*	USA
Confidentiality Preference: *(Please select your preference for whether or not your response is published on the CFA Institute website.)*	yes, my response may be published

QUESTIONS FOR INTENDED USERS

Questions for Investment Managers, Asset Owners, Consultants, and Investors

1. Do you agree that the investment industry needs a DEI Code to drive change?

<QUESTION_01>

[No]

<QUESTION_01>

2. Do you consider the Principles cover the key areas for change?

<QUESTION_02>

[No, it is sloppily researched and poorly argued.]

<QUESTION_02>

3. Is there a DEI area that you would like to see covered by the Code that is not in the draft Code?

<QUESTION_03>

[What are the costs to the end client of this regime?]

<QUESTION_03>

4. Will the draft Code help establish the changes in processes and practices that investment industry organizations need to drive up DEI internally?

<QUESTION_04>

[The draft Code appears to conflict directly with the paramount obligation of fulfilling fiduciary duty to the end client]

<QUESTION_04>

5. Will the draft Implementation Guidance help enable the changes in process and practice that investment industry organizations need to drive up DEI internally?

<QUESTION_05>

[No consideration of cost benefit trade off for the end client at all]

<QUESTION_05>

6. To what extent would an investment firm becoming a signatory to the Code help provide the DEI-related information that is typically provided or asked for in Requests for Proposals (RFPs), Due Diligence Questionnaires (DDQs), other types of questionnaires and in client DEI-related discussions?

<QUESTION_06>

[My firm would never sign such a document.]

<QUESTION_06>

7. To what extent are the draft Principles supportive of and complementary with local laws and regulations and other DEI codes and standards?

<QUESTION_07>

[No mention of reconciliation with local law]

<QUESTION_07>

8. Would an investment organization becoming a signatory to the Code help provide investor reassurance about the investment organization's culture?

<QUESTION_08>

No, it would indicate, much as is found in academia that cost for the client is never a consideration

<QUESTION_08>

9. Would it be helpful if the Implementation Guidance to the Code is reviewed and updated annually or less frequently?

<QUESTION_09>

[No]

<QUESTION_09>

10. Would your firm be prepared to contribute examples of tested DEI practice to update the Implementation Guidance to the Code?

<QUESTION_10>

[No]

<QUESTION_10>

DEI CODE AND IMPLEMENTATION GUIDANCE FOR INVESTMENT ORGANIZATIONS

General comments section

11. General comments on the Code and Implementation Guidance:

<COMMENT_11>

The CFA INSTITUTE DIVERSITY, EQUITY AND INCLUSION CODE (USA AND CANADA) EXPOSURE DRAFT and its accompanying Implementation is the first overtly political set of recommendations that I have ever seen drafted by the CFA Institute. In its current form it is not something that I would ever sign or countenance within my own venture capital firm. It is also sloppily researched and poorly argued. Here is why:

Nowhere in the document is an explanation made to how the various recommended DEI policies can be reconciled with the paramount duty of investment professionals which, of course, is the fiduciary duty they have to their clients. Beyond that there is not even an evidence-based case made for what the benefits of these DEI recommendations actually are. The benefits, it seems, are assumed and the costs ignored. At a minimum clients deserve a clear explanation as to why adopting these recommendations is even good idea. This document offers no procedure for doing so.

Most immediately problematic for an actual practitioner is that central in fulfilling a fiduciary duty is minimizing costs wherever possible in order to maximize return for clients. Following these standards would increase costs in a variety of areas, whether it is hiring additional DEI experts, paying for regular training or imposing a variety of bureaucratic procedures. Most, if not all of this cost would be passed on to the end client. Nor does there seem to be any procedure recommended for notifying the client that this change and its associated costs is even happening. For purposes of clarity, a responsible practitioner would expect there to be at least a case study quantifying the likely cost/benefit impact on a typical account of adopting these recommendations.

As an aside, there is not even a mention is made of how these standards are to be reconciled with already existing anti-discrimination and other employee protection policies found in a typical company handbook, many of which are governed by the specific statutes adopted by the various states. These statutes obviously take precedence over a document such as this, but have the authors even bothered to examine whether there are any conflicts with existing statutes. If it has, it certainly is not mentioned anywhere.

It is curious, almost bizarre, that the CFA Institute itself is not mentioned in this document as both a source of the various training recommendations made herein as well as a vehicle for absorbing the costs.

Finally, there is no mention of any exclusion for smaller firms. Is this by design? Common sense indicates that a one size fits all model would put small firms at a significant disadvantage in terms of absorbing the various costs contemplated by these policies.

The curious lack of attention paid to both the cost and the interests of the end client found in this document make no sense unless one looks outside of the investment industry. Academia, above all, is notorious for its proliferation of DEI and other policy mandates which have led to an explosion in administrative overhead and inexorable increase in college costs, a trend that far exceeds any level justified by inflation. As widely reported, it is also a model that is manifestly unsustainable--as evidenced by the looming presence of its ugly stepchild, the student loan crisis. If this is the model that the CFA Institute is adopting it should say so in no uncertain terms---for it represents a radical departure from its traditional approach which has long been grounded in fiduciary duty and transparency, particularly where it pertains to protecting end clients form unwarranted costs.

<COMMENT_11>

12. Comments on Principle #1 and associated Implementation Guidance:

<COMMENT_12>

We call upon the corporate sector in Canada to adopt the United Nations Declaration on the Rights of Indigenous Peoples as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources

Why would the CFA institute echo a position taken by the UN? Leaving aside the notorious corruption and internecine politics associated with that organization, what business does a professional credentialing organization allying itself with a political entity? The CFA Code of

Ethics specifically instructs CFA designation holders to distance themselves from entities and activities that have even a hint of corruption. Why are the authors not more mindful of the reputational risk for the CFA designation that is associated with making a recommendation which is yoked to the UN?

We have learned that decisions that influence the talent pipeline are made as early as Grade 9 and 10. Designated leaders need to engage with high school career counselor staff in the same way as other industries already do.
Has any consideration been given by the authors to the practicality of an asset management firm engaging with 9th and 10th graders? How much managerial effort is supposed to be dedicated to this activity given that firms already dedicate material managerial resources to recruiting at both the college and graduate school level? Is the additional headcount needed to address this effort worth the benefit or has that trade off even been modelled?

Where possible, organizations should undertake measures to support such organizations financially. The Resources section lists some suggested potential partners.
Are the additional costs entertained by this recommendation to be communicated with end clients or simply imposed by management? Why is there no mention of how this will be communicated to clients both a priori and transparently?

When conducting outreach in communities, organizations should consider what employee education is needed in advance. For example, when initiating outreach with Canadian Indigenous communities, organizations should provide education for management and staff on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This endeavor will involve some skills-based training in intercultural competency, conflict resolution, human rights, and anti-racism.
I am no expert on Canadian law, but has any attempt been made by the authors determine if the United Nations Declaration cited above conflicts with Canadian law? Presumably it does not, but this should be clarified.

Educational attainment and work experience should be reviewed in the context they were attained. For example, middle ranking grades may be an exceptional achievement in an otherwise underachieving school.

Has any consideration been given to the risks associated with hiring someone into a position who is not qualified? Indeed, there seems to be no consideration given to the issue of risk anywhere in this document. Yet a core function of all asset management firms is to manage a multitude of risks, including personnel risk, in order to honor fiduciary duty.

More ominously, according to this logic, someone with a disadvantaged background who fails the CFA tests could, in theory, be hired in preference to someone who actually passes them. This is absurd. The crowning irony here is that it is difficult to imagine a more democratized yet prestigious credential than the CFA designation. Compared to an MBA program it is a screaming bargain and often considered more prestigious. Why is that? Perhaps it is because it is both difficult and unambiguously merit based. There is no scope for gaming the exams. Is the CFA Institute now distancing itself from the fundamental tenet of merit? Perhaps the next logical step for the sake of promoting “equity” is to make the tests easier. Why not have everyone pass and call it day? This is certainly the approach being taken in many public schools and colleges—and with controversial results.

<COMMENT_12>

13. Comments on Principle #2 and associated Implementation Guidance:

<COMMENT_13>

Educational and professional attainment should be reviewed in context they were achieved. The candidate may have been studying while working two jobs or coping with caring responsibilities, for example in the case that only a few individuals have the very specific qualifications required (e.g., the Certified Financial Planner [CFP] designation)—particularly away from the main financial areas—greater flexibility may be needed.

Has any effort been made here to document here how many CFA candidates both work and study for the CFA exams simultaneously. My understanding is that simultaneously working and studying for the CFA is the norm, not the exception. That is what everyone I knew did. Doing so is part of the challenge and has traditionally been thought of as grit--and even something to be admired. Not everyone is willing to make those sacrifices, but those who do have every right to be recognized--and rewarded.

Our research suggests that some organizations change their hiring practices but not their courting practices, and the diverse candidates may not relate to the type of activities traditionally arranged for this purpose. In Boston, for example, a baseball game at Fenway Park may be the ideal firm social event for some, but others may feel excluded.

This latter suggestion is downright silly. If an employee is invited to a corporate event sponsored by the company, that employee is by definition not being excluded. That employee may not like baseball, may have a prior commitment or may simply not want to attend. That is up to the employee, but to imply that the company is somehow injuring an employee's sensibilities by offering an invitation is manifestly ridiculous. If the standard proposed here is that firms should live in mortal fear of offending any staff member with an invitation to a corporate event, firms will simply stop sponsoring corporate events—a perfect lose-lose outcome.

<COMMENT_13>

14. Comments on Principle #3 and associated Implementation Guidance:

<COMMENT_14>

Promotion involves ensuring that all aspects of access to training and development—including mentorship and sponsorship, progression, new opportunities, and appraisal processes— are equitable and inclusive and seek to address inequities resulting from systemic racism and other forms of bias. Promotion covers intermediate step opportunities and individual recognition, which can be crucial in building employee visibility and experience.

This statement presumes that there actually is "systemic racism" in the USA. What if there is not? Nowhere in the document is evidence provided to justify what appears to be a lazy and unsubstantiated slogan adopted from the progressive movement.

In constructing an accelerated program for future leaders to address the need for diversity of experience at a senior level, hiring managers and leaders should ask: "Is this next step for a team *member a functional role viewed as primary to the organization?" Typically, the line through the business to the C-suite role flows through sales teams, for example, rather than service teams such as HR or back office operating roles. Some organizations could rotate individuals among teams once they reach the level of managing director in order to increase their exposure to different business functions, widening experience.*

This suggestion needs more clarification. If the implication is that the HR director would do well to spend several weeks on a trading desk or embedded in IT, that could be very instructive. But if the suggestion here is that the Head of HR should actually manage a more specialized department requiring high level skills for a year or two, that is ridiculous. Worse, it would pose a major risk to the firm.

Organizations can consider formal programs to ensure that at the start of employment, every employee is offered a mentor—or more informally, a buddy—to avoid unintentionally leaving valuable support to chance. Typically, organizations need a formal matching for this approach to work.

Have the authors of this document investigated the actual success of mentoring programs in the finance industry? In my experience, these programs are initiated with great fanfare, usually by the HR department, last a few pay cycles and then mysteriously disappear because the senior managers have more pressing priorities—for example, serving their clients.

<COMMENT_14>

15. Comments on Principle #4 and associated Implementation Guidance:

<COMMENT_15>

Although DEI are everyone's responsibilities, where possible, we recommend a leadership level position, reporting directly to the CEO, that is focused solely on integration, implementation, and measurement.

A position reporting to the CEO would generally be highly paid. Should the end clients not have a say in whether this is advisable or not? After all, the money to pay for that position would largely be borne by the clients.

<COMMENT_15>

16. Comments on Principle #5 and associated Implementation Guidance:

<COMMENT_16>

Encourage managers to consider divesting companies that raise DEI concerns within their Impact Investing/ESG strategies and to analyze DEI impacts for all relevant investments. viii. Request managers to affirm an anti-slavery affidavit. ix. Encourage managers to publicly disclose political contributions.

Why should managers disclose their political contributions? Is this recommendation aimed at locating and rooting out Trump supporters? At a minimum, this is an extraordinary invasion of privacy and what on earth does it have to do with the practice of professional investment management?

<COMMENT_16>

17. Comments on Principle #6 and associated Implementation Guidance:

<COMMENT_17>

There are multiple leadership approaches from appointing a chief diversity officer at the executive level to creating DEI business councils within business units, recognizing that even within organizational DEI, implementation can look very different depending upon the functions. Frequently established practice should be a formal, written DEI policy or initiative, as well as at least one member of the organization's management committee or equivalent leading DEI initiatives. Our research shows that organizations with established DEI governance in place tend to score more highly on a spectrum of DEI, which can be measured from mature to early stages. Therefore, we ask signatories for information about these indicators

Neurodiversity. Includes autism spectrum condition (ASC), attention deficit hyperactivity disorder (ADHD), dyslexia, dyspraxia, dyscalculia, and hyperlexia. g. Self-identification – Sexual

orientation. This data collection can only be optional. Number and percentage of US and Canadian employees who have self-designated as follows: i. Heterosexual ii. LGBTQIA+ identifying iii. Other iv. Prefer not to say.
Little if any consideration is given here to the privacy issues surrounding this extremely personal information. Where is it stored? Who is authorized to review it? What if there is a security breach and the data are hacked? Who should be held responsible? Should the CFA Institute itself volunteer to absorb that potential liability—just for promoting this standard? If it is strictly optional then what is the point?

Identify public schools, underfunded neighborhoods, and other hard-to-reach groups that have not seen the investment industry as a career choice; agree on a target for outreach; and measure successful contacts against that number. 2. Start early: Studies show, for example, that girls commonly lose interest in STEM when they are high school age. Decide the appropriate age ranges to target, and record the age range of the audience, using school year groups where appropriate.
Should it not be the CFA Institute itself that is doing outreach to high schools and other similar institutions? The CFA Institute, after all, is vastly better resourced for this sort of undertaking than your garden variety asset management company. It also has numerous chapters across the US and the world. If collectively the members of those chapters want to volunteer for that effort, by all means have at it. End clients would not be bearing the associated costs--and that makes all the difference.

Regular training and education for leaders should become the norm, and leaders should regularly communicate the importance of DEI to their group and firm. This regularity should be recorded and be part of reporting
Once again, shouldn't be the CFA Institute itself that takes the lead on offering training modules—perhaps advertising it as an inspired form of public service? The CFA Institute likewise has a very efficient system for recording participation in the numerous lectures and events that the CFA Institute sponsors.

<COMMENT_17>