

**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](mailto: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](mailto:deicode@cfainstitute.org) by 5:00 PM E.T. on 4 September 2021.**

**General Information (required)**

<p><b>Respondent:</b></p> <p><i>(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.)</i></p>	<p>Click or tap here to enter text.</p>
<p><b>Stakeholder Group:</b></p> <p><i>(Please select the stakeholder group with which you most closely identify.)</i></p>	<p>Investment Professional</p>
<p><b>Region:</b></p> <p><i>(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.)</i></p>	<p>North America</p>
<p><b>Country:</b></p> <p><i>(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.)</i></p>	<p>Canada</p>
<p><b>Confidentiality Preference:</b></p> <p><i>(Please select your preference for whether or not your response is published on the CFA Institute website.)</i></p>	<p>yes, my response may be published</p>

## 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>

[ ENTER RESPONSE HERE]

<QUESTION\_01>

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

<QUESTION\_02>

[ ENTER RESPONSE HERE]

<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>

[ ENTER RESPONSE HERE]

<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>

[ ENTER RESPONSE HERE]

<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>

[ ENTER RESPONSE HERE]

<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>

[ ENTER RESPONSE HERE]

<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>

[ ENTER RESPONSE HERE]

<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>

ENTER RESPONSE HERE

<QUESTION\_08>

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

<QUESTION\_09>

[ ENTER RESPONSE HERE]

<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>

[ ENTER RESPONSE HERE]

<QUESTION\_10>

## DEI CODE AND IMPLEMENTATION GUIDANCE FOR INVESTMENT ORGANIZATIONS

### General comments section

#### 11. General comments on the Code and Implementation Guidance:

<COMMENT\_11>

I believe the following section singling out Canada should not be included:

“Definition of Reconciliation for Firms Operating in Canada

“Call to Action 92” states:

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.”

It’s long been known that the UNDRIP is controversial in some countries, not in terms of its good intentions not in terms of the general principles stated, but in certain poorly written clauses that appears to interfere with the sovereignty of countries and give the indigenous peoples veto power over developments on their traditional land. To wit, Article 10 states:

“Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.”

Unlike the languages used in many other sections of the UNDRIP where such consent is sought in consultation, Article 10 makes it an absolute right for the indigenous peoples to pre-approve any developments that concerns them, and if such consent is granted no development can take place. It’s difficult to say if this was intended, but in practice it has caused great difficulties in development projects on indigenous regions. The idea that any group of peoples within a sovereign nation should have such veto power, even for historically disadvantaged indigenous

peoples, is in direct contrast to the very idea of a unified country and the pre-eminence of national interest (the idea of Eminent Domain). The Canadian government's handling of the Trans Mountain pipeline is a clear illustration of that.

The Canadian Supreme Court had ruled that the governments have a duty to consult the indigenous peoples before approving any development projects in their territories, but emphasized that the duty to consult does not constitute a veto. The current Liberal government has reversed Canada's prior reservation to UNDRIP and now aims to incorporate the spirit of UNDRIP into Canadian law, but thus far unsuccessful. It might well be the case that if the current government returns to power such law will be passed, but it will remain hotly debated in Canada and there is no guarantee that the course of action won't be reversed because Canadians have real concerns of the wholesale acceptance of the UNDRIP.

And Canada is by no means alone in this reservation. The US had initially not approved the UNDRIP but has now changed its stance. However, it essentially says it's only a principle and not law:

“United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

Adopted in 2007, the UNDRIP establishes a universal framework of minimum standards for the survival, dignity and well-being of indigenous peoples and elaborates on existing human rights standards and fundamental freedoms as they apply to the specific situation of indigenous peoples. **The UNDRIP is not legally binding on States and does not impose legal obligations on governments** [emphasis added], but like all human rights instruments, it carries moral force. While not endorsing the UNDRIP, the United States has agreed to support the Declaration. [emphasis added; whatever this means]”

Reconciliation with the indigenous peoples and righting historical wrong are morally right and practically necessary. But to single out Canada and call on the corporate sectors to adopt a call to adopt a UN document that is poorly designed and overly ambitious is not the best way to do that. Rather, spelling out specific principles for the corporate sectors in working with indigenous

peoples for shared prosperity is far more helpful. The UNDRIP can be a useful reference, but it's no Bible for salvation.

<COMMENT\_11>

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

<COMMENT\_12>

ENTER RESPONSE HERE

<COMMENT\_12>

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

<COMMENT\_13>

ENTER RESPONSE HERE

<COMMENT\_13>

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

<COMMENT\_14>

ENTER RESPONSE HERE

<COMMENT\_14>

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

<COMMENT\_15>

ENTER RESPONSE HERE

<COMMENT\_15>



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

<COMMENT\_16>

ENTER RESPONSE HERE

<COMMENT\_16>

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

<COMMENT\_17>

ENTER RESPONSE HERE

<COMMENT\_17>