

# ESG: Driving Understanding in our Evolving World

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This presentation provides general information and is not intended to provide legal advice.  
Audience members should seek legal advice for specific situations.

**ESAA Environmental Summit**  
**Jasper, Alberta**  
**April 14, 2023**

# Overview

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- **Defining ESG**
- **Evolution of ESG**
- **Frameworks and Standards**
- **Opportunities and Risks**
- **Key Takeaways**

# Defining ESG

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## **ESG has three components**

- “Environment” refers to how a company engages the natural world and acts as a steward
- “Social” refers to how a company engages social factors within and beyond its limited sphere of business
- “Governance” refers to how a company’s corporate structure influences decisions that drive a positive change

**Key non- financial factors to measure sustainability and ethical impact of an investment in or by a business/ company**

# Evolution of ESG

## Corporate Social Responsibility (“CSR”)

- Introduced in the early 1950s and laid foundation for socially responsible reporting mechanisms
- Predominantly internally driven

## Sustainability

Our Common Future in 1987:

“Sustainable development is development that meets the needs of the present *without compromising the ability of future generations to meet their own needs.*”

- In 2015, two global agreements: (1) United Nations Paris Agreement, and (2) United Nations Sustainable Development Goals (“SDG”)

## ESG

- More technical and comprehensive “catch-all” phrase that incorporates broad concepts of CSR and sustainability in financial space
- Driven by financial materiality and investor/consumer preferences



# Frameworks and Standards

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- **No universally adopted framework for measuring and accounting ESG performance**
- **Common elements – strategy, transformation/action, audit and record keeping, disclosure and performance reporting**
- **Several well-recognized standards that address elements of ESG such as**
  - Sustainability Accounting Standards Board (“SASB”)
  - Global Reporting Initiative (“GRI”)
  - Task Force on Climate-Related Financial Disclosures (“TCFD”)
  - International Integrated Reporting Council
  - Climate Disclosure Standards Board

# “ESG” – Environmental

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## **Refers to a company’s environmental impact**

- Contributions to or mitigation of atmospheric, aquatic and terrestrial pollution
- Biodiversity practices
- Site rehabilitation, remediation and risk management
- Use of renewable/non-renewable resources
- Plant and manufacturing operations
- Waste management

# “ESG” – Social

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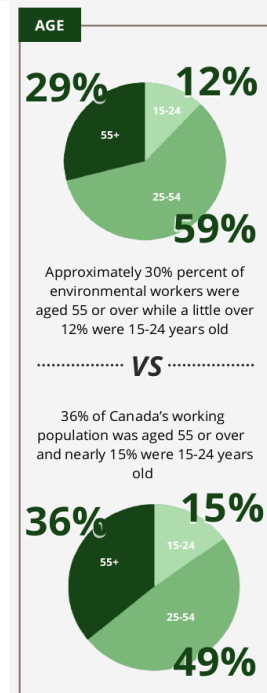
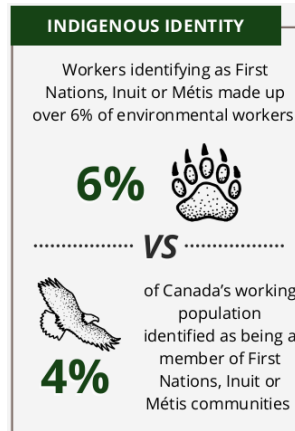
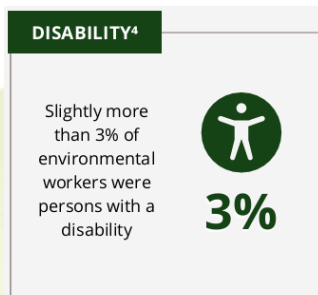
## Links to CSR principles and social impact

- Executive and staff composition and training
- Inclusion programs and hiring practices
- Health and safety
- Advocacy for social policy and advancement
- Indigenous consultation and reconciliation
- Reputation management and responsible marketing
- Social impacts

# Social Metrics

## Social factors include:

- consider a company's general composition based on equity, diversity and inclusion
- ECO Canada reports the environmental workforce consists of the following



**Source:** ECO Canada, "Workforce Diversity Series, 2021-Snapshot.

Link: <https://eco.ca/new-reports/environmental-workforce-diversity-2021-snapshot/>



# “ESG” “I” – Indigenous Communities

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## **Indigenous engagement, consultation, and reconciliation**

- building mutual, respectful relationships
- meaningful Indigenous consultation
- partnering with Indigenous-owned businesses
- recruiting and retaining Indigenous employees
- considering the principles in the United Nations Declaration of the Rights of Indigenous Peoples
- incorporating Indigenous knowledge

# Truth and Reconciliation Commission: Call to Action #92

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- **Commit to meaningful consultation, building respectful relationships, and obtaining the FPIC of Indigenous peoples before proceeding with economic development projects**
- **Ensure that Aboriginal peoples have equitable access to jobs, training, and education opportunities in the corporate sector, and that Aboriginal communities gain long-term sustainable benefits from economic development projects**
- **Provide education for management and staff on the history of Aboriginal peoples**

# Corporate Partnerships with Indigenous Businesses

## Business Reconciliation As a Business Best Practice

- For businesses across all sectors, the benefits of business reconciliation are numerous including tangible outcomes in the form of CSR principles and business best practices
- The Indigenous economy contributes over \$30 billion annually to the Canadian economy and is expected to increase to \$100 billion by 2024



**Source:** Canadian Council of Aboriginal Business [https://www.ccab.com/wp-content/uploads/2019/09/Business-reconciliation-in-canada\\_WEB-final\\_AA.pdf](https://www.ccab.com/wp-content/uploads/2019/09/Business-reconciliation-in-canada_WEB-final_AA.pdf)

# “ESG” – Governance

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## Corporate governance structure and stakeholder interests

- Alignment of executive and shareholder interests
- Risk management
- Tracking, reporting and compliance transparency
- Financial policies
- Strategic operations and planning
- Ethics, conduct and accountability
- Board composition and compensation transparency

Note: “E” and “S” can shape “G”

# Opportunities and Risks

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## **Key variables to understand in assessing opportunities and risks**

- sector or industry
- geographic locality
- urban versus rural
- maturity of the operation
- regulations and policies

# Opportunities and Risks

Opportunities	Risks
<ul style="list-style-type: none"><li>• Enhanced social capital and corporate value</li></ul>	<ul style="list-style-type: none"><li>• Irreparable reputational damage</li></ul>
<ul style="list-style-type: none"><li>• Decreased loan and interest rates</li></ul>	<ul style="list-style-type: none"><li>• Increased loan and interest rates</li></ul>
<ul style="list-style-type: none"><li>• Improved shareholder, workforce satisfaction and loyalty</li></ul>	<ul style="list-style-type: none"><li>• Director and officer liability through investigations/enforcement</li></ul>
<ul style="list-style-type: none"><li>• Consumer relations and market growth</li></ul>	<ul style="list-style-type: none"><li>• Litigation re “greenwashing”</li></ul>
<ul style="list-style-type: none"><li>• Competitive RFP submissions</li></ul>	<ul style="list-style-type: none"><li>• Lack of consistent standards, training and certification</li></ul>



# Key Takeaways

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- **Focus around ESG is expected to continue to grow as legislation, reporting and metric development continues**
  - financing may be contingent on ESG factors
  - Companies may favour services providers that adopt ESG factors
- **Numerous opportunities associated with ESG, receiving financing or investment contingent on ESG factors**
- **Strong ESG programs that move companies towards their environmental objectives can help companies manage their environmental liability**
- **Ongoing evaluation of factors to identify risks and opportunities for your clients, and in your operations**

# Willms & Shier Environmental Lawyers

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- **Established nearly 50 years ago**
- **Environmental, Indigenous, and Energy law**
- **16 lawyers**
  - seven lawyers are certified by the Law Society of Ontario as Environmental Law Specialists and one in Indigenous Legal Issues
  - lawyers called to the Bars of Alberta, British Columbia, Ontario, New Brunswick, Northwest Territories, Nunavut and the Yukon
  - offices in Toronto, Ottawa, Calgary, and Yellowknife



# Contact Information

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# Overview

- What does ESG really mean?
- Evolution in Transparency and Accountability
  - Emergent Issues
    - Materiality
  - Example Projects
  - Key Takeaways

# What does ESG really mean?

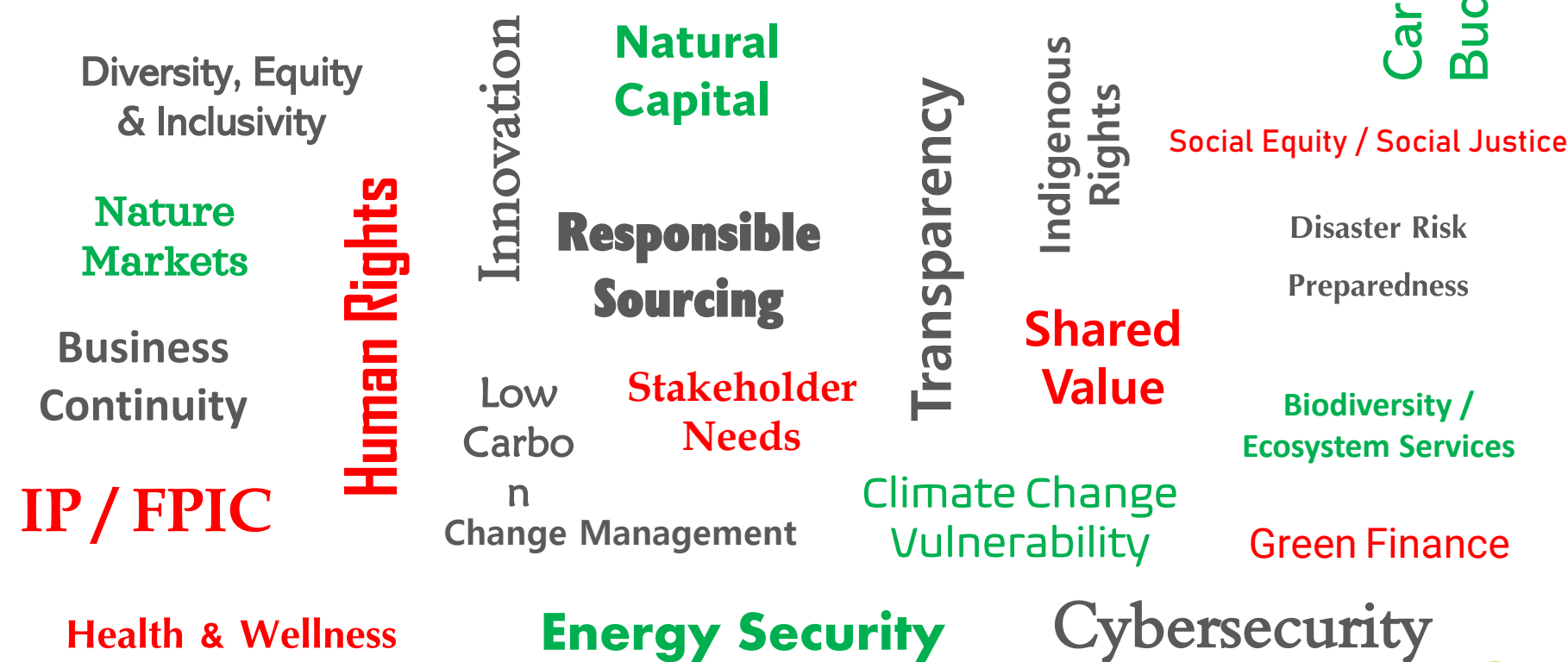
- We know now the definition of ESG, but do organizations really understand what it means?
- Take a moment and ask your neighbour:
  - For your organization, could your leadership team name your top 3 ESG risks or opportunities and associated metrics?
  - Could they list the firm's most important stakeholders and interested parties, and the associated obligations?
  - Could they identify the key standards / benchmarks against which one could (would) evaluate the firm's ESG performance?



# What does ESG really mean?

- The ESG imperative is crafting a New World Order for every industry, and every firm
- ESG efforts must be meaningful and legitimate
- There is no more “green-washing”
- Companies are feeling pressured into transparency and are rushing to report on ESG performance, without really understanding the what, the how and the why of disclosure
- Disclosure needs to be specific, factual / reliable, relevant, timely, accessible and forever
- Disclosure is complicated by multiple ESG rating schemes and the amount of data
- The playing field is complicated by mis-information and eco-chambers

# Emergent Risks & Opportunities



# Evolution in Access to Information and Accountability



# What does ESG really mean?

Did someone say data?





# Driving Understanding



- Look at the firm (or project) through an ESG lens:
  - Who do I want to be?
  - Who matters to me, and to whom do my actions matter?
  - What matters - now and future?
  - Where am I now?
  - Strategy and Roadmap

# Concept of Materiality

- Material items are considered as those items whose inclusion or exclusion results in significant changes in the decision making for the users of business information

***“The magnitude of an omission or misstatement of ... information that, in the light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would have been changed or influenced by the omission or misstatement”***

Financial Accounting Standards Board

## Concept of Materiality (cont'd)

- The definition of “materiality” is fundamentally linked to the reasonable investor, the notion of which evolves over time
- Company operations and investment portfolios span jurisdictions that operate with different legal definitions of materiality, most significantly the US and the European Union
- Sustainability topics have various time horizons – material when?

***“We have come to expect ...  
increasingly heterogenous  
investor views”***

International Sustainability Standards Board

## Concept of Materiality (cont'd)

- More and more investors are making investment decisions based on ESG information that appears to have limited or no direct impact on a company's financial valuation
- Concept of “double materiality” is emerging, which requires companies to consider the impact of their activities on the environment and society, in addition to any impact on investors

***“The level of freedom and boldness with which companies voluntarily disclose ESG information should be tempered to reflect these developments”***

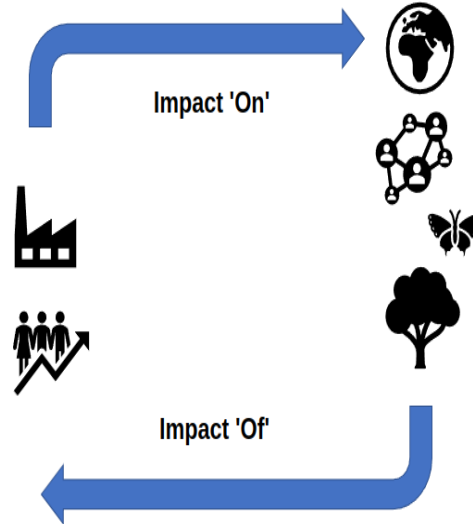
Harvard Law School Forum on Corporate Governance

# Double Materiality

## Outside-In

What is the impact of the ESG topic / issue on the company (financial performance, brand, employees, etc)

Primarily of interest to investors



## Inside-Out

What is the impact of the company on local, regional and global environment and society

Primarily of interest to consumers, civil society and, increasingly, investors

# What does ESG really mean?

Disclosed Information is Resilient



# Driving Understanding



- Look at the firm (or project) through an ESG lens:
  - Who do I want to be?
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# ESG Materiality Assessment and Roadmap

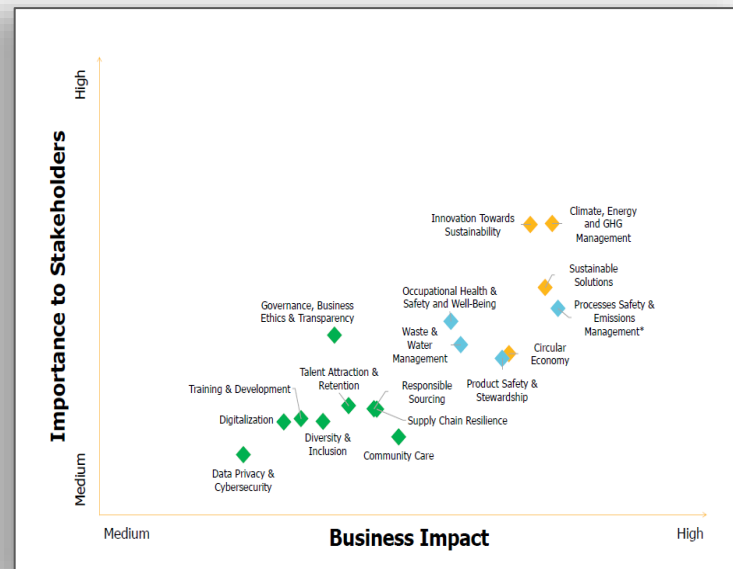
- Interrogate key stakeholders, influencers and rights holders (internal and external) and assess relative importance of industry-specific emergent issues in ESG
- Align to company-specific business connectors (e.g., existing policies, commitments and enterprise priorities)
- Map ESG risks and opportunities to key international frameworks and standards such as UNSDG, UNDRIP, GRI, TCFD, TNFD, SASB, CDP, SBTi, etc.
- Develop KPIs, set SMART targets, and define flagship programs to drive value creation and move the needle
- Don't do it just for reporting purposes!
- Don't forget the roadmap!

do  
what  
matters  
most



# ESG Materiality Assessment – Example

- SLR retained by a leading company in the chemical manufacturing industry
- Define ESG issues / topics of significance using:
  - Relevant ESG ratings & disclosure standards
  - Material issues disclosed by industry peers
  - Interviews with internal and external stakeholders
- Assessed impact on business using the double-materiality principle through workshops
- Present results following SASB 2021 Materiality Map template (impact on business v. importance to stakeholders)



# ESG Benchmarking

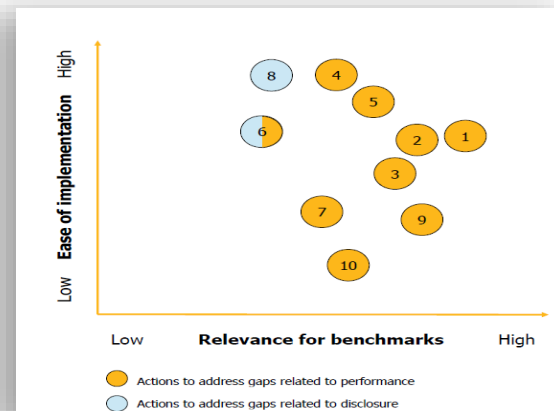
- Gap Analysis
- Evaluate against industry-relevant benchmarks, rating schemes, reporting frameworks and standards
- Compare performance against industry peers
- Flags “best practices” in your peer group
- Part of Materiality Assessment, or standalone
- Can help to define “external” expectations / material risks
- Can help identify “performance” and “disclosure” gaps
- Helps define what to say and how to say it
- Supports programming and helps refine external communications



# ESG Benchmarking – Example

- For this same chemical company, SLR completed an ESG benchmarking exercise
- Determining the relevant rating schemes
- Confirmed the peer group
- Benchmarked ESG performance against industry and peer group
- Determined disclosure gaps
- Defined industry “best practices”
- Input to MA, contributed to ESG Strategy Roadmap

Comparing the different sustainability ratings: Total Scores						
	S&P Global	MSCI	ecovadis	SUSTAINALYTICS	ISS ESG	CDP Climate / Water
lyondellbasell	30*	BBB	65	BBB (24.6)	C-	B / Not Scored
Dow	70	AA	-	24.1	-	A- / C
BASF We create chemistry	49	A	-	28.1	Prime	A- / A-
سابك sabka	46	BB	Platinum (top 1 percent in industry)	44.8	-	B



# Key Takeaways

- The market for ESG related services is not going anywhere but up – and out
- There is room for all – niche and full-service
- Organizations need help in all areas of ESG – strategy, prioritizing, monitoring and measuring, reporting, verification and assurance
- Experience counts - external service providers can help to identify key market trends and imperatives
- Keep up!



# “Future Ready”



**6 Regions**  
with **over 8,000**  
live projects on  
every continent



**100+  
Offices**  
in **13**  
countries



**2,300+  
Staff** with  
a collaborative  
**‘one team’**  
culture

**35+**  
**Technical  
Services**  
Environmental,  
Engineering,  
Scientific,  
Advisory



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A black and white photograph of a man in traditional Indigenous regalia, including a beaded jacket with a large circular emblem on the back, speaking at a conference. He is gesturing with his right hand. In the background, several people are seated at a long table, and a large window is visible.

**TRACE**<sup>TM</sup>  
ASSOCIATES

Progressive  
Aboriginal  
RELATIONS

COMMITTED

Canadian Council for  
Aboriginal Business



# Putting the Social Into ESG

ESAA Environmental Summit  
April 14, 2023

# Putting the Social Into ESG

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## Environmental

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Climate change  
Renewable energy  
Clean tech

## **SOCIAL**

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**Diversity, Equity, Inclusion**  
**Human rights**  
**Safety**  
**Indigenous Reconciliation**

## Governance

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Diversity  
Shareholder rights  
Ethics  
Transparency



**KEEP IT SIMPLE**

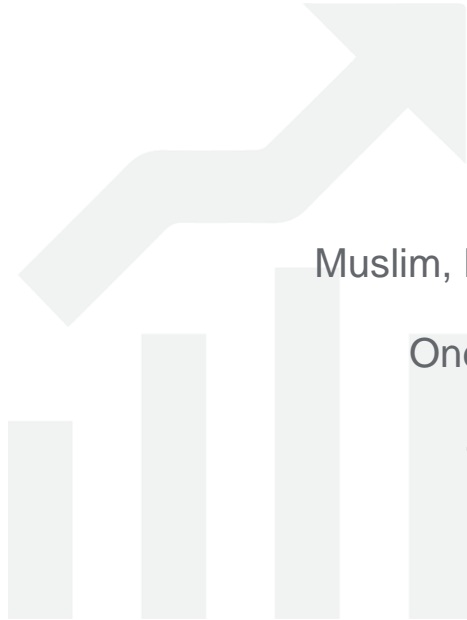




**WHY DOES IT MATTER**

## Some Statistics

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> 350 ethnic origins in Canada

>2.2M Indigenous Peoples

Muslim, Hindu, and Sikh population double in last 20 years

One in four people are part of a racialized group

~4% of population identifies as LGBTQ2S

>22% of Canadians have a disability

## Innovation Is An Opportunity – Not A Threat

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### IT'S THE RIGHT THING TO DO

**1**  
Recruitment and  
retention

**2**  
Drives  
innovation

**3**  
Captures new markets  
and increases sales



# **DEI + BELONGING**

# Where and How Do We Start?

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- DEI Team
  - Anti-bias Training
  - Pronoun Training
- DEI Policy
- Hired Subject Matter Expert (Brad Spence)
- Indigenous Engagement Team (internal)
- Incorporated Two-eyed Seeing approach
- Implemented TRC and UNDRIP



What are your  
pronouns?

**TRACE**<sup>™</sup>  
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Canadian Council for  
Aboriginal Business 

## Two-Eyed Seeing Approach\*

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- Indigenous knowledges and ways of knowing
- Western knowledges and ways of knowing
- Learning to use both eyes together for the benefit of all



\*Source: Mi'kmaw Elder Albert Marshall of the Moose Clan of the Mi'kmaw Nation



# **DEI + GOVERNANCE**

## Innovation Is An Opportunity – Not A Threat

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### IT'S THE RIGHT THING TO DO

**1**  
Represents shareholders  
and the business  
communities you serve

**2**  
Drives  
innovation

**3**  
Captures new markets  
and increases sales



## Better Boards Integrate DEI Best Practices

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Leadership accountability

Resilience

Influencing change

Communication

Diversity of thoughts and perspectives

Relationships

Equitable treatment

Risk mitigation

**IT TAKES COURAGE AND COMMITMENT**



**KEEP IT SIMPLE**

**TRACE**

**Diversity, Equity, and Inclusion Advisory**

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