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New analysis released today of Canada Pension Plan's private investments in high-carbon assets reveals a 'troubling incrementalism' in the public plan's efforts to manage climate-related risks, leaving Canadians' pension investments exposed to material financial risks

CPP Investments can help to lead Canada's transition to a 21st Century clean economy by increasing transparency and setting aggressive targets for reducing carbon in its Canadian portfolio to support good jobs for future generations of Canadians.

VANCOUVER, BC— A new legal analysis released today by the Canada Climate Law Initiative "Troubling Incrementalism': Is the Canadian Pension Plan Fund Doing Enough to Advance the Transition to a Low-carbon Economy?" finds that the CPP's approach to managing the financial risks of climate change may not be consistent with the best interests of Canadian beneficiaries and contributors.

CPP Investments' pattern of investing in high-carbon assets is not aligned with Canadian or global commitments to rapidly reduce carbon emissions, and may not be consistent with pension trustees' fiduciary obligations in terms of intergenerational equity or the recognition by Canadian courts, regulators and investors that climate change poses material financial risks and should be addressed accordingly.

Keith Ambachtsheer, Director Emeritus of the International Centre for Pension Management and Adjunct Professor of Finance, Rotman School of Management, University of Toronto says that he fully agrees with report author, Professor Cynthia A. Williams' assertion that "CPP Investments has an opportunity for leadership in Canada's zero-carbon economy". As a result, he encourages CPP Investments to take up her challenge to think not only of the interests of current CPP participants, but of future ones as well.

The Bank of Canada has stated that climate change threatens both the economy and financial stability, citing physical risks from more frequent and severe extreme weather events, and transition risks such as sudden or unexpected changes in consumer and investor preferences or government policy.

"Like other fiduciaries, pension fund administrators have a duty to consider material risks and return factors in making their investment policies and decisions," says Simon Archer, pensions expert and Partner with Goldblatt Partners. "Each year, we get better and better analysis about the risks of carbon assets. Today's report highlights some apparent inconsistencies in CPP Investments' stated policy objectives in addressing the risks associated with climate change, and its expanding portfolio of high carbon assets. Plan beneficiaries deserve a better explanation of how and when CPP Investments will transition away from these carbon-based assets."

Legal research by the Canada Climate Law Initiative establishes that corporate directors have a duty to assess and clearly communicate to shareholders and investors how climate change will impact a company over the long-term, a duty that is not confined to short-term profit or share value.

"Climate change poses systemic risks, impacting supply chains, future cash flows and disrupting business models across industries. These risks are amplified for a resource-intensive economy like Canada's, which will be vulnerable to the inevitable shift out of fossil fuels," says Nick Silver, Managing Director of Callund Consulting and advisor to numerous public-sector pension funds including that of resource-intensive Norway. "CPP Investments would best fulfill its investment mandate and serve the best interests of Canadians by transitioning out of declining fossil fuel assets, and into industries of the future which will create the jobs, infrastructure and growth today that Canada will need to become a thriving economy in the 21st century."

The report launched today provides in-depth legal analysis of six (out of a total of 15) private investments made by CPP Investments into oil and gas related companies: Wolf Midstream (North American oil pipelines), Nephin Energy (Irish natural gas), Crestone Peak Resources (Colorado fracking), Encino Acquisition Partners (US fracking), Teine Energy (Saskatchewan heavy oil), and Williams Ohio Valley Midstream (natural gas pipelines).

"CPP Investments has an opportunity for leadership in Canada's future zero-carbon economy by supporting new technologies, companies and jobs in its investment strategy," says report author Professor Williams. "Compared to business-as-usual investments that expand carbon assets, investing in the clean energy transition would be more consistent with CPP's mandate to manage the CPP funds in the best interests of contributors and beneficiaries. We urge CPP Investments to fundamentally re-evaluate its role in Canada's economy and align its investment strategy with the needed clean energy transition."

Professor Williams discusses the findings of her report at a public webinar on Friday September 18th from 8 a.m. – 9 a.m. PDT. Register here for "Pension Funds and the Transition to a Low-Carbon Economy".

The Canada Climate Law Initiative's Report, titled "Troubling Incrementalism': Is the Canadian Pension Plan Fund Doing Enough to Advance the Transition to a Low-carbon Economy?"", can be found here: https://law-ccli-2019.sites.olt.ubc.ca/files/2020/09/CCLI_Troubling_Incrementalism_Cynthia_Williams_Sept2020.pdf

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About the Canada Climate Law Initiative: The Canada Climate Law Initiative (CCLI) provides legal analysis, resources and tools to help corporate directors, officers, and pension fund trustees in Canada understand how director duties and fiduciary obligations relate to climate change risks and opportunities. CCLI is the Canadian partner of the Commonwealth Climate Law Initiative, established at Oxford University and with projects in Australia, Canada, Singapore, South Africa, and the United Kingdom. CCLI is led by Drs. Carol Liao and Janis Sarra of the Peter A. Allard School of Law, University of British Columbia, and Prof. Cynthia Williams of Osgoode Hall Law School, York University. In Canada, CCLI has established the Canadian Climate Governance Experts, a collaboration among leading lawyers, accountants, economists, capital markets experts, company executives, and governance experts across Canada to advise boards and pension fund trustees *pro bono* concerning their fiduciary responsibilities with respect to climate change. For further information: https://ccli.ubc.ca/

About Cynthia A. Williams: Professor Williams writes in the areas of securities law, corporate law, corporate responsibility, comparative corporate governance and regulatory theory, often in interdisciplinary collaborations with professors in anthropology, economic sociology, and organizational psychology. Professor Williams also engages in policy work through her board membership in the Climate Bonds Initiative, a London-based NGO creating a new asset class, Climate Bonds, to finance the transition to a low-carbon economy; the Commonwealth Climate and Law Initiative, part of the Oxford Sustainable Finance Programme, which is evaluating directors' and trustees' legal obligations to consider climate change risk in companies' strategies and securities disclosure; and was the principal author of a petition submitted to the U.S. Securities and Exchange Commission in October, 2018, asking the SEC to engage in rule-making to require greater sustainability (environmental, social, and governance) disclosure. Professor Cynthia Williams joined Osgoode Hall Law School on July 1, 2013 as the Osler Chair in Business Law, a position she also held from 2007 to 2009. Before coming to Osgoode, she was a member of the faculty at the University of Illinois College of Law and, prior to that, she practised law at Cravath, Swaine & Moore in New York City.