On October 8, 2019, Alberta’s United Conservative government introduced Bill 14 - Alberta Indigenous Opportunities Corporation Act. This Bill creates the Alberta Indigenous Opportunities Corporation (AIOC), a crown corporation intended to facilitate investment and access to capital by Indigenous groups in natural resource projects and related infrastructure. The AIOC, if successfully established, will be the first of its kind in Canada.

Essentially, the AIOC would provide a backstop of up to $1 billion in loan guarantees and other financial tools to help Indigenous communities invest in major natural resource projects.

Under Bill 14, the following Indigenous groups are eligible and will be able to apply for the AIOC's assistance:

- Indian bands as defined by the Indian Act (Canada);
- Métis settlements established by the Métis Settlements Act;
- Métis groups as defined by the regulations;
- other entities that are approved by the Minister or the Lieutenant Governor in Council; and
- wholly-owned entities of the Indigenous groups identified above.

Although not expressly included in the legislation, Premier Kenney has stated in comment that the AIOC's mandate may also capture Indigenous communities located in British Columbia, so long as the project in question benefits Alberta.
Subject to a set of regulations and with the approval of the Lieutenant Governor in Council, the financial tools available for the AIOC to provide to eligible Indigenous groups will include:

- grants and financial contributions;
- financial loans, or taking on existing loans;
- loan guarantees;
- purchasing shares or other forms of equity; and
- entering into joint ventures or partnerships.

The Lieutenant Governor in Council must approve any assistance that the AIOC will provide to Indigenous groups for a particular project. This approval may be for a specific transaction or for a class of transactions, and may be subject to certain conditions.

Many of the rules governing how the AIOC will work in practice have not yet been determined. These rules, when drafted into regulations, will cover a wide variety of matters including:

- criteria to determine which natural resource projects and related infrastructure fall within the mandate of the AIOC;
- how eligible Indigenous groups can access financial assistance from the AIOC;
- the definition of Métis groups that fall within the AIOC’s mandate;
- the making of grants, contributions, and loans by the AIOC, or its acquisition of existing loans;
- criteria respecting the issuance of loan guarantees (and other financial assistance) by the AIOC;
- the amount of total capital allocated towards loan guarantees, as opposed to direct loans and other mechanisms (i.e. joint ventures and share purchases); and
- the mechanisms regarding co-invested debt and equity lending from the Alberta government (i.e. provided on a cost-return, or shared-upside basis, depending on the transaction structure).

If Bill 14 is passed, the AIOC will be established with a permanent board of directors in the coming months. The AIOC is expected to be fully operational in the spring of 2020, with the corresponding regulations expected shortly after this time.

This initiative follows in the footsteps of other initiatives across Canada that aim to facilitate Indigenous equity participation in major energy and natural resource projects in Canada. Indigenous equity participation in such projects helps align Indigenous and non-Indigenous business interests in a way that benefits all Canadians.

Gowling WLG (Canada) LLP acts for Indigenous Groups, project proponents, investors,
financial institutions and other project and community partners who will be seeking to access AIOC resources. We will continue to monitor and report on developments associated with this Bill. If you have any questions or would like to discuss this further, you can contact members of our Indigenous Law or Natural Resources Groups.

NOT LEGAL ADVICE. Information made available on this website in any form is for information purposes only. It is not, and should not be taken as, legal advice. You should not rely on, or take or fail to take any action based upon this information. Never disregard professional legal advice or delay in seeking legal advice because of something you have read on this website. Gowling WLG professionals will be pleased to discuss resolutions to specific legal concerns you may have.

Related  Natural Resources, Energy, Indigenous Law, Corporate Commercial

Authors

Lorne Rollheiser  
Partner - Calgary

Scott A. Smith  
Partner - Vancouver

Aneeka Sandher  
Associate - Vancouver

Adriana Da Silva Bellini  
Associate - Calgary