The significance of say-on-climate resolutions

Part 4 – Future Outlook

What can we expect in the future for say-on-climate resolutions?

A management-led say-on-climate resolution could possibly mitigate the impact of disputes such as those chronicled in Part 2 of our series. In those cases, Royal Dutch Shell faced legal issues stemming from a climate action and a strategy at TotalEnergies failed to convince some French investors, organizations, and local authorities.

On the other hand, as described in Parts 1 and 3 of our series, climate-related resolutions that came from company management this year were well received this year in Europe, the Middle East, and Africa, as well as in Asia-Pacific markets, even if critics remained on key topics such as the alignment of a strategy with the Paris Agreement. Underscoring this, Australian-company cases indicated that management commitment to providing shareholders with non-binding say-on-climate votes at next-year AGMs could convince investors of their climate ambition.

Ambiguity presents a challenge

Say-on-climate resolutions represent a number of challenges for investors and companies, particularly the absence of legal clarity or codified best-practice standards. As Glass Lewis stated in April 2021,[1] "Given the rapidly emerging nature of these votes and the absence of any standardized set of criteria for them, it is still too early to definitively outline best practices." By extension, the multiplication of such resolutions may urge the need for legal framework and standards, which will address potential greenwashing from companies.

There is no sufficient framework that would allow companies to determine the impact of their activities on climate change and establish reporting or compare results over the years with peers. This also applies to investors, who lack a benchmark that would allow them to make company-by-company comparisons.

These obstacles leave room for different future scenarios. For example, companies that put forward management proposals to shareholders for approval of climate transition plans are expected to be better prepared to meet the expectations of the Task Force on Climate-Related Financial Disclosures (TCFD). However, the absence of clarity might provide a grey area that facilitates the interests of non-governmental organizations (NGOs), other entities, investors, or activists involved in fighting climate change.

Hypothetically, risks that arise due to this ambiguity could be partially addressed by the Corporate Sustainability Reporting Directive (CSRD), a new European-Union directive. It extends sustainability reporting requirements to all large and listed companies. The proposed directive, "foresees the adoption of EU sustainability reporting standards to simplify the reporting process for companies that are currently under pressure to use different standards and frameworks."

As listed by the European Commission, the directive will:

- Extend the scope to all large companies and all companies listed on regulated markets (except listed micro-enterprises);
- Require the audit (assurance) of reported information ("limited" assurance);
- Introduce more detailed reporting requirements and a requirement to report according to mandatory EU-sustainability-reporting standards;
- Require companies to digitally "tag" the reported information, so it is machine-readable and feeds into the European single access point envisaged in the capital markets union action plan.

Before adopting any standards, the EU Commission says the following:

"It will consult the Member States Expert Group on Sustainable Finance and seek the opinion of the European Securities and Markets Authority. It will also consult different EU organizations to ensure a broad consensus on the content of these standards, and coherence with relevant EU legislation and policies. If the European Parliament and Council reach agreement, then the Commission should be able to adopt the first set of reporting standards under the new legislation by the end of 2022. Therefore, companies would apply the standards for the first time to reports published in 2024, covering financial year 2023."

Given the objectives of the new directive, is there a possibility that say-on-climate resolutions will become a standard item at AGMs in Europe by that date?

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1 "Say-on-climate votes: Glass Lewis overview", glasslewis.com/say-on-climate-votes-glass-lewis-overview/

Voting hurdles also a challenge

Advisory votes not being legally permitted in certain markets also challenges the stewardship of climate-transition plans through shareholder proposals.

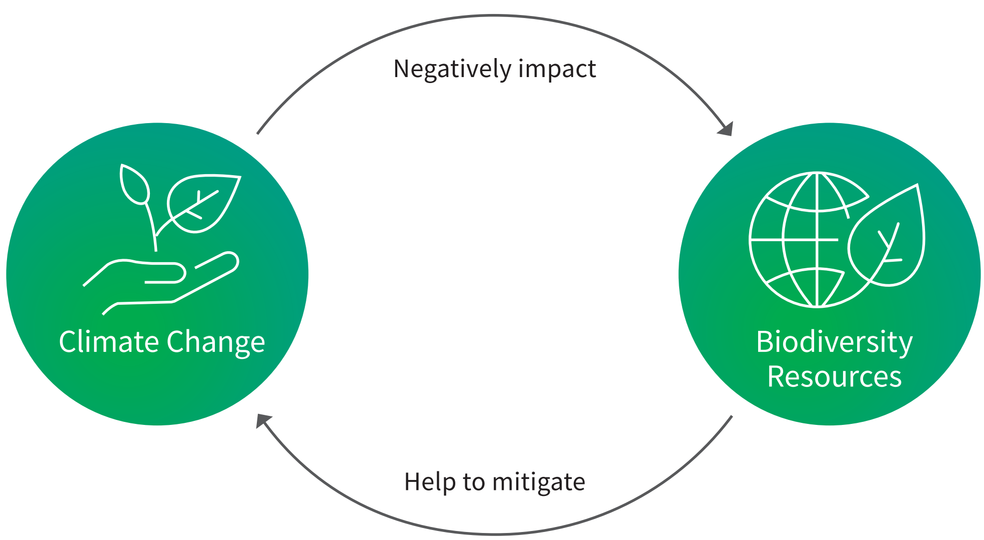
When this happens, investors can leverage their shareholder rights to cast votes on other agenda items—usually related to board elections as board members have fiduciary duties to protect the rights of all shareholders. But, who should be deemed accountable for climate-transition plans?

On 30 July, the Institutional Investors Group on Climate Change (IIGCC) published "Investor Position Statement: A call for Corporate Net Zero Transition Plans," which was signed by 53 investors collectively representing more than $14 trillion in assets under management. In this statement, investors called for not only say-on-climate votes, but also board oversight of net-zero transition plans and corresponding disclosure as, "this enables investors to determine which directors of the Board, in addition to the Chair, should be engaged with and potentially (as a last resort) voted against when a plan hasn't been provided or implementation is insufficient."[2]

If no directors in office are deemed qualified to provide oversight of climate transition, as observed in ExxonMobil's climate proxy contest, shareholder votes to replace incumbent directors with climate experts are increasingly possible.

What's next after the say-on-climate trend?

Biodiversity loss, overshadowed by the spotlight of climate change, is also indispensable to the global agenda. This issue, which could lead to significant negative impacts on human beings, is interlinked with climate change and environmental protection. The United Nations Framework Convention on Climate Change (UNFCCC), the Convention on Biodiversity, and many other international initiatives have been aware of the interconnection between climate change, biodiversity, and sustainable development.



Interconnectivity between Climate Change and Biodiversity

2 https://www.iigcc.org/download/investor-position-statement-vote-on-transition-planning/?wpdmdl=4798&refresh=6103b7c61998f1627633606

The momentum of investor stewardship for biodiversity is similar to what we witnessed in climate change. Similar to Climate Action 100+, an investor-led initiative has been proposed, ensuring target companies take necessary actions on nature-related risks and opportunities.

Earlier this year, the World Bank worked with student researchers from Columbia University's School of International and Public Affairs (SIPA), proposing the establishment of "Nature Action 100." Based on the proposal, the launch of the initiative could be expected at the Conference of the Parties (COP) 15 to the Convention on Biological Diversity (CBD) in October 2021 in Kunming, China.[3]

This is not the only collaborative initiative. The Finance for Biodiversity Pledge, launched in September 2020, had 56 financial-institutions signatories. There are CEO public statements of support from Capital, HSBC, AXA, Actiam, Ossiam, Caisse de Depots, Federated Hermes, ASN Bank, and Piraeus Bank.[4]

Apart from investor initiatives to support group engagement activities, a dedicated reporting framework of nature-related information plays a critical role in channelling capital towards more nature-positive business activities. Learning from what TCFD accomplished in improving climate disclosure, the market-led and UN-supported Taskforce on Nature-related Financial Disclosures (TNFD) was launched on 4 June.[5] The TNFD aims to launch the nature-related reporting framework in 2023.

Is say-on-nature far away? History may repeat itself very soon.

3 https://blogs.worldbank.org/psd/nature-action-100-proposal-targeted-investor-engagement-biodiversity

4 https://www.financeforbiodiversity.org/

5 https://www.unepfi.org/news/the-un-and-tnfd/

CUSTOMER CARE

NORTH AND SOUTH AMERICA
T +1 800 447 2273

EUROPE, MIDDLE EAST AND AFRICA
T +44(0) 134 432 8300

ASIA PACIFIC
T +604 291 3600

JAPAN
T +81 3 6262 1887

E CustomerCare@ihsmarkit.com

Author

Alexandre Prost
Senior Associate, Governance Advisory

E alexandre.prost@ihsmarkit.com

Emily Wang
Senior Associate, Strategic Governance and ESG Integration Advisory

E Emily.WangW@ihsmarkit.com

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