Webinar on Sustainable Corporate Governance

An Event Outline

Title: Sustainable corporate governance: setting the incentives and obligations for companies to transition towards sustainability

Date: Wednesday 13 October in the morning

Setting the scene: As recognised by the European Commission, climate change and environmental degradation are defining global challenges of our time.[1] Building on the European Green Deal, the European Union has committed to become the first climate-neutral continent by 2050 and to reduce greenhouse gas emissions by at least 55% by 2030 compared to 1990 levels.

Sustainable finance is intended to play an important role in this task by mobilising capital needed to fund the transition to a sustainable economy. To a large extent this is to be achieved by improving corporate and financial sustainability-related disclosures and preventing greenwashing.

Transparency is important but it is not a substitute for real action to change corporate behaviour and improve corporate accountability. Scientists increasingly warn of the urgent need for transformational change on processes and behaviours at all levels: individual, communities, business, institutions and governments. We have no time to lose: a transformational change is needed.

Ensuring the Union delivers on its climate and environmental commitments.

EU policy makers must reform the corporate governance framework to integrate a set of incentives and obligations for companies to pursue sustainability.

Companies should be obliged to set sustainability targets, including transition and decarbonisation plans to meet those targets. The Commission's Strategy for Financing the Transition to a Sustainable Economy refers to voluntary pledges by financial institutions and the disclosure obligations brought in the proposal for a Corporate Sustainability Reporting Directive.

Experience shows, however, that voluntary initiatives fall short. Disclosure requirements alone will not work unless underpinned by a clear obligation for companies and investors to set the targets and transition pathways.

Remuneration can be a powerful tool to set impactful behavioural incentives. Would aligning a proportion of variable remuneration given to directors with corporate sustainability targets be an effective means to set companies off on a path towards sustainability? Is the current practice of linking directors' renumeration with the share price through share-based compensation conducive to a long-term corporate performance? Or is it the root-cause of the corporate focus on

[1] Communication from the Commission 'Strategy for Financing the Transition to a Sustainable Economy', COM(2021) 390 final, 6.07.2021 (p. 1)

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maximizing shareholder value instead of pursuing sustainable value creation? What are the alternatives?

In the EU policy debate, the attempts to tackle short-termism in capital markets are controversial. Financial institutions and businesses have been even challenging the very existence of such short-term behavioural tendencies. Meanwhile, equity holding periods have been steadily decreasing since 1975[2]. Already back in 2012, Professor John Kay singled out short-termism as an important problem in capital markets, mentioning that examples of short-term behaviour in capital markets are easy to find[3].

Last but not least, the European legal framework lags behind when it comes to corporate responsibility for identifying, mitigating and preventing harm in its group-wide operations and through value chains.

Work on the development of the International Labour Organisation conventions dates back to as early as 1920s, with the first convention signed in 1948. The same year, the United Nations Universal Declaration of Human Rights was signed. This was followed by the development of the United Nations Framework for Business and Human Rights, endorsed by the UN Human Rights Council in June 2011, and an elaboration of the OECD Guidelines for Multinational Enterprises, which also celebrates ten years' anniversary this year. The latter addresses responsible business conduct in the areas such as the environment, information disclosure, combating bribery, consumer interests, competition, taxation, intellectual property rights in addition to labour and human rights.

These principles, guidelines and conventions constitute a robust framework. However, we are still witnessing widespread environmental harm and violations of workers and human rights. This raises a question whether an ambitious mandatory EU legal framework for environmental and human rights due diligence in corporate operations and global value chains is needed.

Objectives

This event aims to debate the forthcoming legislative initiative on sustainable corporate governance, describe the core elements it should contain and explain why reforming corporate governance is essential to meet the European sustainability targets.

Panellists will, among others, discuss compatibility of such regulatory action with the EU corporate governance and company law framework, the expected impact of the debated measures on the economy and the financial system as well as the expected costs of inaction.

[2] Source: Bolton P and Samama F. "Loyalty-Shares: Rewarding Long-term Investors" Journal of Applied Corporate Finance, Volume 25, page 75 (Summer 2013); https://www.reuters.com/article/us-health-coronavirus-short-termism-anal-idUSKBN24Z0XZ; Kleintop, J. (2012), "What the Fed Can't Do", LPL Financial Research, Weekly Market Commentary, 6 August, www.emeraldhost.net/files/LPL/Research/Copy%20of%20WMC_WhattheFedCantDo_RES%20 3794%20080612.pdf.

[3] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/253454/bis-12-917-kay-review-of-equity-markets-final-report.pdf

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The overall objective of the debate is to help build support for the critical regulatory changes needed to transform the economy and financial system towards sustainability.

Audience

The event addresses European and national policymakers, company law, corporate governance and capital market experts, academia, members of Finance Watch and other civil society organisations, and interested members of the public.

Format

This event will take the form of a half-day webinar comprising two panel sessions, offering participants the opportunity to interact with the panellists in a Q&A session following each panel. The questions that panellists will be asked to answer will be pre-selected by the moderator, possibly with the help of an adviser. Each panel session will be approximately 60 minutes.

Draft programme

9.00 – 9.05 Opening: Benoit Lallemand, Secretary General, Finance Watch

9.05 – 9.10 **Keynote speech**: Didier Reynders, Commissioner for Justice and Consumers, the European Commission (video message)

9.10 – 10.30 Panel 1: **Embedding sustainability in corporations through mandatory sustainability targets and addressing directors' pay**

Panel keynote speech:

Panellists:

- Salla Saastamoinen, Directorate-General for Justice and Consumers TBC
- Paul Tang, Member of the European Parliament (S&D)
- Beate Sjåfjell, Professor, Dr. Juris, Faculty of Law, University of Oslo, SMART-project
- Olivier Boutellis-Taft, CEO of Accountancy Europe
- Victor van Hoorn, Executive Director at Eurosif - The European Sustainable Investment Forum

Moderator: Thierry Philipponnat, Head of Research and Advocacy, Finance Watch

<u>Questions to be addressed by the panel:</u>
- Do we need an obligation for companies to integrate sustainability considerations in corporate strategies, including a requirement to set sustainability targets and transition pathways? How to ensure companies deliver on their promises [directors' duties; effective enforcement, etc.]?

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- Aligning a portion of directors' variable renumeration with sustainability targets as an effective incentive to pursue sustainable development, balancing financial performance with the impacts on the environment and society.

- Is short-termism in capital markets a myth or an inconvenient truth? Would regulating share buy-backs and dividend payments be an effective means to foster corporate and investors' longer-term and more sustainable outlook? Would addressing directors' pay be enough to tackle this?

10.30 – 10.45 Coffee break

10.45 – 11.45 **Panel 2: Due diligence through value chain: do we need mandatory rules and does it create opportunities for businesses?**

Panellists:

- Heidi Hautala, Vice-President of the European Parliament, Member of the European Parliament (Greens/EFA)
- Tyler Gillard, Head of Due Diligence, OECD Centre for Responsible Business Conduct, OECD
- Andrea Saldarriaga, Sila Advisory, international human rights lawyer and sustainability practitioner
- Anselme Mialon, Deputy Head of the Financial Stability, Accounting Standards and Corporate Governance Unit, French Treasury

Moderator: Aleksandra Palinska, Senior Research and Advocacy Officer, Finance Watch

Questions to be addressed by the panel:

- Due diligence as a tool to help companies identify sustainability risks to their business and the adverse impacts of their business on the environment and society. Can this help inform corporate strategy and sustainability-related targets' setting?
- Have the voluntary measures proven ineffective?
- How to prevent human rights and environmental harm?
- How to hold companies accountable for the harm done?
- Treatment of SMEs: how to cover the entire value chain while respecting proportionality?

11.45 – 12.00 **Closing remarks**: Thierry Philipponnat, Head of Research and Advocacy, Finance Watch