



5 June 2020

[Investor addressee]

Dear [investor],

**Call to vote against the election / re-election of climate-conflicted directors at Standard Bank**

1. The organisations which have signed this letter are non-profits working across the globe to achieve climate justice and to make finance flows consistent with low greenhouse gas emissions and climate-resilient development in accordance with the goals of the Paris Agreement.
2. We are writing to Standard Bank shareholders to bring to their attention the significant risk of conflicts of interest for a number of Standard Bank’s non-executive directors, and to call on them to vote against the election or re-election of climate-conflicted directors at the bank’s upcoming annual general meeting (AGM) on 26 June 2020.
3. Against the background of Standard Bank’s statement that “climate risk is recognised as one of the material risks facing the group”<sup>1</sup>, we set out in this letter how:
  - a. If all of the directors standing for election or re-election at Standard Bank’s AGM are elected, five of twelve independent non-executive directors (42% of all independent directors) and two of three non-executive directors - collectively, 41%<sup>2</sup> of the Standard Bank board - will be conflicted with regard to climate change-related matters by virtue of their ties to fossil fuel companies;
  - b. While priding itself on recognising the importance of “hearing multiple perspectives on [climate change] issues”<sup>3</sup> at its 2019 AGM, Standard Bank has in 2020 reversed its approach to shareholder proposed resolutions on climate change-related matters, closely aligning its position with that of Sasol; and
  - c. If all of the directors standing for election or re-election at Standard Bank’s AGM are elected, three of the bank’s independent non-executive directors will hold executive or non-executive director positions at Sasol.

<sup>1</sup> <https://sustainability.standardbank.com/rts-climate-change-and-sustainable-finance/>

<sup>2</sup> After the resignation of Peter Sullivan at this year’s AGM, Standard Bank’s board will have 17 members.

<sup>3</sup> See Chairman’s statement at p11 of the Standard Bank Annual Integrated Report 2019.

4. Standard Bank is a founding signatory of the UN Principles for Responsible Banking<sup>4</sup>, which “set the global benchmark for what it means to be a responsible bank”. In terms of Principle 1, “Alignment”, signatory banks commit themselves to “align [their] business strategy to be consistent with and contribute to individuals’ needs and society’s goals, as expressed in the Sustainable Development Goals, the Paris Climate Agreement and relevant national and regional frameworks”.
5. One of the Paris Agreement’s<sup>5</sup> three main objectives is “making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development”. The financing of fossil fuels, in particular new fossil fuel exploration, extraction and production, is not compatible with the Paris Agreement.
6. The following individuals on Standard Bank’s board have ties to the fossil fuel industry:
  - a. Standard Bank independent non-executive director (INED) **Trix Kennealy**, as at May 2020 the bank’s **lead independent director**, is also an INED at **Sasol**;
  - b. Standard Bank INED **Nomgando Matyumza** is also an INED at **Sasol**;
  - c. Standard Bank INED **Priscillah Mabelane**, appointed to the board with effect from 1 January 2020<sup>6</sup>:
    - i. was until 1 June 2020 the CEO and Executive Director of **BP Southern Africa**<sup>7</sup>;
    - ii. is a director of **Shell and BP South African Petroleum Refineries (Pty) Limited** (which owns **Sapref**, the largest fuel refinery in SA);
    - iii. is Deputy Chairperson of the **South African Petroleum Industry Association Board of Governors**; and
    - iv. will from 1 September 2020, join **Sasol** as executive vice president of that company’s energy business<sup>8</sup>;
  - d. Standard Bank INED **Geraldine Fraser-Moleketi** is also lead independent director of thermal coal mining company **Exxaro**;
  - e. Standard Bank INED **Nonkululeko Nyembezi**, also appointed to the board with effect from 1 January 2020, is CEO and Executive Director of **Ichor Coal N.V.**, a thermal coal production company operating in South Africa;
  - f. Standard Bank non-executive director **Jacko Maree** is an INED of the Phembani Group, an investment company with holdings in **Umcebo Mining (coal)**, **Izimbiwa Coal**, **South32 and Engen**; and

<sup>4</sup> <https://www.unepfi.org/banking/bankingprinciples/>

<sup>5</sup> [https://unfccc.int/files/essential\\_background/convention/application/pdf/english\\_paris\\_agreement.pdf](https://unfccc.int/files/essential_background/convention/application/pdf/english_paris_agreement.pdf)

<sup>6</sup> [https://www.moneyweb.co.za/wp-content/uploads/ftp/senspdfs/SENS\\_20191129\\_S424012.pdf](https://www.moneyweb.co.za/wp-content/uploads/ftp/senspdfs/SENS_20191129_S424012.pdf)

<sup>7</sup> CNBC Africa reported on 1 June 2020 that Ms Mabelane would be succeeded by Taelo Mojapelo: <https://www.cnbc.com/africa-press-office/2020/06/01/the-african-energy-chamber-welcomes-the-appointment-of-taelo-mojapelo-as-new-ceo-of-bp-southern-africa/>

<sup>8</sup> [https://www.engineeringnews.co.za/article/sasol-appoints-mabelane-to-lead-energy-business-as-radebe-retires-2020-06-02/rep\\_id:4136](https://www.engineeringnews.co.za/article/sasol-appoints-mabelane-to-lead-energy-business-as-radebe-retires-2020-06-02/rep_id:4136)

- g. Non-executive director **Lubin Wang** represents the Industrial and Commercial Bank of China (ICBC) on the board. The ICBC holds 20% of Standard Bank's shares, and is a key player in financial facilitation for the oil and gas sector in Africa<sup>9</sup>.
7. Board members with a conflict of interest are required by the Companies Act, 2008 to declare those interests and to recuse themselves from board meetings during consideration of any matter in relation to which they are conflicted. Such conflicts include not only personal conflicts, but also those with "related parties", which include other companies of which the board member is a director.
8. In these circumstances, responsible investors are faced with no good options where the critical issue of climate change is concerned: either these board members will recuse themselves, given their conflicts, creating a corporate governance void when the board considers crucial climate-related matters; or they will not recuse themselves, compromising the ability of the board to provide climate-competent leadership (and potentially rendering board resolutions invalid under the Companies Act).
9. These concerns should be heightened by Standard Bank's recent unexplained about-turn on the question of climate risk-related shareholder resolutions.

### **Standard Bank's U-turn on climate change shareholder resolutions**

10. In 2019, Standard Bank became the first South African company to table shareholder-proposed climate change resolutions at its AGM<sup>10</sup>. Two resolutions were tabled: the first, requiring the bank to adopt and publicly disclose coal financing policies, passed with 55% of shareholder votes and was therefore binding on the company; the second received 38% of shareholder votes and was not binding.
11. In 2020, after engaging<sup>11</sup> with Standard Bank, the RAITH Foundation and shareholder activist NGO Just Share formally co-filed a shareholder resolution calling on Standard Bank to extend its coal financing policies (which set parameters for the financing of coal-fired power projects and coal mining operations), to cover its position on the financing of oil and gas. This is in light of the fact that **Standard Bank is "one of the largest oil and gas lenders in sub-Saharan Africa"**<sup>12</sup>. A copy of this resolution has been sent to you with this letter.
12. Given Standard Bank's position in 2019, it was a great surprise to the co-filers when the bank's initial response, via email, was that the resolution would not be tabled as it was the bank's view that the resolution was premature. Shortly thereafter, however, the company secretary provided a different reason for the refusal to table the resolution<sup>13</sup>.
13. The revised reason for rejecting the resolution related to an apparent technical legal problem with the ability of shareholders to vote on climate change-related matters. Leaving aside for the moment the obvious fact that any resolution which is put before shareholders is one on which

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<sup>9</sup> <https://www.stanbicbank.co.ug/Uganda/About-Us/A-better-tomorrow/Facilitating-Oil-&-Gas>

<sup>10</sup> <https://justshare.org.za/media/news/standard-bank-tables-first-sa-shareholder-resolution-on-climate-risk-but-board-recommends-shareholders-vote-against-it>

<sup>11</sup> A full timeline and further details of the engagement are available on request.

<sup>12</sup> <https://corporateandinvestment.standardbank.com/cib/global/sector/capabilities/oil-and-gas/Africa%27s-Oil-and-Gas-potential>

<sup>13</sup> 15 April 2020 letter from Zola Stephen, Group Company Secretary, to Just Share.

shareholders are entitled to vote, the most striking element of the company secretary's response was that the legal argument referred to is exactly the same as the one provided by Sasol to shareholders attempting to table climate risk-related shareholder resolutions at that company in 2018 and 2019.

14. Standard Bank's letter avers that, "*for section 65(3) [of the Companies Act] to apply, the matter in question must be one on which the shareholders are entitled to exercise voting rights. The proposed resolutions do not relate to matters on which shareholders are entitled to vote*".
15. Sasol's response to shareholder-proposed climate risk resolutions is that climate change-related issues "*are within the authority of the Board and management and do not constitute matters that shareholders are entitled to exercise voting rights on within the meaning of section 65(3)(a) of the Companies Act*"<sup>14</sup>.
16. Sasol bases this view on a legal opinion which it has consistently refused to provide to shareholders. This view had previously only been expressed by Sasol, and it has not been tested in court. Furthermore, a number of climate change shareholder resolutions have already been tabled in South Africa, at Standard Bank, FirstRand, Nedbank and Absa.

## Conclusion

17. It is in the interest of fossil fuel companies to prevent financial institutions from limiting financing for fossil fuels. It is also in the interest of fossil fuel companies to frustrate the tabling of climate change shareholder resolutions that require better disclosure of climate risk exposure.
18. Standard Bank, for example, does not disclose in its company reports that Stanbic Uganda<sup>15</sup> (a Standard Bank Group subsidiary) is a lead arranger, together with Sumitomo Mitsui Banking Corp., for financing of the East African Crude Oil Pipeline<sup>16</sup> (EACOP). EACOP is a hugely controversial project which will be the world's longest heated oil pipeline, stretching 1,445 kilometres from Hoima in Uganda to Tanga in Tanzania and carrying 216 000 barrels of crude oil a day<sup>17</sup>.
19. **The decade ahead of us is a crucial one for tackling climate change.** Taking into account the fact that:
  - a. Standard Bank is one of the largest oil and gas lenders in Africa, and is therefore exposed to significant climate risk by virtue of its lending and financing activities;
  - b. Standard Bank does not disclose to shareholders its exposure to climate risk from existing and planned oil and gas projects, and has refused to table shareholder resolutions which would require such disclosure;
  - c. A significant proportion of Standard Bank's board has close ties to the fossil fuel industry, most strikingly to Sasol; and

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<sup>14</sup> 9 July 2018 letter from Mr Vuyo Kahla, Sasol Company Secretary, to the Executive Director of the RAITH Foundation. A copy of the letter is available on request.

<sup>15</sup> <https://www.stanbicbank.co.ug/Uganda/About-Us/A-better-tomorrow/Facilitating-Oil-&-Gas>

<sup>16</sup> <http://eacop.com/>

<sup>17</sup> See [this letter](#) to the African Development Bank, signed by over 100 NGOs, as well as [this article](#) by Yale Environment 360. Further information is available [here](#).

- d. Standard Bank has made an unexplained about-turn on its approach to shareholder proposed climate change resolutions, using exactly the same technical legal argument as Sasol,

shareholders should not have confidence in the ability of Standard Bank's board to provide the strategic leadership and long-term climate competence that is essential to steer the bank through the complexities of the transition to a low-carbon economy.

20. At Standard Bank's 2020 AGM, shareholders will vote on the election or re-election of Ms Kennealy, Ms Matyumza, Mr Maree, Ms Mabelane and Ms Nyembezi. The election of climate-conflicted board members will entrench a high tolerance for exposure to the fossil fuel industry for years to come. We therefore call on you, as a responsible investor, to vote against the election or re-election of these directors at Standard Bank's upcoming AGM.

21. Please send any queries or requests for further information in relation to this letter to [info@justshare.org.za](mailto:info@justshare.org.za).

Your sincerely,

1. [350Africa.org](http://350Africa.org) - South Africa
2. [Australasian Centre for Corporate Responsibility](http://Australasian Centre for Corporate Responsibility) (ACCR) – Australia
3. [Africa Institute for Energy Governance](http://Africa Institute for Energy Governance) (AFIEGO) – Uganda
4. [BankTrack](http://BankTrack) - Netherlands
5. [Centre for Environmental Rights](http://Centre for Environmental Rights) (CER) - South Africa
6. [Earthlife Africa](http://Earthlife Africa) - South Africa
7. [Fundacja "Rozwój TAK - Odkrywki NIE"](http://Fundacja \) - Poland
8. [Fund our Futures](http://Fund our Futures)
9. [groundWork](http://groundWork) - South Africa
10. [Just Share](http://Just Share) - South Africa
11. [Life After Coal](http://Life After Coal) - South Africa
12. [National Lawyers Guild, Environmental Justice Committee](http://National Lawyers Guild, Environmental Justice Committee) - USA
13. [Rainforest Action Network](http://Rainforest Action Network) - USA
14. [Reclaim Finance](http://Reclaim Finance) - France
15. [Urgewald](http://Urgewald) - Netherlands