**National Treasury**
**By email:** financial.policy@treasury.gov.za

20 July 2020

Dear Sir / Madam,

**JUST SHARE COMMENTS ON DRAFT TECHNICAL PAPER ON FINANCING A SUSTAINABLE ECONOMY**

**Introduction**

Just Share welcomes the publication of the Draft Technical Paper on Financing a Sustainable Economy (Draft Technical Paper). We particularly welcome the recognition in the Draft Technical Paper of the urgency with which steps must be taken "to protect the natural resource base and economy in the face of climate change and to create resilience in order to protect all citizens".

Just Share is a non-profit shareholder activism organisation. We believe that responsible investment is required to create a more just and inclusive economy. We use advocacy, engagement and activism to drive good corporate citizenship by South African-listed companies and institutional investors. Our work focuses on three key environmental, social and governance (ESG) issues: **Inequality, Diversity & Transformation and Climate Change.**

Across the globe, civil society activism has been a key driver of progress on sustainable finance.

In South Africa, civil society, including and often led by Just Share, has been responsible for driving significant improvements in the climate-related disclosures of listed companies. Largely as a result of civil society pressure, Sasol for the first time in 2019 committed to a carbon emission reduction target. Also, driven by civil society engagement, advocacy and activism, five of the country's major banks – Standard Bank, FirstRand, Absa, Nedbank and Investec – have adopted and publicly disclosed policies relating to fossil fuel financing.

Just Share, together with the RAITH Foundation, has used shareholder activism to table climate risk-related shareholder resolutions at Standard Bank and FirstRand. Subsequently, Nedbank, Absa and Investec bank have all put climate disclosure shareholder resolutions to shareholders at their 2020 Annual General Meetings. These resolutions at Nedbank, Absa and Investec have all received 99% or more of shareholder votes in favour of better climate risk disclosure.

Just Share, together with UK-based legal charity ClientEarth, in 2019 commissioned a legal opinion setting out the clear fiduciary duty of South African pension fund trustees to factor climate change risks into their investment decision-making processes.

It is indisputable that civil society has played, and continues to play, a major role in shaping and driving the just transition to a low carbon economy. It is therefore unfortunate that the dialogue that preceded the publication of the Draft Technical Paper included only members of "key regulatory and industry stakeholders". It is even more concerning that the recommendations of the Draft Technical Paper do not appear to envisage participation by civil society, labour, or affected communities.

We therefore appeal to National Treasury and the Department of Environmental Affairs to ensure that these stakeholders are included in the future development of this work.

Just Share's comments on the Draft Technical Paper are set out below. We have focused here only on the key issues that we believe must be dealt with before significant progress can be made towards the achievement of any sustainable finance objectives.

In Part I we provide general comments in relation to the Draft Technical Paper as a whole. In Part II we provide comments relating to sectors specifically within our experience and expertise: banking and retirement funds.

**Part I. General Comments**

Just Share commends the significant effort involved in producing the Draft Technical Paper. We also acknowledge the progressive approach taken by National Treasury, demonstrated by the decision to include all aspects of the financial sector in this overarching review of progress and potential for sustainable finance in South Africa.

However, we are concerned that the Draft Technical Paper places significant emphasis on further industry engagement and the adoption of voluntary initiatives "as a precursor to regulation". It is abundantly clear that voluntary initiatives have not produced the results that they were intended to produce. It is also abundantly clear that industry lobbying efforts (for example in relation to the Carbon Tax) have the potential to dramatically slow progress on achieving the goals of the Paris Agreement and the Sustainable Development Goals.

Furthermore, South Africa already has significant legislative and regulatory frameworks which allow for the integration of climate change-related risks and opportunities, many of which are referenced in the Draft Technical Paper; including Regulation 28 of the Pension Funds Act, the Carbon Tax Act, the Climate Change Bill, King IV and the JSE Listings Requirements.

**Embarking on new voluntary or regulatory processes which are likely to take years, if not decades, to finalise, is an inefficient and ineffective way to take the action required to meet these goals.**

Better monitoring and enforcement of existing regulatory tools, and the quick adoption - and adaptation where necessary – of the regulatory frameworks that have already been developed in other jurisdictions, is much more likely to achieve the change that the Draft Technical Paper clearly acknowledges is urgently required.

The most obvious example is the Recommendations of the Task-Force on Climate-Related Financial Disclosures (TCFD), which could be incorporated into the JSE Listings Requirements as a matter of urgency. Unfortunately however the JSE has indicated that it is still only in the planning phase for a consultation process on taking this step.

Such a process will take years, and is completely unnecessary in the face of the universal recognition of the usefulness of the TCFD Recommendations, and of the urgency with which we require comparable, reliable climate disclosure in order to successfully plan and implement a just transition to a low carbon economy.

Another example of an extremely useful and progressive regulatory tool is Regulation 28 of the Pension Funds Act. Effectively implemented and enforced, the requirement for pension funds to integrate environmental, social and governance factors into their investment decision-making has the potential to radically change the investment landscape in South Africa. But it has not lived up to this potential.

The publication of a Guidance Note in 2019 instead of a Directive on the implementation of the ESG integration element of Regulation 28 was extremely unfortunate. If pension fund trustees have not complied with a legally enforceable regulation, it is highly unlikely that they will dramatically change their behaviour as the result of the publication of a guidance note.

Climate change is also not the only risk to our economy and society. Effective management of our impacts on water sources, wildlife and biodiversity loss, environmental degradation and pollution are all crucial elements of sustainable finance, which should be considered by National Treasury in its further work on this subject.

We call on National Treasury to embrace the opportunities presented for sustainable recovery after the devastating impacts of Covid-19. In fact, we would argue that this is the only choice we have if we are to ensure a sustainable future, and the improvement of the livelihoods of millions of South Africans who currently bear the brunt of past and present inequality.

The recovery and strengthening of our economy must prioritise inclusivity and fair distribution of resources, a low-carbon energy transition, sustainable infrastructure, the protection of water sources, reductions in waste and preserving and regenerating our biodiversity. If we do not take this opportunity, South Africa’s economic stability will become increasingly tenuous, and our ability to participate in the future global economy will be further restricted.

The Draft Technical Paper notes that climate change is an environmental issue which, if left unchecked, will profoundly affect vulnerable individuals. However, it is essential that the language of sustainable finance acknowledges firstly that climate change is a human rights issue which affects everyone, and secondly that the effects of climate change are already impacting the lives and livelihoods of vulnerable communities across South Africa.

## PART II. COMMENTS ON SPECIFIC SECTORS

### SECTION 5: BANKING SECTOR

One of the three main goals of the Paris Agreement is to "make finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development". The financial sector therefore has a crucial role to play in tackling climate change and other sustainability challenges. What this means in practice is that financial institutions must stop providing capital to new fossil fuel projects, and dramatically ramp up their lending to low-carbon and other sustainable infrastructure projects.

**In South Africa, however, while there has been some progress on disclosure, it is clear that the financial sector does not yet fully comprehend the material financial risks posed by climate change. At least part of the reason for this is poor disclosure.**

The sustainability and climate-related disclosures made by South African financial institutions in their public reports are currently inconsistent, incomplete, and sometimes misleading. The information provided is not verified or comparable.

Requiring all financial institutions to report in terms of the Recommendations of the TCFD would be a quick and useful start to driving progress towards comparability of disclosures, and allow stakeholders the ability to assess the climate-related risks faced by these institutions much more comprehensively than they are able to do now.

Perhaps most importantly, it would require these institutions themselves to develop a deeper understanding of the sustainability risks that they face, and the risks that they are exacerbating by failing to align their lending practices with a low-carbon, sustainable economy.

For example: South African banks provided extensive information to stakeholders about their investment in and lending to renewable energy. Information about their investment in and lending to fossil fuels, however, is almost entirely absent. This selective disclosure presents a skewed picture of risk which makes it difficult for regulators, shareholders and customers to understand the extent to which these institutions are exposed to climate risk.

Put simply: until South African financial institutions are legally required to provide comprehensive, audited climate risk-related disclosures, it will be impossible to accurately assess the risks posed to the economy by climate change. As a result, it will be impossible to "deliver resilience and long-term value in each of the economic, environmental and social aspects and thereby contributing to the delivery of the sustainable development goals and climate resilience" as envisioned in the Draft Technical Paper's definition of sustainable finance.

## SECTION 6: RETIREMENT FUNDS

The Draft Technical Paper states that "retirement funds are fundamentally long-term investors on behalf of their members" and that "they are particularly vulnerable to climate change risk, and the risk posed by investing in stranded assets".

Furthermore, the boards of retirement funds have a legal duty to consider climate change when making investment decisions. This legal duty is clearly set out in the legal opinion commissioned by Just Share and Client Earth, **which has also been attached to the email in which we submitted these comments**.

The focus of the Draft Technical Paper on guidance notes, training and voluntary initiatives is, in our view, likely to perpetuate the lack of action by pension fund trustees. In the almost 10 years since Regulation 28 was promulgated, there has been scant progress by pension funds in integrating ESG factors into their investment mandates, and there are only a handful of funds in the country which evidence real understanding of climate risk. This is despite the existence of Regulation 28, and a plethora of ESG training courses for trustees.

Just Share strongly supports the recommendation of the Draft Technical Paper to include climate risk management capability in the "Fit-and-Proper" requirements for trustees, directors and executives.

Furthermore, we believe that it is essential that sustainable finance and ESG integration become a core part of the curricula for finance and financial management degrees at all South African tertiary institutions. It is extraordinary, given the systemic, material financial risks posed by environmental and social issues that affect the entire globe, that tertiary financial qualifications often do not include these subjects **at all.**

We recommend the following urgent steps to be taken in relation to retirement funds:

- Every pension fund board to be required to **adopt and make publicly available a responsible investment policy**, which includes specific information on the fund's understanding of climate risk, and how the board manages it.
- Every pension fund board be required to **publicly disclose information on how it mandates and monitors the decision-making of its investment managers** in implementation of its responsible investment policy.
- Every pension fund board be required to conduct an **assessment of the carbon footprint of the fund's portfolio**, and the identification of assets which are vulnerable to climate risk, and those which can make a contribution to the just transition to a low-carbon economy.

## Conclusion

The Draft Technical Paper "focuses on the need for South Africa to mobilise the financial resources **now** to address this challenge, both for the benefit of its citizens and to meet its global obligations" (our emphasis).

**The key issue is urgency**: if we do not act fast, it will be too late to address climate change, and as a result too late to address the many other social and environmental challenges which climate change will exacerbate.

We again emphasise how crucial it is to avoid embarking on protracted, contentious processes to develop new voluntary initiatives or even new regulatory initiatives. It is key rather to strengthen, implement and adapt existing regulatory tools and frameworks to drive better climate disclosure, mobilise finance for the Sustainable Development Goals, and make a difference on the ground to people's lives **now.**

Just Share thanks National Treasury for the opportunity to comment on this Draft Technical Paper, and we look forward to further engagement on the next steps for making sustainable finance a reality in South Africa.

Yours faithfully
**JUST SHARE**

per:

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