

AGM round-up Ninety One Limited



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1. Introduction

Date of AGM:	25 July 2024
Chair of the Board:	Gareth Penny
Type of AGM:	Electronic-only AGM (Ninety One Limited); hybrid AGM (Ninety One plc) conducted by LUMI

Useful links:

- [Notice of AGM](#)
- [Proxy form 2024 \(pages 31-33\)](#)
- [Results of 2024 AGM](#)

Just Share did not attend Ninety One's 2023 AGM, but did attend its [2022](#) and [2021](#) AGMs.

2. Key takeaways

- Questions from Ninety One shareholders were not dealt with at Ninety One's annual general meeting (AGM) on 25 July 2024. As a result, Just Share will be filing a complaint with the Companies and Intellectual Property Commission (CIPC) in terms of section 168(b) of the Companies Act, 2008, which provides that "any person may file a complaint in writing with the Commission in respect of any provision of this Act ... alleging that a person has acted in a manner inconsistent with this Act, or that the complainant's rights under this Act, or under a company's Memorandum of Incorporation or rules, have been infringed".
- Just Share's complaint will be based on our contention that Ninety One's AGM failed to comply with the company's clear obligations under sections 61(8)(d), 61(10) and 63(2) of the Companies Act.
- These sections provide (our emphasis):
 - That an annual general meeting convened in terms of section 61(7) of the Companies Act **must, at a minimum**, provide for "**any matters raised by shareholders**, with or without advance notice to the company", **to be one of the items of business** to be transacted;
 - That "Every shareholders meeting of a public company **must be reasonably accessible** within the Republic for electronic participation by shareholders in the manner contemplated in section 63(2), irrespective of whether the meeting is held in the Republic or elsewhere"; and
 - That a company may provide for "a shareholders meeting to be conducted entirely by electronic communication"; or "for one or more shareholders ... to participate by electronic communication in all or part of a shareholders meeting that is being held in person, as long as the electronic communication employed ordinarily **enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate reasonably effectively in the meeting**".



- Ninety One’s AGM clearly did not allow for any matters to be raised by shareholders; it was not reasonably accessible to shareholders in South Africa; and the electronic communication did not enable shareholders to participate.
- By close of business on 25 July, Ninety One emailed Just Share to say that there was a “technical issue during the AGM which resulted in the participants of the Ninety One Limited AGM being unable to ask questions during the meeting. Unfortunately, as we were only made aware of this issue once the AGM had concluded, we were unable to address the matter during the meeting”.
- However, the AGM was conducted extremely quickly, with no opportunity given for any problems to be rectified. Ninety One should have been aware that there might well be questions from South African shareholders, but did not pause to ensure that the electronic platform was functioning properly when it appeared that no shareholders had questions. The entire Q&A session lasted less than two minutes - the whole meeting lasted about 11 minutes before it was split for voting.
- Increasingly, shareholders are being prevented from exercising their rights at AGMs because of “technical issues” that arise because of online AGM platforms. It is crucial for the CIPC to weigh in on the consequences of conducting an AGM which is non-compliant with the Companies Act due to “technical failures”, especially given the number of companies opting to host electronic-only AGMs.
- Just Share voted against Ninety One’s 2024 climate change resolution (Resolution 11). The resolution asked shareholders “to approve the company’s climate strategy”. Ninety One’s climate strategy lacks the specificity and ambition required to deliver real-world emission reductions. The climate strategy does not outline emission reduction pathways by asset class, nor does it set targets to reduce financed emissions in absolute terms.

3. AGM governance and Q&A session

Ninety One is a dual-listed company (DLC). Ninety One plc has its primary listing on the London Stock Exchange (LSE) and its secondary listing on the JSE. Ninety One Limited is listed on the JSE. A hybrid AGM was conducted for plc shareholders and an electronic-only AGM for Limited shareholders.¹ The AGMs for Ninety One plc and Ninety One Limited shareholders were held in parallel until voting on the resolutions took place - when the meetings were split.

Ninety One’s AGM was rushed, and questions from Limited shareholders were not addressed. This means that the AGM did not comply with provisions of the Companies Act, 2008, including the stipulation that if a company conducts a meeting using electronic communication, the electronic communication employed **must** enable all persons participating in that meeting “**to communicate**

¹ Ninety One Limited, Notice of AGM 2024.



concurrently with each other without an intermediary, and to participate reasonably effectively in the meeting”².

The online broadcast of the AGM started late, resulting in shareholders attending online missing the start of the brief opening addresses. After this, chair Gareth Penny announced that the proceedings would move to a combined Q&A session for both plc and Limited shareholders. Penny noted that “all questions should be raised only while we have a single forum of all shareholders”, and that the meeting would be split thereafter.

Company secretary Amina Rasool provided shareholders with instructions on how the Q&A would run: “in-room questions first (for those attending in London), telephone (dial-in) questions second, and electronic questions last”. Shareholders attending online could either ask verbal questions using voice integration or type their questions into a message box.

Rasool indicated that there were no questions from any shareholders attending in person in the UK, and then that there were also no telephone or electronic questions. The entire Q&A session lasted less than two minutes.

Just Share representatives had indicated our intention to ask verbal questions via the “request to speak” button on the Lumi platform, which placed us in a queue. When it became apparent that our requests to ask verbal questions had not been acknowledged, we had to scramble to use the written messaging option to flag that there were problems with the Q&A process, and to type all our questions via written messages.

When our written questions were also not acknowledged, we hoped that the board would realise that there had been an issue and that the questions would be addressed after voting had taken place. However, the meeting ended immediately after voting closed.

Lumi sent the following apology to Just Share:

With reference to the AGM of Ninety One Limited and Ninety One Plc, the issues experienced by shareholders during the Q&A was due to human error on the part of Lumi not managing to inform the Board of Ninety One of any inbound questions from the Ninety One Limited Shareholders in a timely manner. This was not a technical glitch or platform related issue, but a human error that caused the problems experienced during the AGM.

However, the fact that the AGM was conducted so fast and that no attempt was made by the company secretary to ensure that everything was working properly is a significant contributing factor. It is Ninety One’s obligation to comply with the Companies Act, and if it hosts an electronic AGM, it must ensure that the AGM is paced in a manner that permits the resolution of any technical issues, which are entirely foreseeable.

² Section 63(2)(b) of the Companies Act.



It appears that Ninety One's intent was to get through the AGM as quickly as possible, with a narrow focus on the voting as being the only important element of the meeting (this approach is not unique to Ninety One): the chair stated that the Q&A session would be "followed by the formal part of the meeting during which time you will have an opportunity to vote on the resolutions as set out in the notices of the meetings".

However, the Companies Act specifies that matters raised by shareholders are part and parcel of the formal business of the meeting - not an aside to be dispensed with as quickly as possible.

4. Response from Ninety One

After the AGM, Ninety One emailed Just Share to apologise for the fact that we were unable to ask our questions during the AGM. We were advised that Ninety One had been notified by Lumi that there had been a "technical issue during the AGM which resulted in the participants of the Ninety One Limited AGM being unable to ask questions during the meeting. Unfortunately, as we were only made aware of this issue once the AGM had concluded, we were unable to address the matter during the meeting".

By close of business on the day after the AGM, Ninety One had emailed its responses to all the questions Just Share had submitted via the message box during the AGM (these responses are set out in section 6).

However, the purpose of asking questions at an AGM is to do so in a public forum, and to allow shareholders the opportunity to **engage with** the board and its responses and to engage with each other. It is not an adequate substitute for the company to provide written responses after the fact.

5. Just Share's position and grounds for filing CIPC complaint

Section 61(8)(d), 61(10) and 63(2) of the Companies Act provide respectively (our emphasis):

- That an annual general meeting convened in terms of section 61(7) of the Companies Act **must, at a minimum**, provide for "**any matters raised by shareholders**, with or without advance notice to the company", **to be one of the items of business** to be transacted.
- That "Every shareholders meeting of a public company **must be reasonably accessible** within the Republic for electronic participation by shareholders in the manner contemplated in section 63(2), irrespective of whether the meeting is held in the Republic or elsewhere".
- That a company may provide for "a shareholders meeting to be conducted entirely by electronic communication"; or for "one or more shareholders to participate by electronic communication in all or part of a shareholders meeting that is being held in person, as long as the electronic communication employed ordinarily **enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate reasonably effectively in the meeting**".



Ninety One's AGM clearly did not allow for any matters to be raised by shareholders; it was not reasonably accessible to shareholders in South Africa; and the electronic communication did not enable shareholders to participate.

Just Share will therefore be filing a complaint with the Companies and Intellectual Property Commission (CIPC) in terms of section 168(b) of the Companies Act. This section provides that "any person may file a complaint in writing with the Commission in respect of any provision of this Act..., alleging that a person has acted in a manner inconsistent with this Act, or that the complainant's rights under this Act, or under a company's Memorandum of Incorporation or rules, have been infringed".

6. Just Share's AGM questions

Just Share's questions related to Ninety One's approach to climate change, inequality and governance matters. The questions and emailed answers from Ninety One are set out below. We also include a response to Ninety One, where appropriate:

6.1. Climate-related questions

Stewardship: real-world emissions reduction targets

Question

Ninety One's financed emission reduction targets are based on the percentage of its investment portfolios that have science-based transition targets in place. Why are absolute emission reduction targets for Scope 3 financed emissions not included in Ninety One's net zero strategy?

Further, considering the comment in Ninety One's reports that "some of the largest emitters in [its] portfolios are yet to set science-based targets", does Ninety One's commitment to "motivating companies to set ambitious and credible transition plans" inform its engagement with its largest emitters - notable amongst them are Sasol and Thungela? Has Ninety One developed an escalation strategy with deadlines for progress, and has this been communicated to these emitters?

Ninety One's response

Ninety One has chosen to set targets based on increasing the proportion of companies that have science based transition pathways. This ensures our efforts are focussed on ensuring companies set and deliver on net zero targets, achieving emissions reduction in the real economy. Targets based on financed emissions simply incentivise investors to divest from high carbon assets which does not incentivise or result in actual emissions reductions from the companies we invest in over time, and therefore does not contribute to achieving net zero in the real economy.

Our approach to motivating the largest contributors to financed emissions in our portfolio involves assessing each of these companies on the ambition, credibility and implementation of their transition plan against our 40 indicator Transition Plan Assessment Framework. Based on the areas deemed insufficient under this assessment, we set engagement objectives annually, and consider appropriate milestones and escalation. The specific milestones and escalation options are company-specific. However, we undertake engagement with all of these largest emitting companies to share our expectations based on this and undertake escalation as relevant. An example of this escalation was Ninety One's vote against the Sasol climate report this year.



Comment

Ninety One's response that defining reduction targets for its financed emissions encourages irresponsible divestment from high-carbon assets oversimplifies the role of active stewardship in achieving real-world emission reductions and ensuring a just transition.

If done in isolation, setting portfolio-based emission reduction targets would fall short of achieving net zero in the real economy. However, as demonstrated by global and local asset managers, such as Old Mutual, it is possible to set engagement targets for investee companies to adopt science-aligned targets and outline absolute emission reduction targets for financed emissions across asset classes. This approach is not contingent on divestment as the primary lever for decarbonisation. Further, it improves the credibility of the decarbonisation process by establishing accountability for high emitters as well as for asset managers. Ninety One's failure to link its engagement approach to a decarbonisation pathway with defined emission reduction targets is a blind spot in its climate strategy that the board must address.

Given that Ninety One's 40-indicator "Transition Plan Assessment Framework" is proprietary, it is difficult for shareholders to evaluate the milestones and escalation options undertaken. While Ninety One has noted that engagement objectives are set annually, the deadlines for progress and the escalation strategy for high emitters such as Sasol and Thungela remain unclear. This lack of clarity undermines Ninety One's ability to uphold - and shareholders' ability to evaluate - its commitment to delivering real-world emission reductions.

Stewardship: Sasol

Question

Ninety One has noted that its voting decision against Sasol in 2023 is "not a wholesale rejection of Sasol's climate strategy" and that it "remain[s] confident in [Sasol's] management's commitment to developing and implementing a plausible transition strategy."

Given that Sasol has already indicated that emissions will increase again this year, could Ninety One clarify which aspects of Sasol's transition strategy underpin your continued investment and confidence – including in relation to the feasibility of Sasol securing adequate quantities of affordable gas?

Ninety One's response

Sasol have set ambitious targets and taken action to implement the strategy with respect to renewables procurement and boiler turndown solutions. The primary concern that prompted the decision to vote against the climate report at the most recent AGM related to our concern about Sasol's ability to replace coal feedstock in its production process with cleaner alternatives by 2030".

In the context of our decision to vote against the climate report, we participated in a workshop where Sasol were able to provide some assurances with regard to gas resources, and we have forthcoming engagement with the new CEO to ensure ongoing implementation of the strategy. We are also advocating for increasing climate related capacity on the board to oversee robust implementation. With regard to Sasol's current emissions, in any transition strategy we do not necessarily expect emissions reduction to be linear, as emissions may vary year on year due to a variety of factors. In Sasol's case we expect reductions to be stepped in relation to the introduction of new technologies.



Comment

It was certainly appropriate for Ninety One to vote against Sasol's climate strategy at its last AGM, and we commend it for the pre-declaration that it would do so. But Ninety One has not provided any detail regarding the "gas resources" assurances it says it has received, and Sasol has not made this information available to all shareholders. Whilst it may be true that Sasol's emission reductions will not be linear, the fact that its emissions are going up every year is very concerning. Sasol has an increasingly small window within which to ensure that it will meet its commitments to reduce, by 2030, scope 1 and 2 emissions by 30% and scope 3 emissions by 20%. Ninety One does not indicate by when it "expect[s] emissions to be stepped". We are pleased to see that Ninety One has advocated for climate expertise on Sasol's board.

Digital sustainability strategy and impact on operational emissions

Question

Data and AI are forecast to impact the financial services sector significantly. The 2024 Digital Economy report published by the United Nations Conference on Trade and Development highlights the increasing energy and water consumption of data centres and the mining of critical minerals and metals required for a low-carbon transition.

Ninety One has acknowledged the potential of AI to "enhance its performance", particularly around fraud and cybersecurity. There is, however, no mention of AI and digital emissions in your Sustainability and Stewardship disclosure. Ninety One's operational Scope 3 emissions currently only include business travel and waste (categories 5 & 6). Increased use of AI and cloud-based software solutions would, however, impact your operational emissions footprint. How is Ninety One evaluating and managing the environmental risk and impact of the increased adoption of AI and data-driven technologies across your value chain?

Ninety One's response

Consideration of sustainability will likely be a factor in our procurement decisions. Any supplier we use would eventually fall into our scope 3 category 1 emissions, which we do not yet report. As a service provider, our operational emissions are on the whole, low, and our strategic focus remains on our portfolio emissions, while striving to reach our 2030 scope 1 and 2 targets (which would not include any potential emissions incurred via AI adoption, etc).

Comment

Ninety One did not fully address Just Share's questions on AI and its environmental impact. However, the gap in Ninety One's operational emissions relating to its purchased goods and services is noted, as is its failure to provide any timeline to report these. While operational emissions constitute a small part of Ninety One's emissions footprint, they remain an important component of the overall environmental strategy and must be disclosed accurately.



6.2. Governance-related questions

Disclosure of age and qualification of directors

Question

According to King IV, it is governance best practice to disclose the age and qualifications of directors, to assist shareholders in assessing board expertise and diversity. Ninety One does not disclose this information to shareholders, which is very unusual.

Can you explain why you do not do so?

Ninety One's response

King IV emphasises transparency and accountability but does not specifically mandate the disclosure of director's dates of birth. The primary focus of King IV is on broader governance principles such as ethical leadership, performance and value creation, effective control, and building trust.

Similarly, the JSE Listing Requirements, while extensive, do not stipulate the mandatory disclosure of director's dates of birth. The focus of the JSE is on ensuring that investors have sufficient information to make informed decisions, and this typically includes details about directors' qualifications, experience, and shareholdings, but not their age.

The experience of our directors is set out in our Integrated Annual Report and our Notice of Meeting. Details of our processes with regard to assessing the skills, knowledge and experience of our Directors, as well as the diversity of our Board, are also set out in our Integrated Annual Report.

Comment

King IV recommends that the age and qualifications of directors be disclosed.³ Ninety One does not do so.

6.3. Inequality-related questions

Internal minimum wage and gender wage gap disclosure

Question

Could you please provide the amount of the company's internal minimum wage or the remuneration of the lowest-paid worker in SA?

Ninety One's response

"Ninety One does not publicise remuneration information as we consider this to be highly commercially sensitive.

However, we can confirm that the lowest-paid permanent employee in our South African operations currently receives total remuneration (salary, benefits and bonus) of more than R300,000 per annum. This comfortably exceeds the statutory minimum earnings threshold under the Basic Conditions of Employment Act.

Ninety One has a longstanding practice of trying to increase salary packages in line with inflation. This has been an especially acute consideration in the current inflationary environment, with increases

³ King IV, Principle 7, recommended practice 30(e) and (g), p. 52. "The following should be disclosed with regards to the composition of the governing body: e. The qualifications and experience of members. g. The age of each member."



reserved for lower earners who may be more exposed to the inflationary pressures on the cost of living”.

Comment

Ninety One’s claim that this information is commercially sensitive is irrelevant, as listed companies, particularly in the financial sector, have for some time been disclosing their internal minimum wages in response to the Companies Amendment Bill. Pay transparency and related disclosures have become a stakeholder expectation, crucial for fostering a more inclusive and equitable corporate landscape. Such disclosures enable stakeholders to evaluate whether executive remuneration is fair and responsible relative to overall employee compensation, as recommended by King IV.

In any event, on 25 July the President assented to the changes in the Companies Amendment Bill which will make vertical wage gap disclosures, including the total remuneration of the lowest-paid employee in the company, mandatory for all JSE-listed companies.

Employment equity

Question

The DLC Sustainability, Social and Ethics Committee Report does not include Employment Equity among its key activities for the financial year. This omission is notable given the recent legislative developments regarding the Employment Equity Amendment in South Africa and the Draft Regulations on Proposed Sectoral Numerical Targets for the financial sector.

What is your assessment of the representation of designated groups within your South African workforce, considering the proposed employment equity sectoral targets? Could you also provide details and clarity on the progress being made in this area? Additionally, is there a reason why the summary of the Employment Equity Progress Report is not included in your annual report?

Ninety One’s response

“Ninety One is determined to play our part in building a South Africa in which all South Africans have a fair chance to succeed. We also believe diversity is essential to our ability to compete, adapt and remain relevant.

In this regard, we are pleased to confirm that employment equity is very much within the scope of the DLC Sustainability, Social and Ethics Committee’s annual activities. Thank you for flagging that we could be better about describing these activities in the annual report. For our annual report, we have consciously taken the approach of reporting as a global business where we can. Unless specifically mandated by local requirements, we do not include region-specific disclosures. You will note, however, that we have included commentary on our progress and commitment to transformation in South Africa throughout the report, including our emphasis on fostering a diverse and inclusive work environment.

Ninety One has been and continues to be fully aligned and committed to observing the provisions of the Employment Equity Act. We have an active Employment Equity Forum, with representation from all levels within our SA business, including senior leadership.

Our current Employment Equity Plan is a three-year plan to 31 December 2024. A new plan will come into effect on 1 January 2025, subject to legislative amendments which we monitor closely.



Ninety One has been actively involved and played a central role in the legislative process around the proposed sectoral targets for the financial sector. We have provided significant and impactful commentary to the various draft regulations through our industry body, ASISA, and are represented on ASISA's Employment Equity Regulations working group.

We report progress against our Employment Equity Plan annually to the Department of Labour in South Africa. We are pleased to report that we are tracking well against our targets, but acknowledge that there is still work to do. We have assessed our progress against the current version of the proposed targets and are confident that we are currently on track to satisfy them within the prescribed five year period.

We are particularly focused on the following areas:

- *Recruiting black talent throughout the business. In the last financial year, 83% of all new hires in our South African operations were black and we plan to continue to hire with an enhanced focus on transformation.*
- *Building a succession pipeline by developing internal talent.*
- *Sustaining strategic internal initiatives that support transformation and development.*

Comment

In relation to Ninety One's comment that it only includes region-specific disclosures when mandated by local requirements, section 22 of the Employment Equity Act requires designated employers to publish a summary of their employment equity report in their annual report. Ninety One should therefore be disclosing this information. Although Ninety One says that it is "on track" against its employment equity targets, it is impossible for shareholders and other stakeholders to assess this claim in the absence of this disclosure.

7. Climate resolution

Just Share voted against Ninety One's 2024 climate change resolution (Resolution 11). The resolution asked shareholders "to approve the company's climate strategy, which was outlined in its 2024 Sustainability and Stewardship report".⁴ Of the shareholders who voted on this resolution, 97.84% voted in favour.⁵ 16% of shareholders abstained.

While Ninety One has been proactive in tabling a climate change resolution every year since 2021, its climate strategy lacks the specificity and ambition required to deliver real-world emissions

⁴ Ninety One, Notice of AGM, p. 20.

⁵ <https://tools.eurolandir.com/tools/Pressreleases/GetPressRelease/?ID=5735374&lang=en-GB&companycode=uk-n91&v=>



reduction. Ninety One's target of increasing the percentage of investee companies with science-based transition targets from 26.6% to 56.6% of assets under management by 2030, is an engagement metric serving as a proxy for a defined decarbonisation target.

Tackling financed emissions is a complex and challenging task. However, other South African asset managers have proven that it is possible to be ambitious in tackling financed emissions without incentivising irresponsible divestment from carbon-intensive assets. Old Mutual, for example, has outlined emission reduction pathways across asset classes and has started setting absolute reduction targets based on its 2021 emissions baseline. By contrast, Ninety One's climate strategy does not outline emission reduction pathways by asset class, nor does it set targets to reduce financed emissions in absolute terms.

Lastly, Ninety One's engagement and escalation approach needs to be more clearly defined. Its proprietary "Transition Planning Assessment Framework" makes it difficult for shareholders to evaluate the milestones and escalation options it has undertaken. A transparent escalation strategy with deadlines for progress is essential in ensuring high-emitting companies in Ninety One's portfolio (such as Sasol and Thungela) deliver on their emission reduction targets at the pace required to limit global heating to 1.5 degrees.

8. Just Share resources

8.1. Governance-related resources

- **Opinion editorial:** [AGMs should also be free and fair](#) (June 2024)
- **CIPC legal opinion on virtual AGMs:** [Non-binding legal opinion in terms of section 188 \(2\)\(b\)\(i\) of the Companies Act 71 of 2008 \(as amended\)](#) (April 2023)
- **Briefing:** [2022 AGM Round-up 2](#): includes a summary of Just Share's 2022 Ninety One AGM attendance
- **Guide:** [Best practices for South African virtual annual general meetings](#) (May 2020).

8.2. Climate-related resources

- **Briefing:** [Timeline: shareholder resolutions & climate plans - Sasol Limited](#) (January 2024)
- **Just Share news:** [Coal companies Thungela and Exxaro refuse to table shareholder-proposed climate lobbying resolutions](#) (May 2023)
- **2023 AGM Roundup 2** (December 2023) and **2024 AGM Roundup 1** (March 2024): include a summary of Sasol's AGM, including its climate strategy, its "Say on Climate" resolution, and Ninety One's pre-declaration on the resolution.

8.3. Inequality-related resources

- **Briefing:** [Women in leadership: Assessing gender equality in the JSE Top 40](#) (September 2023)
- **Briefing:** [Vertical pay gaps at JSE-listed companies](#) (June 2023)

End