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AFRICAN NATURAL CAPITAL ALLIANCE

CCLI Commonwealth Climate and Law Initiative

Directors’ duties and nature-related risk in Africa

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Contents

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We continue to welcome feedback to explore the questions raised by this paper. If this is of interest, please contact natalie.shippen@commonwealthclimatelaw.org or victoria.puxley@fsdafrica.org.

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The **Commonwealth Climate and Law Initiative (CCLI)** is an independent non-profit that connects climate science and economics with existing law to clarify what corporate and investment governance requires in practice. Founded by the University of Oxford's Smith School of Enterprise and the Environment, ClientEarth, and Accounting for Sustainability, CCLI brings together academia, lawyers, industry, and civil society in a uniquely multidisciplinary collaboration. Through rigorous legal research and practical tools, CCLI examines the legal duties of directors, officers, trustees and investor fiduciaries – across more than 34 jurisdictions – to consider, manage, and report on climate change and nature-related risks, opportunities and impacts, and the circumstances in which there may be liability for failing to do so. Working with over 100 independent legal experts worldwide, CCLI builds an authoritative evidence base on the requirements of company and trust law as it relates to the climate and nature crises and translates that analysis into guides and resources that enable effective, sustainable governance. CCLI collaborates with leading organisations, such as the World Economic Forum, the Law Society of Singapore, the Oxford Sustainable Law Programme, Peter A. Allard School of Law (University of British Columbia), Pollination, the World Benchmarking Alliance and the Taskforce on Nature-related Financial Disclosures.

Further information is available at: https://commonwealthclimatelaw.org/

Financial Sector Deepening Africa (FSD Africa) is a specialist development agency working to build and strengthen financial markets across sub-Saharan Africa. Established in 2012 and supported by the UK Government, FSD Africa works to reduce poverty through a 'market systems development' approach, which means it aims to address the structural, underlying causes of poverty by improving how financial market systems function.

FSD Africa believes that investing in building a financial system that is transparent, stable and accessible creates the conditions for a fair and sustainable future, where inequality is reduced, corruption is tackled, and where individuals, businesses and governments alike are able to prepare for future challenges, from climate change to political instability.

From its headquarters in Nairobi, its team of financial sector experts work alongside governments, business leaders, regulators and policy makers to design and build ambitious programmes that make financial markets work better for everyone.

Further information is available at FSD Africa.

The **African Natural Capital Alliance** was established by FSD Africa in 2022, and is Africa's leading platform for advocating nature-positive finance. With over 150 member institutions representing more than £1 trillion in assets, covering 45 countries, ANCA convenes financial institutions, governments, regulators, development partners and civil society to share policy, strengthen regulator frameworks and mobilise action on nature-related risks and opportunities. Further information is available at www.africannaturalcapitalalliance.com.

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Disclaimer

This publication has been prepared for educational purposes only and the information contained within it is of a general nature. This document is not, and is not intended to be, legal advice. Directors should seek independent legal advice on the specific circumstances of their company and jurisdiction.

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Foreword

Dr James Mwangi
Group CEO Equity Group Holdings & ANCA Governing Council member

Africa stands at a defining moment. Across our continent, the extraordinary wealth of our natural world has long underpinned the livelihoods of hundreds of millions of people and the commercial foundations of entire economies. Today, that natural wealth is under unprecedented pressure. And the question this paper poses, directly and without equivocation, is one that every company director in Africa must now answer: are we governing our organisations in a way that recognises this reality?

At Equity Group, we have built our business on the belief that financial inclusion and economic opportunity are inseparable from the health of the communities and ecosystems in which we operate. Across Kenya, Uganda, Tanzania, Rwanda, South Sudan, the Democratic Republic of Congo and beyond, the businesses and individuals we finance depend, often directly, on the services that functioning ecosystems provide: reliable rainfall for agriculture, clean water for industry and daily life, productive soils for smallholder farmers, and stable coastlines and watersheds for infrastructure and investment. When nature degrades, our customers feel it first. And when our customers feel it, so do we.

This paper makes clear that nature-related risk is a financial governance matter. The findings are grounded in independent legal research across Kenya, South Africa and Nigeria, but their implications extend to every African boardroom. An estimated 62% of African GDP is moderately or highly dependent on the services that nature provides. Furthermore, a 2024 nature stress test on five African banking systems found that cumulative expected credit losses could rise by up to 21% by 2050 in the absence of nature-positive action. These are not distant projections. They are present-day balance sheet exposures that directors are already required to identify, assess and, where appropriate, manage.

The legal analysis in this paper is compelling and timely. Landmark legal opinions published in New Zealand, Australia, England and Wales, and Canada have clarified that nature-related risks fall squarely within existing directors' duties frameworks. These opinions do not create new law — they confirm that existing duties require directors to identify and manage nature-related risks as they would any other foreseeable and material financial risk. The equivalent duties in Kenya, South Africa and Nigeria are no different in their reach. Directors who fail to engage with these risks do so at increasing legal, regulatory and reputational peril.

But I want to be clear that this is not only a story about risk. When properly stewarded and strategically deployed, Africa's natural capital represents one of the greatest economic opportunities of our generation. Carbon and biodiversity markets, sustainable agriculture, nature-based infrastructure, and the rapidly growing universe of nature-positive financing instruments are creating new pathways to investment, growth and resilience. At Equity Group, we are committed to ensuring that our financing decisions actively support this transition. We believe that African financial institutions have both the responsibility and the commercial incentive to lead.

The Commonwealth Climate and Law Initiative and FSD Africa's African Natural Capital Alliance have produced a resource of real substance and practical value. I commend it to every director, investor, adviser and regulator who recognises that the future of African business, and the future of Africa's extraordinary natural endowment, depends on the governance decisions we make today. The law is clear. The science is clear. The economics are clear. It is time for our boardrooms to act accordingly..

Foreword

Dorothy Maseke
Head of ANCA Secretariat & Lead Nature Finance and TNFD

We stand at a defining moment in the evolution of corporate governance. For decades, the responsibilities of company directors have been viewed primarily through the lens of financial performance, legal compliance and shareholder value. Today, however, a new reality is emerging. The resilience of African businesses is inextricably linked to the resilience of Africa's natural capital. Biodiversity loss, ecosystem degradation and increasing pressure on land, water and oceans demand the attention of every boardroom across the continent. This paper, developed through a partnership between the Commonwealth Climate and Law Initiative (CCLI), FSD Africa and the African Natural Capital Alliance (ANCA), seeks to help directors navigate this evolving landscape by clarifying how existing legal duties intersect with nature-related risks and opportunities.

At FSD Africa and the ANCA, we have had the privilege of working alongside regulators, financial institutions, boards and policymakers across Africa to integrate nature into financial decision-making. In recent years, we have witnessed significant progress across the continent, from regulators beginning to incorporate nature-related stress testing into supervisory frameworks, to financial institutions advancing the adoption of the Taskforce on Nature-related Financial Disclosures (TNFD), developing innovative nature-focused financial instruments, and strengthening institutional capacity. Yet throughout this journey, one recurring question has emerged from directors and boards alike: what do nature-related risks and opportunities mean for their fiduciary duties and governance responsibilities?

This publication responds directly to that need, offering practical guidance grounded in African legal systems while recognising the continent's unique dependence on natural capital as a foundation for economic resilience, sustainable growth and long-term prosperity.

Importantly, this publication is about equipping boardrooms to seize one of the greatest investment opportunities of our generation. As capital increasingly shifts towards nature-positive businesses, those organisations that integrate nature into strategy, governance and risk management will be better positioned to attract investment, strengthen resilience and compete in rapidly evolving markets. I hope this paper becomes a practical resource for directors, regulators, investors and advisers across Africa, supporting stronger governance and ultimately helping ensure that Africa's extraordinary natural capital becomes a foundation for sustainable economic growth and long-term prosperity.

Foreword

Jessica Blumenthal
Executive, Banking and Finance, ENS Africa

As advisors to companies, as well as those seeking to invest, develop or do business here, we are not always in the room where the decision is made, but are almost always standing just outside. It is a clarifying vantage point: we know and name the risks that our clients navigate, share their enthusiasm for a deal done and toil alongside them when risks graduate to crises.

A couple of years ago, boards started approaching us to help them to start conversations around environmental and social risk. It is always a balancing act between competing goals: sustainable profitability in often difficult economic conditions; social outcomes in a developing economy context, where jobs, access to utilities, health care and education are desperately needed; and preservation of the environment in which communities live and on which we all depend.

A director holds a difficult seat. That conversation that started tentatively has, however, changed fundamentally. Environmental risk, ancillary at first, addressed as a matter of compliance, is now in the term sheet. Today, the interplay between environmental and social risk is central to how deals are structured. Risk is assessed and boards are held to account. This paper explains that shift, and the development of existing legal principles to align with our growing awareness of our interdependence on nature, and our perilous position.

Most striking about this analysis is how far the law has already travelled. In Kenya, South Africa and Nigeria, new legislation is not required to ensure that directors know that nature matters. The obligations are already embedded in the statutes under which directors discharge their duties, reinforced by constitutional rights, and increasingly interpreted by courts that are willing to scrutinise the substance of what boards actually did.

In South Africa, the recently published King V makes explicit what practitioners have long understood: that climate change, biodiversity loss and water scarcity are not peripheral concerns, but integral elements of governance, strategy, risk management and reporting. The intervention of South African financial sector regulators to encourage nature-related stress tests confirm that these are not theoretical risks, but live balance sheet exposures.

For advisers and their clients, the implications are direct. Every facility secured against a nature-dependent asset, every portfolio exposed to soil degradation or water scarcity, every sovereign credit assessed against a backdrop of ecosystem decline: each of these is a transaction in which the risks this paper describes are already present. The question is not whether directors should be engaging with nature-related risk, but whether they can credibly claim to be discharging their duties if they are not.

This paper is a significant contribution to that conversation. It does not ask directors to become ecologists. It asks them to do what the law already requires. To identify foreseeable and material risks, to inform themselves properly, and to govern accordingly. For those of us who advise boards across the continent, it provides the clearest articulation yet of why nature belongs on every board agenda in Africa, and what the consequences may be for those who leave it off.

Executive summary

NATURE IS A FINANCIAL RISK THAT AFRICAN COMPANY DIRECTORS MUST MANAGE TODAY.

Africa's economies are uniquely and profoundly dependent on nature. Agriculture, water, fisheries, forestry and tourism together account for the majority of GDP and employment in many African countries. An estimated 62% of African GDP is moderately or highly dependent on the services that nature provides, and 70% of communities in sub-Saharan Africa depend on forests and woodlands for their livelihoods.[1] South Africa is one of the world's 17 megadiverse nations; 44% of Kenya's GDP comes from sectors either highly or very highly dependent on ecosystem services;[2] and Nigeria's biodiversity underpins food systems, water security and traditional medicine for a population projected to reach 400 million by 2050.[3]

Yet this dependence is under threat. Wildlife populations across Africa have declined by 76% since 1970.4 Fertile land is being lost, water sources are under stress, and biodiversity is declining across the continent. The Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES) Business and Biodiversity Assessment,5 released in February 2026, confirms that biodiversity loss is a present-day reality that is financially material to companies today.. In 2023 alone, an estimated USD 7.3 trillion in financial flows actively harmed biodiversity globally, while only USD 220 billion flowed to nature-based solutions.6 Collapse in ecosystem services is projected to cause sub-Saharan African economies to contract by an estimated 9.7% per year by 2030.7 A 2024 nature stress test on five African banking systems found that cumulative expected credit losses could rise by up to 21% by 2050 in the absence of nature-positive action.8

This paper examines what these risks mean for company directors in Africa. It focuses on three African common law jurisdictions — Kenya, South Africa and Nigeria — but its findings are likely to be relevant across the sixteen other common law jurisdictions on the continent, as a result of similarities in legal systems and approaches to the interpretation of legal duties. Drawing on independent legal research and expert review by lawyers in each jurisdiction, the analysis presented in this paper concludes that nature-related risks are foreseeable, financially material and directly relevant to two core duties that directors owe their companies: the duty to promote the success of the company (duty of loyalty) and the duty to exercise reasonable care, skill and diligence.[9]

1 ANCA (2023), Nature Stress Testing: Exposure to Nature-related Risks Across Africa
2 World Bank (2025), Nature's Bottom Line: The Economic and Financial Costs of Ecosystem Degradation in Kenya
3 UNFPA Nigeria | United Nations Population Fund Country programme document for Nigeria
4 WWF (2024), 2024 Living Planet Report
5 Business and Biodiversity Assessment | IPBES ICT guide
6 UNEP (2026), State of Finance for Nature 2026
7 The Economic Case for Nature: A Global Earth-Economy Model to Assess Development Policy Pathways
8 McKinsey Sustainability & FSD Africa (2024): Nature stress test: Assessing exposure of five African banking systems
9 Biodiversity Risk: Legal Implications for Companies and their Directors

NATURE-RELATED RISKS ARE FORESEEABLE AND OFTEN MATERIAL

Companies in Africa are exposed to nature-related risks through their dependencies on ecosystem services (such as water, soil fertility, climate regulation and pollination) and through their direct and indirect impacts on nature (such as deforestation, water contamination and land degradation). These risks manifest as physical risks (reduced yields, operational disruptions, infrastructure damage), transition risks (regulatory change, shifting investor expectations, new export standards), liability risks (litigation for environmental harm, greenwashing claims) and systemic risks (ecosystem tipping points that cascade through entire economic systems).

Five landmark legal opinions – published in New Zealand (2023), Australia (2023), England and Wales (2024), Canada (2025) and the Philippines (2026) - have clarified that nature-related risks fall squarely within the scope of existing directors' duties frameworks. These opinions do not create new law; they confirm that existing duties require directors to identify, assess and where appropriate manage nature-related risks as they would any other foreseeable and material financial risk to the business. Notably, the Canadian opinion (authored by Resilient LLP for CCLI, July 2025) introduces a further dimension particularly relevant to African directors: it concludes that the duty of care may extend beyond the corporation to external stakeholders, including Indigenous and local community rightsholders, creating an additional legal basis for directors to consider the impacts of corporate operations on communities whose rights are tied to the land and natural resources. Given the strong common law heritage shared by Kenya, South Africa, Nigeria, the UK, and Canada, these opinions carry persuasive weight in African courts.

WHAT THE LAW REQUIRES IN EACH JURISDICTION

In **Kenya**, the *Companies Act No. 17 of 2015* codifies two core directorial duties. First, the duty to promote the success of the company (section 143) expressly requires directors to have regard to "the impact of the operations of the company on the community and the environment" — a provision that, read alongside the broad definition of "environment" in the *Environmental Management and Co-ordination Act (EMCA, Cap 387)* and the constitutional obligations imposed by Articles 42 and 69 of the *Constitution of Kenya 2010,* encompasses biodiversity, ecosystems and nature-related risks. Second, the duty of care, skill and diligence (section 145) is both objective and subjective: directors with relevant expertise are held to a higher standard, and all directors must seek independent professional advice on material risks where their board lacks the necessary expertise. Direct environmental harm can further trigger personal criminal liability under *EMCA*. Kenya's Central Bank released the Kenya Green Finance Taxonomy and Climate Risk Disclosure Framework in April 2025, laying the groundwork for nature to be explicitly integrated into the financial sector's risk management regime in future updates.

In **South Africa**, the *Companies Act 71 of 2008* partially codifies directors' duties to act in good faith and in the best interests of the company as well as to exercise reasonable care, skill and diligence. Courts interpreting directors' duties are enjoined to do so through the prism of the Bill of Rights, which includes the right to (i) an environment that is not harmful to health or well-being, and (ii) have the environment protected for the benefit of present and future generations through reasonable legislative and other measures that prevent pollution and ecological degradation, promote conservation and secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development (section 24). While as yet untested, if a court is called upon to interpret whether directors' conduct which is negative to the environment offends their fiduciary duty, the court is required, in terms of the *Companies Act*, to apply and interpret such duties in a way that promotes compliance with the Bill of Rights, including environmental rights as described above. The *National Environmental Management Act* (*NEMA South Africa*) also imposes broad statutory environmental duties on directors, including potential joint and several strict liability.

The King IV Code (2016) - already actively used by South African courts to interpret directors' duties – explicitly links value creation to natural capital and biodiversity. Its recent successor, the King V defines corporate governance as the exercise of ethical and effective leadership within the company's economic, social and environmental context, requires directors to address nature-related risks including climate change, biodiversity loss and water scarcity as integral elements of governance, strategy, risk management and reporting, and introduces the concept of double materiality.

The South African Reserve Bank has conducted nature-related risk stress tests on the financial sector, and mandatory IFRS S1 and S2 sustainability reporting is supported by the Companies and Intellectual Property Commission (CIPC), the Financial Sector Conduct Authority (FSCA) and Prudential Authority (PA).

In **Nigeria**, the *Companies and Allied Matters Act 2020 (CAMA)* is the most explicit of the three jurisdictions in codifying an environmental dimension of directors' duties. Section 305(3) of CAMA requires directors to act as a faithful, diligent, careful and ordinarily skilful director would in the circumstances and, in doing so, to "have regard to the impact of the company's operations on the environment in the community where it carries on business operations." This is a codified legal obligation — not a matter of discretion — and one to which stakeholders may make reference in holding directors accountable. Nigeria's broader environmental legal framework reinforces this position: the Constitution mandates environmental protection, the Nigerian Code of Corporate Governance 2018 requires directors to consider environmental risks, and the *Climate Change Act 2021* imposes obligations on companies with 50 or more employees, such as establishing carbon reduction targets and measures, mandatory appointment of a dedicated officer to implement such targets, and annual climate compliance reporting. Nigeria was also the first African country to adopt IFRS S1 and S2 sustainability disclosure standards, with a voluntary reporting phase effective from January 2024, and mandatory adoption for public interest entities from 2028.

A RAPIDLY EVOLVING DISCLOSURE LANDSCAPE

The global disclosure regime for nature-related risks is evolving rapidly, though not without setbacks. Seven African countries are actively engaged with the Taskforce on Nature-related Financial Disclosures (TNFD) framework. TNFD provides a risk management and disclosure framework for organisations to report and act on evolving nature-related dependencies, impacts, risks, and opportunities, aiming to support a shift in global financial flows away from nature-negative outcomes and toward nature-positive outcomes; it now has 733 adopting organisations globally representing over USD 22 trillion in assets under management.[10]

On 22 April 2026 the ISSB Board voted to develop a non-mandatory "IFRS Practice Statement" for nature-related disclosures - guidance that companies may choose to apply but are not required to follow, rather than developing a mandatory standard in order to minimise regulatory disruption and implementation fatigue. The ISSB has acknowledged that "providing material nature-related disclosures is not optional" under existing IFRS S1 requirements, and has stated that the Practice Statement will carry "the full effect of an ISSB Standard" for companies that choose to apply it. An exposure draft is targeted for the 17th Conference of the Parties to the Convention on Biological Diversity (COP17) in October 2026.

By positioning the forthcoming framework as an application guide – drawing heavily on TNFD metrics – the ISSB aims to provide a smoother runway for companies to develop ecological data collection systems, whilst leaving the door open to test market readiness before committing to rigid, mandatory international rules.

Voluntary TNFD alignment remains the most important preparatory step in ensuring that nature-related financial disclosures reporting becomes standard. The European Union's *Deforestation Regulation* (*EUDR*), subject to a legally binding one-year delay formally adopted in December 2025, now imposes mandatory compliance on large and medium operators from 30 December 2026 and on small and micro operators from 30 June 2027. It obliges companies supplying commodities including cocoa, coffee, timber and palm oil to European markets to demonstrate those products are deforestation-free, directly affecting producers across Africa. Lack of awareness of, or response to, such regulations on the part of African companies and their directors could result in supply chain exclusion, as European importers look elsewhere to ensure compliance.

10 TNFD welcomes ISSB decision on nature-related standard setting drawing on TNFD framework as adoption crosses 730 organisations and USD 22 trillion in AUM

NATURE ALSO REPRESENTS AN OPPORTUNITY

Directors who proactively integrate nature into their strategies are not only protecting their companies from foreseeable risk; they are positioning them to capture significant value. Africa's natural capital, properly prioritised and managed, offers competitive advantage across industries such as sustainable agriculture, ecotourism, carbon and biodiversity credit markets, and nature-based solutions. Natural capital accounting initiatives in Zambia, Botswana, South Africa and Nigeria are bringing nature into the financial mainstream and creating new investment opportunities; by translating unpriced ecological assets into standardised, audited national data, natural capital accounting in these nations provides investors with the metrics required to channel private capital into high-integrity carbon credits and nature markets, green bonds, and nature-based infrastructure. Companies that lead on nature-positive business models will be better placed to attract capital, access favourable financing terms and retain the social licence to operate in nature-dependent communities, as well as improving resilience in the face of changing environmental conditions.

WHAT THIS MEANS FOR DIRECTORS

The legal landscape surrounding director liability for mismanagement of nature-related risks in Africa is still developing. Established case law on this specific question remains limited, and a number of structural barriers – including the challenges of evidencing causation, securing litigation funding and meeting the standing requirements to bring a claim – mean that a breach of duty will not always translate into personal liability. Nevertheless, the direction of travel is clear. The growing number of climate-related cases against companies and directors across the continent, including litigation involving Shell in Nigeria,[11] TotalEnergies in South Africa[12], and the East African Crude Oil Pipeline (EACOP) across East Africa[13], signals that similar cases relating to biodiversity and nature will follow. As reporting obligations become mandatory and transparency increases, the evidential basis for such claims will strengthen.

The analysis set out in this paper suggests that directors on the African continent would be prudent to consider the following steps:

- understand how and where the business depends on and impacts nature;
- ensure the board has access to the knowledge and expertise needed to assess material nature-related risks;
- seek independent professional advice where that expertise is absent;
- integrate nature-related considerations into strategic planning, risk management and capital allocation decisions; and
- engage with the evolving disclosure frameworks that increasingly formalise these expectations.

These are not merely good governance aspirations. In Kenya, South Africa and Nigeria, they are grounded in the law as it stands today.

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11 *Jonah Gbemre v Shell Petroleum Development Company of Nigeria Limited and Others* [2005] FHC/B/CS/53/05 (Federal High Court of Nigeria).

12 *The Green Connection and Another v Minister of Forestry, Fisheries and the Environment and Others* [2022] Case No. 60010/2022 (High Court of South Africa, Western Cape Division, Cape Town).

13 *Center for Food and Adequate Living Rights (CEFROHT) and Others v The Attorney General of Uganda, The Attorney General of Tanzania, and the East African Community* [2020] Reference No. 39 of 2020 (East African Court of Justice, First Instance Division).

Introduction

The rapid degradation of natural systems across Africa poses an immediate structural threat to the continent's economic stability, where natural capital accounts for 30% - 50% of total wealth.[14] As critical ecosystems face fragmentation from land-use change, climate impacts and other pressures, businesses are confronting severe operational vulnerabilities due to their direct dependencies on ecosystem services like freshwater provision, soil fertility, and natural pollination. For corporate directors, this ecological decline is no longer just an ethical concern but a core fiduciary risk; evolving legal frameworks, stricter transboundary supply chain regulations, and a rising wave of strategic environmental litigation mean that a failure to assess and disclose material nature-related dependencies can directly expose directors to personal liability, regulatory sanctions and capital divestment.

According to the Taskforce on Nature-related Financial Disclosures (TNFD), nature-related risks are defined as the potential threats posed to an organisation that arise from its dependencies and impacts on nature. These risks are systematically categorised into three core dimensions:

- **Physical Risks:** Risks that result directly from the degradation of ecosystems and the collapse of critical ecosystem services (such as acute water shortages, severe soil erosion, or the loss of wild pollinators) which disrupt business operations, destroy physical assets, and destabilise supply chains.
- **Transition Risks:** Risks that stem from a misalignment between an organisation's strategy and the rapidly shifting legal, regulatory, policy, or societal landscape aimed at halting or reversing nature loss (such as the introduction of the *EU Deforestation Regulation,* shifting consumer preferences, or technological breakthroughs).
- **Systemic Risks:** Risks that arise from the breakdown of an entire ecosystem or financial market, characterised by catastrophic tipping points where localised ecological collapse triggers compounding, macroeconomic failures across industries and borders.

This paper is primarily for company directors, their advisors and those to whom they delegate. It can also inform investors when shaping their expectations of investee companies and considering their own investor fiduciary duties. The paper applies general legal concepts to:

1. Provide practical examples of the nature-related dependencies and impacts of key sectors of the African continent, exploring how these can affect the long-term success of companies.
2. Examine how nature loss can create foreseeable and material financial risks to and opportunities for individual companies and the global and African economic systems.
3. Identify the social, regulatory and legal context that may influence the interpretation of the standard of conduct required of a director to discharge his or her company law duties.
4. Highlight the relevance of five legal opinions – commissioned by the CCLI and which consider how directors' duties apply to nature-related risks - to the African continent. These legal opinions were published in New Zealand (2023), Australia (2023), England and Wales (2024), Canada (2025) and the Philippines (2026).

There is now an emerging body of legal analysis clarifying the scope of directors' duties in the context of a growing scientific and market understanding regarding the risks that climate change and nature loss pose to companies. Africa, however, has remained a significant gap in that body of analysis to date, meaning there is an absence of clarity regarding the implications of climate and nature-related risk for company directors across the African context. This paper contributes towards addressing that gap, drawing on independent legal research and expert review by lawyers in Kenya, South Africa and Nigeria. A clearer understanding of how nature-related risks and opportunities intersect with directors' duties will help company directors across the continent – and their employees, advisors and investors – to discharge those duties effectively as the economy transitions towards a nature-positive future, in alignment with their legal obligations.

14 African Development Bank (2024), African Development Bank Spearheads Plans to Preserve Continental Biodiversity

This paper focuses on Kenya, South Africa and Nigeria: leading economies and corporate hubs that represent distinct bodies of company law and corporate governance, and that share a common law foundation giving rise to structural similarities in how directors' duties are understood and applied. The conclusions are not, however, limited to these three jurisdictions. Although the relevance of nature-related risks to directors' duties is jurisdictionally specific, there are sufficient commonalities between the laws of Kenya, South Africa and Nigeria that many conclusions contained within this paper may be applicable to other African countries. A similarity can be drawn regarding the legal opinions published in New Zealand,[15] Australia,[16] England and Wales,[17] Canada,[18] and the Philippines,[19] where similar conclusions were drawn on the relevance of nature-related risks to directors' duties.

Africa's particular exposure to nature-related risk is driven in part by its heavy reliance on agriculture, mining and tourism – sectors that are directly dependent on functioning ecosystems that sit at the core of the continent's lending and investment portfolios.[20] In South Africa, the National Treasury, the Financial Sector Conduct Authority and the Prudential Authority have all publicly acknowledged the financial sector's exposure to sustainability-related risks.[21] The focus to date has been primarily on risks associated with climate change, but the same regulatory logic applies with equal force to the broader category of nature-related risks. Indeed, climate change is itself one of the five principal drivers of nature loss, and Africa's already significant exposure to extreme weather — heavy rains, heatwaves and prolonged droughts — is expected to compound nature-related financial risks further. Economic losses attributable to climate change in Africa are projected to range from USD 290 billion to USD 440 billion.[22]

Understanding and addressing nature-related risks is a practical requirement for the long-term viability of African businesses and economies. This paper aims to bridge the gap between environmental science, legal analysis and corporate governance practice, equipping directors and their advisers to address the material nature-related risks facing their businesses and clients.

This paper starts by outlining key concepts which are used throughout this paper relating to nature-related issues. It then explores how nature underpins the global and African economy, and therefore how economies and companies are dependent on nature to function. The paper then examines nature-related risks and their effects on companies in Africa, before turning to an overview of directors' duties and how they apply to nature-related risks in Africa. It also considers the nature-related opportunities available to companies, and provides an analysis of nature-related financial disclosures. These themes are explored in greater depth through jurisdictional spotlights for Kenya, South Africa and Nigeria. The paper concludes with a set of key questions that directors can ask management to ensure nature-related issues facing the business are being appropriately identified and managed.

15 Chapman Trip (2023), New Zealand Legal Opinion

16 Commonwealth Climate and Law Initiative and Pollination, Hartford-Davis and Bush, Nature-related risks and directors' duties (2023)

17 Commonwealth Climate and Law Initiative, Shivji and Stubbs, Nature related risks and directors' duties under the law of England and Wales (2024)

18 Commonwealth Climate and Law Initiative, DeMarco and Vollmer, Nature-related risks and the duties of directors of Canadian corporations (2025)

19 Commonwealth Climate and Law Initiative, Villanueva et al., Nature-related risks & opportunities, and the duties of company directors under Philippine law (2026)

20 McKinsey Sustainability & FSD Africa (2024): Nature stress test: Assessing exposure of five African banking systems

21 National Treasury, Republic of South Africa (2021), Financing a Sustainable Future, Technical Paper 2021

22 World Meteorological Organization (2023), State of the Climate in Africa 2023

Key concepts for directors

While understanding and reporting on climate-related risks has not been an easy task for companies and directors, the management of nature-related risks brings an additional layer of complexity for several reasons.

First, climate change is one-dimensional (temperature rises driven by greenhouse gas emissions), whereas there are over 250 biodiversity-related indicators proposed for monitoring various aspects of the post-2020 Kunming-Montreal Global Biodiversity Framework (GBF) and at least 40 different biodiversity measurement tools or frameworks for business use.[23] Second, nature-related risks are location-specific[24] and have shorter time horizons of materialisation than most climate risks.[25] Third, as with climate risks, nature-related risks are far-reaching in breadth and magnitude across local, national and global economies; today's decisions will determine the size and magnitude of future risks. Fourth, directly relevant to board-level oversight - is the absence of a standardised, globally agreed method for measuring nature-related dependencies and impacts at the organisational level. The TNFD's November 2025 report on upgrading the nature data value chain confirmed that, while multiple frameworks set out what companies should measure, none yet fully address how to measure and account for nature-related dependencies and impacts in a consistent, science-based way. The TNFD has called for the development of a Nature Measurement Protocol, modelled on the GHG Protocol for greenhouse gas emissions, to fill this gap. Until such a protocol is in place, directors should be aware that the evidential basis for nature-related risk and opportunity assessments, as well as associated disclosures, will continue to evolve, and that professional advice and independent expertise will be particularly important in this period of transition.

This paper uses the definitions provided by the TNFD. Their definitions are internationally accepted and provide a common language for key concepts relating to nature. They are designed to align with international standards, including the Taskforce on Climate-related Financial Disclosures (TCFD), International Financial Reporting Standards (IFRS) S1 and S2, Global Reporting Initiative (GRI) standards and Science-based Targets for Nature (SBTN).

Adopting a common language for nature in the boardroom is critical for the management of nature-related risks across all sectors of the economy. These concepts are also central to our legal analysis. A full list of relevant definitions can be found in **Annex 1**

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23 zu Ermgassen et al. (2022), Are Corporate Biodiversity Commitments Consistent with Delivering 'Nature-Positive' Outcomes? A Review of 'Nature-Positive' Definitions, Company Progress And Challenges (July 2022)

24 Bull et al. (2022), Analysis: the biodiversity footprint of the University of Oxford

25 Institute of Faculty and Actuaries (2022),Comparing nature-related and climate-related risks

Nature-related risks and the global and African economies

It is now widely accepted that the degradation of our natural world is not just an environmental challenge, but a profound systemic and financial risk to economies and businesses.[26] Early work included the Convention on Biological Diversity (1992), the UN Environment Programme Finance Initiative (UNEP FI) in the 1990s, and the Natural Capital Declaration at the Rio+20 summit in 2012; these set the groundwork for a series of landmark global initiatives: the creation of the TNFD in 2021, the Network for Greening the Financial System (NGFS) in 2022, and the GBF in December 2022. The GBF was adopted by 196 countries, including 54 African countries. While not a legally binding treaty in the manner of the Paris Agreement, it functions as a powerful political mandate directing governments to implement legal, administrative or policy measures to encourage and enable large companies and financial institutions to monitor, assess and disclose their nature-related risks, dependencies and impacts.[27] The scale of the challenge — and the financial stakes — are illustrated by three key findings from the IPBES Business and Biodiversity report:

1. In 2023, USD 7.3 trillion in annual financial flows (public and private) actively harmed biodiversity, while only USD 220 billion flowed towards nature-based solutions.
2. Directors must recognise that business-as-usual is eroding the very natural capital their portfolios depend on, creating long-term risks for profitability and asset valuation.
3. Africa is a critical focal point for the nature-finance nexus, due to its structural reliance on nature-dependent economic systems.

Since the GBF's adoption, the NGFS – an influential group of over 125 central banks and financial supervisors – has provided a foundational framework,[28] practical guidance and increased awareness of nature-related financial risks as a systemic issue, urging central banks and supervisors around the world to proactively assess and integrate these risks into their mandates alongside climate risks. Studies by central banks in the UK,[29] the EU,[30] the Netherlands,[31] Malaysia,[32] France[33] and Brazil[34] have each found their national financial sectors to be highly exposed to companies dependent on one or more ecosystem services. In July 2024, the Financial Stability Board reinforced these findings, reporting that nature risks may have profound effects on the real economy and, in turn, the financial system.[35]

African economies and financial systems are structurally embedded in a context of nature-related risks. Agriculture, forestry, fisheries and tourism are not peripheral sectors: in many African countries they are the primary engines of GDP, employment and foreign exchange earnings, and each depends directly on functioning ecosystems to operate.

26 IPBES (2026), IPBES Business and Biodiversity Assessment: Summary for Policymakers
27 Target 15 of the GBF
28 NGFS (2024), Conceptual Framework on Nature-Related Risks
29 Assessing the Materiality of Nature-related Financial Risks for the UK
30 Living in a world of disappearing nature: physical risk and the implications for financial stability
31 Indebted to nature – Exploring biodiversity risks for the Dutch financial sector – 2020 – DNB-PBL
32 An Exploration of Nature-Related Financial Risks in Malaysia
33 A "Silent Spring" for the Financial System? Banque de France
34 Nature-related Financial Risks in Brazil
35 Stocktake on Nature-related Risks: Supervisory and regulatory approaches and perspectives on financial risk

Banking systems carry this vulnerability through their lending portfolios, directly and at scale. A 2024 nature stress test on five African banking systems — Morocco, Rwanda, Zambia, Ghana and Mauritius — found that cumulative expected credit losses could rise by up to 21% by 2050 in the absence of nature-positive action.[36] That figure represents a material deterioration in asset quality driven not by conventional credit risk, but by the progressive degradation of the natural systems on which borrowers depend. Beyond lending, insurers face rising claims and shrinking reinsurance capacity as the natural buffers that contain disaster losses — wetlands, mangroves, forests — are eroded.[37] Public finances are exposed through a different channel: as nature-dependent sectors contract, tax revenues fall and disaster-recovery expenditure rises, compressing the fiscal space available to governments across the continent.[38]

THE VALUE OF NATURE TO AFRICA'S ECONOMY

SOIL

- **50 million hectares –** fertile land lost in Africa in the last 50 years.[39]
- **USD 4 billion –** annual losses of soil nutrients in Africa.[40]
- **USD 68 billion –** lost annual productivity in Africa due to soil erosion.[41]

WATER

- **USD 7 –** estimated economic return on investment of USD 1 in water and sanitation in Africa.[42]
- **USD 50 billion –** annual investment needed in Africa to achieve water security and sustainable sanitation. Currently USD 19 billion is invested each year.[43]
- **80% - the proportion of** South Africa's exports that are heavily reliant on water supply services including agriculture, agro processing, manufacturing, energy production, mining and forestry.[44]
- **Double –** losses expected by 2030 for the financial sector with lending portfolios in extractives.[45]

36 McKinsey Sustainability & FSD Africa (2024): Nature stress test: Assessing exposure of five African banking systems
37 Stocktake on Nature-related Risks: Supervisory and regulatory approaches and perspectives on financial risk
38 Stocktake on Nature-related Risks: Supervisory and regulatory approaches and perspectives on financial risk
39 Heinrich-Böll-Stiftung & others (2025), Soil Atlas 2025, Kenya Edition
40 The Guardian Business (2024)
41 Bolo et al. (2025), The cost of soil erosion in sub-Saharan Africa: Insights for policy
42 Economist Impact (2023), Harnessing the economic benefits of investment in water, sanitation and hygiene in Africa
43 International High-level Panel on Water Investments for Africa (2023), African's Rising Investment Tide
44 AFD (2023), Socioeconomic and spatially explicit assessment of Nature-related risks: The case of South Africa
45 Vivid Economics by McKinsey & FSD Africa (2022), Nature and financial institutions in Africa: A first assessment of opportunities and risks

FORESTS

- **USD 250 billion** – contribution of the formal forest sector annually to developing country economies, a significant portion of which comes from Africa.[46]
- **USD 55 billion** – estimated annual value of the Congo Basin's carbon removal services.[47]
- **USD 82 billion** – estimated annual potential of the African carbon credit market.[48]
- **Over two-thirds – proportion of** African people reliant directly or indirectly on forests for their livelihoods.[49]

BIODIVERSITY[50]

- **76% -** decline in monitored wildlife populations across Africa between 1970 and 2020.
- **One sixth** – the proportion of the world's plant species that exist in Africa, with significant levels of endemism (species found nowhere else on Earth).
- **9** – biodiversity hotspots in Africa, out of a global total of 36.[51]

THE POLLINATORS

- **EUR 190-467 billion** – annual services provided to farming by animal pollinators globally.[52]
- **USD 543.8m** – estimated annual services provided to farming by pollination in Ethiopia.[53]
- **75% – proportion of** major crop plants that rely on animal pollination.[54]

Taking delayed, inadequate or no action to prevent nature-loss is estimated to have profound impacts on the African economy, causing it to contract by an estimated 12%.[55]

46 UN Forum on Forests (2013), Economic Contribution of Forests
47 Center for Global Development (2022), How Much Should the World Pay for the Congo Forest's Carbon Removal?
48 UN Economic Commission for Africa (2023)
49 Somorin (2010), Climate impacts, forest-dependent rural livelihoods and adaptation strategies in Africa: a review
50 WWF (2024), 2024 Living Planet Report
51 Conservation International
52 Lautenbach et al. (2012), Spatial and Temporal Trends of Global Pollination Benefit
53 Gebremedhn et al. (2025), Economic and nutritional value of insect pollination services in Ethiopia
54 Our World in Data (2021), How much of the world's food production is dependent on pollinators?
55 Feyertag, Pettinotti and Tyson (2022), Financing natural capital in Africa.

Nature-related risks and their effects on companies in Africa

The nature-related risks which a company faces will be context specific, depending on the type, scope and location of that company's activities.[56] Nature loss financially impacts businesses by degrading critical ecosystem services (such as fresh water, crop pollination, and natural flood defence), which disrupts operations and supply chains, while simultaneously triggering costly regulatory transitions and asset devaluations. For African financial institutions in particular, these risks are not abstract: they flow directly through lending portfolios, insurance books, investment mandates and deposit bases that are structurally tied to nature-dependent sectors such as agriculture, mining, energy and real estate. We explore these risks below — first through the lens of a company's nature-related dependencies and then its nature-related impacts — drawing out the implications for both companies and the financial institutions that finance, insure and invest in them. In many jurisdictions, the scope of a directors' duties to the company will be shaped by the types of risks facing their company.

NATURE-RELATED DEPENDENCIES

Understanding an organisation's nature-related dependencies is critical for the proper management of a company. They translate directly into material financial, operational and strategic risks and opportunities that affect its long-term viability and success. Ignoring these dependencies may constitute a fundamental governance failure, undermining both financial performance and social licence to operate, and may attract litigation, examples of which could include shareholder action to remove a director, or even criminal proceedings. For financial institutions, these dependencies are transmitted indirectly. For example: a bank whose agricultural borrowers depend on reliable rainfall; a pension fund whose infrastructure assets depend on watershed integrity; or an insurer whose policyholders depend on healthy coastal ecosystems. Each carries exposure to nature-related risk, whether or not it recognises it as such.

The extent to which a company is exposed to nature-related risks will vary with its dependence on nature and associated ecosystem services, as well as how likely continued nature loss is to occur and interrupt those ecosystem services over short, medium and long-term horizons. In Africa, where 62% of GDP is moderately or highly dependent on nature,[57] the financial materiality of nature-related risks is prevalent across multiple industries. For example:

- **Reduced water availability** due to prolonged droughts, erratic rainfall patterns or depleted groundwater may directly affect industries reliant on water, such as agriculture, food and beverage, mining, and manufacturing. This may cause production delays, increased operational costs, crop failures and business relocation from water-stressed areas. For southern African agricultural and utility operators, the historic 2024–2025 drought in Namibia illustrated how acute water scarcity paralyses nature-dependent sectors. Driven by severe rainfall deficits and plummeting water tables, water levels at the critical Hardap Dam fell below operational irrigation thresholds, triggering an unprecedented 83.7% collapse in domestic wheat production and a 51.8% drop in maize yields.[58] For regional lenders and agribusinesses, this ecological shock directly translated into widespread crop failures, a sudden reliance on hyper-inflated food imports, and a sharp increase in credit risk across rural commercial banking portfolios.

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56 Shivji and Stubbs (2024), Nature-related risks and directors' duties under the law of England and Wales;
57 McKinsey Sustainability & FSD Africa (2024): Nature stress test: Assessing exposure of five African banking systems
58 Namibia: Update on the Impact of the Drought - Namibia | ReliefWeb

- **Deforestation, desertification and unsustainable land use** may lead to soil erosion, infertile soils and reduced arable land, resulting in lower crop yields for agribusinesses, greater dependence on costly fertilisers and increased food insecurity. In West Africa's agricultural belts, the 2024–2025 cocoa supply crisis across Côte d'Ivoire and Ghana demonstrated how decades of severe deforestation and unsustainable land use can cause profound structural damage to corporate value chains. Having lost up to 80% of their native forest cover since 2000, the regions' over-exploited, nutrient-depleted soils left ageing cocoa plantations highly vulnerable to fungal diseases and topsoil erosion.[59] When climatic volatility hit, the degraded land could no longer buffer the stress, culminating in a historic supply squeeze that sent global cocoa futures soaring past a record USD 10,000 per tonne.[59] For agribusinesses and local lenders, this ecological exhaustion resulted in severely suppressed crop yields, reduced farmgate revenues, and a punishing dependence on costly, imported chemical fertilisers to artificially sustain soil fertility.[60]
- **Increased frequency and intensity of floods, droughts and heatwaves** may result in damage to physical infrastructure, disruption of supply chains, power outages and significant financial losses due to asset damage and business interruption. This could lead to increased insurance costs and make certain operations uninsurable. For African financial institutions, the Cyclone Idai landfall in Mozambique and Zimbabwe in 2019 — which caused an estimated USD 2 billion in damage[61] — illustrated how extreme weather events can simultaneously impair collateral values, trigger loan defaults across agricultural and SME portfolios, and generate large insurance claims, while degraded coastal mangroves (which had historically buffered storm surges) compounded the destruction. Similar dynamics are visible following floods along the Limpopo and Zambezi river systems, where infrastructure damage routinely translates into non-performing loans for regional lenders.

These nature-related physical risks translate directly into material risks for African financial institutions. A 2024 nature stress test on five African banking systems — covering Morocco, Rwanda, Zambia, Ghana and Mauritius — found that cumulative expected credit losses could rise by up to 21% by 2050 in the absence of nature-positive action, driven primarily by impaired agricultural and extractives lending. For insurers, nature loss erodes the natural buffers — wetlands, mangroves, forests — that absorb shocks and contain claims, making previously insurable risks uninsurable and compressing the availability of affordable cover across entire regions. Directors of financial institutions should therefore treat nature-related physical risks not as upstream corporate concerns but as live balance sheet exposures requiring active identification and oversight.

Companies can also face nature-related transition risks as a result of misalignment between company strategy and evolving legal and regulatory pressures, investor demands, consumer preferences and technological trends. These risks can arise in the jurisdiction in which the company operates, and — through value chains — can equally be triggered by transition pressures arising in other jurisdictions around the world. For example:

- African governments are increasingly enacting stricter environmental protection laws.[62] Companies that fail to comply may face substantial fines and reputational damage, which can severely impact operations, profitability and share price.
- Some African countries are implementing carbon taxes (e.g. South Africa[63]). This increases the operating costs for carbon-intensive industries, incentivising a shift to greener alternatives.

59 Cocoa Barometer 2025

60 ofi's 2025 Cocoa & Forests Initiative Progress Report

61 The Guardian (2019), Cyclone Idai caused $2bn of damage and affected millions, says World Bank

62 Africa Reguatory Round-up 2025

63 Carbon Tax Act (2019)

- Nature-related litigation is growing, encompassing lawsuits for environmental damage, pollution and greenwashing. African companies could face costly legal battles, compensation payouts and mandated remediation, as illustrated by the Shell oil pollution disputes in Nigeria[64] or the greenwashing ruling against TotalEnergies in South Africa.[65]
- Investors are increasingly integrating nature-related risks into their investment decisions and stewardship engagement. Companies perceived as having poor nature management or significant unmitigated nature risks may find it harder to attract and retain investment, access loans or secure favourable financing terms.

African financial institutions and companies face specific transition risks as regulators formalise nature-related oversight. The South African Reserve Bank has already conducted nature-related stress tests on the financial sector, revealing that 35% of total corporate bank credit is concentrated in highly nature-dependent sectors; unmitigated environmental shocks and a disorderly carbon transition could therefore trigger non-linear credit defaults, severe asset volatility, and a sharp erosion of bank collateral values across the country's financial system.[66] The Central Bank of Kenya's 2025 Green Finance Taxonomy signals the integration of nature into prudential frameworks. Furthermore, companies listed on the Nairobi Securities Exchange will be required to publish sustainability-related disclosures in accordance with IFRS S1 and S2 for annual reporting periods commencing on or after 1 January 2027.[67] As mandatory IFRS S1 and S2 sustainability disclosures take effect across the continent, banks, insurers and asset managers that have not built the governance infrastructure to assess and disclose nature-related exposures in their portfolios risk regulatory scrutiny, reputational damage and exclusion from international capital markets. Financial institutions that continue to finance or underwrite activities causing significant nature harm also face growing exposure to greenwashing claims and to challenges from civil society under evolving environmental legislation. At the same time, large multinational corporations sourcing from Africa are imposing stricter environmental, social and governance (ESG) standards on their suppliers to meet their own sustainability commitments and comply with their applicable laws.

African companies are also exposed to nature-related systemic risks — risks that arise not from the failure of individual components, but from the breakdown of entire systems. These are characterised by ecological tipping points: thresholds at which modest, compounding stresses produce sudden, large-scale and often irreversible failures.[68] Once a tipping point is crossed, physical and transition risks interact and amplify one another in ways that are extremely difficult to manage, price or insure. For directors, the governance challenge is acute precisely because systemic risks do not announce themselves in advance — they accumulate quietly across multiple sectors and geographies until a threshold is crossed.[69]

64 The Guardian, (2025), Nigerian communities to take Shell to high court over oil pollution

65 African Law & Business (2024). TotalEnergies slapped with historic greenwashing ruling

66 Climate risk and bank lending in South Africa

67 ICPAK, *Roadmap for Adoption of IFRS Sustainability Disclosure Standards in Kenya* (November 2024), available at https://www.icpak.com/sustainability-roadmap/; see also IFRS Foundation, *Jurisdictional Profile: Kenya* (June 2025), available at https://www.ifrs.org/content/dam/ifrs/publications/sustainability-jurisdictions/pdf-profiles/kenya-ifrs-profile.pdf. Public interest entities, mandated to apply IFRS S1 and S2 for annual reporting periods commencing on or after 1 January 2027, include all companies listed on the Nairobi Securities Exchange

68 Global Tipping Points | understanding risks & their potential impact

69 For more information on the relevance of tipping points for directors' duties, see CCLI, The Rising Relevant of Tipping Points: Implications for Company Directors (July 2025)

Case study: The Congo Basin and the nature-related tipping point

The Congo Basin - spanning the Democratic Republic of Congo, Republic of Congo, Cameroon, Central African Republic, Gabon and Angola - contains the world's second-largest tropical rainforest and the Congo River system, the world's deepest river and second largest by discharge.[70] It supports the livelihoods of approximately 100 million people and underpins fisheries, agriculture, water supply, energy and critical minerals across a region central to Africa's long-term growth trajectory.[71]

The basin provides ecosystem services that are largely irreplaceable. Its forests recycle moisture that sustains rainfall across Central and West Africa - a regulating service with no technological substitute at any realistic scale. It sequesters carbon at a volume that makes it one of the world's most important climate buffers, particularly as the Amazon faces simultaneous pressure. Its river system supplies protein for tens of millions of people, supports the world's largest untapped hydropower resource, and sits at the heart of global cobalt and copper supply chains on which battery manufacturing and electric vehicle production depend.

The basin is under compounding stress from all five drivers of nature degradation identified in the scientific literature: land use change through industrial and artisanal deforestation; overexploitation of fish stocks and timber; pollution from mining effluent and agricultural runoff; climate change intensifying hydrological variability; and invasive species degrading native biodiversity across sub-basins. Individually, each stressor is manageable. Together, they are pushing the basin toward a tipping point — an abrupt, potentially irreversible shift to a degraded state from which ecological and economic recovery would be neither fast nor affordable.

70 Campbell (2005), The Congo River Basin
71 Trigg et al. (2022), Putting River Users at the Heart of Hydraulics and Morphology Research in the Congo Basin

Physical and transition risks

If the basin crosses that threshold, the financial consequences will cascade across sectors and borders simultaneously. Fisheries collapse would eliminate the primary protein source for tens of millions, driving non-performing loans across regional banking portfolios. Degraded river flows and sediment loads would impair the Inga hydropower sites, transmitting energy instability into the mining sector and disrupting cobalt and copper supply chains with consequences for manufacturers far beyond the region. Sovereign credit ratings across multiple states would come under pressure as sectoral tax revenues decline and public expenditure on water treatment, food security and disaster response rises.

Equally important — and capable of crystallising before the physical tipping point is reached — are transition risks. The EU Deforestation Regulation is already reshaping supply chain due diligence for companies sourcing from the basin. Tightening carbon market integrity standards could abruptly reprice or invalidate conservation carbon credits, exposing buyers and underwriters to unexpected losses. Shifting investor sentiment toward cobalt and coltan sourced from ecologically sensitive operations is repricing assets independently of any regulatory trigger. Assets can be stranded, concessions revoked and contracts cancelled on regulatory change alone.

Systemic risk

What makes the Congo Basin scenario systemically significant is not any single transmission channel, but the simultaneity and interdependence of the failures it would trigger — and the degree to which those failures would propagate through financial institutions that consider themselves only marginally exposed.

A director of a Congolese mining company, a European bank financing Inga III, or an asset manager holding cobalt-linked equity might each reasonably conclude that their exposure to the basin's ecology is modest. Systemic risk does not respect those boundaries. As correlated losses accumulate across sectors, contagion moves quickly: defaults impair lending banks; reduced credit capacity affects other portfolio sectors; asset repricing triggers collateral depreciation; and the withdrawal of insurance cover — as reinsurers reassess their regional exposure — creates further feedback loops that impair investment across the board.

Three features of this risk are particularly difficult for conventional financial risk frameworks to capture. First, low substitutability: the basin's rainfall recycling and carbon sequestration functions cannot be replicated, meaning that physical degradation produces permanent economic impairment rather than manageable disruption. Second, endogenous risk: financial institutions financing mining, logging and large-scale agriculture in the basin are not passive observers of ecological degradation — they are active contributors to it, meaning their exposures are partly a function of their own prior lending decisions. Third, litigation risk: as nature-related disclosure expectations tighten, directors who fail to adequately identify and report material nature-related exposures face growing personal legal liability — a dynamic already evident in climate litigation and now extending to biodiversity.

The cross-border dimension compounds all of the above. The Congo Basin's core forest area spans six sovereign states, each with its own regulatory framework, institutional capacity and approach to environmental and financial supervision. While regional architecture exists through the Central African Forests Commission (COMIFAC), a specialised institution of the Economic Community of Central African States (ECCAS), which promotes the harmonisation of forest and biodiversity policies, and through ECCAS itself, which provides broader coordination on natural resources, environmental policy and economic integration, these institutions perform coordinating and policy-alignment functions rather than acting as supranational regulators. They operate through treaties, convergence plans, common commitments and political coordination, while implementation and enforcement depend largely on national legislation, regulations and institutions. Consequently, neither COMIFAC nor ECCAS has a regional supervisory mandate over financial institutions, and no single authority currently has the mandate, data and cross-border visibility required to assess the full systemic interaction between financial activity and nature-related risks across the Basin. A financial institution whose exposure extends through supply chains, sovereign debt, insurance underwriting and project finance across multiple jurisdictions therefore cannot fully assess or manage these risks solely at the national level; the analysis must also be undertaken at the scale at which the ecosystem and the associated financial exposures operate regionally and, in relation to the Basin's climate-regulation functions, globally.

In summary, nature-related systemic risks in Africa are not hypothetical. They are already developing — across shared lake systems, river basins, forest corridors and mineral extraction zones that underpin multiple economies simultaneously. The challenge for directors is that these risks accumulate below the threshold of conventional risk management until a tipping point is crossed, at which point the losses are both large and difficult to reverse. A diligent director should therefore consider not only how their company individually depends on and impacts nature, but whether their sector, supply chain or operating geography is exposed to a shared ecological system that could reach a tipping point within strategically relevant time horizons.

NATURE-RELATED IMPACTS

A company's direct and indirect impacts on nature can have significant financial consequences for its own operations and across its value chain. These impacts can manifest as physical risks (direct damage or disruption from environmental changes) or transition risks (costs associated with moving to a more sustainable operating model or adapting to new regulations).

Impact on own operations

When a company's activities directly degrade nature, it can incur financial consequences such as increased operational costs, regulatory and legal costs, reputational damage and market access risk, as well as operational disruptions. We explore examples of these in turn below.

Increased operational costs may arise if:

- A company pollutes local water sources, meaning it faces higher costs for water treatment for its own use or is forced to source water from further away. Similarly, degrading local ecosystems might result in a decline in naturally occurring services (i.e. natural pest control for an agricultural company) that then requires costly artificial substitutes.
- A company has inefficient waste disposal systems or generates large amounts of hazardous waste, which can lead to increased costs for collection, treatment and disposal. Conversely, proper waste management and reduction can lead to significant cost savings.

Regulatory and legal costs may arise if:

- Companies do not comply with the rapidly evolving nature-related regulatory environment and then face enforcement action and penalties or, alternatively, incur higher costs to ensure compliance with new regulation. For example, legislation to limit pollution[72], or manage waste sustainably.[73]
- Companies cause harm to a natural or corporate person as a result of the company's nature-related impacts, which could cause the company to incur costs associated with litigation or regulatory enforcement. Four cases across the continent demonstrate how these claims might arise:
  - The claim against the (EACOP). In that case, civil society organisations, local communities and international activists allege, *inter alia,* that the 1,443-kilometre pipeline project will significantly impact ecologically sensitive zones, pose a risk to water resources and exacerbate climate change.[74]
  - In 2010, the East African Court of Justice ruled that a proposed plan by Tanzania to construct a bitumen road through Serengeti National Park would cause irreparable environmental harm and was accordingly unlawful.[75]

72 For example, the Nairobi City Council Air Quality Act 2022
73 In 2022, Kenya introduced the Sustainable Waste Management Act
74 Natural Justice (2024), East African Court of Justice to hear appeal against EACOP project
75 Kenya Law (2014), East African Court of Justice Renders Construction of a Superhighway Across Serengeti Unlawful

- In 2021, France opened preliminary investigations against TotalEnergies in connection with its Liquefied Natural Gas project in Mozambique, following attacks that resulted in mass civilian casualties and serious environmental damage.[76]
- In 2024, the National Environment Management Authority of Kenya announced that it was cracking down on 29 companies which it accuses of being responsible for waste accumulation in the country's rivers.[77]

Reputational damage and market access risk may arise if:

- A company's nature-related impacts trigger negative publicity, leading to consumer boycotts and a decline in sales, directly affecting revenue.
- The poor management of nature-related impacts by a company deters investment, leading to divestment and increasing a company's cost of capital.
- A company fails to meet evolving nature-related export standards, such as the EU *Deforestation Regulation (EUDR)*, which obliges operators and traders placing commodities such as cocoa, coffee, soy and timber on the European market to demonstrate that those products are deforestation-free. Following a one-year enforcement delay adopted in December 2025, large and medium operators must comply from 30 December 2026, with small and micro operators required to comply from 30 June 2027. African producers, particularly smallholder farmers, face significant compliance costs in meeting traceability and due diligence requirements.

Operational disruptions may arise if:

- A company's nature-related impacts cause severe environmental contamination or large-scale natural disasters,[78] forcing temporary or permanent closure of operational sites.
- A company's nature-related impacts lead to health issues among employees and local communities, resulting in higher healthcare costs, absenteeism and reduced workforce productivity.

Impact on a company's value chain

A company's nature-related impacts can result in financial implications that arise in its value chain. For example, the intensive cultivation of cocoa in West Africa has caused deforestation and habitat loss, soil degradation and water contamination.[79] A deforested landscape and degraded soils are less resilient to erratic weather patterns, making cocoa farmers increasingly vulnerable to climate change and nature loss.[80] These nature-related impacts translate into significant financial costs for chocolate manufacturers sourcing from these regions, including increased raw material costs and volatility, operational disruptions and reduced farm-level productivity. For the banks and microfinance institutions that finance cocoa smallholders across Ghana, Côte d'Ivoire and Nigeria, these dynamics translate into rising loan default rates, increasing provisioning requirements and deteriorating asset quality in agricultural portfolios. The *EUDR*, which requires medium and large operators and traders placing cocoa on the European market to demonstrate deforestation-free supply chains from 30 December 2026, adds a further dimension: financial institutions that have not assessed and engaged with the deforestation risk embedded in their agricultural lending books may find themselves exposed to stranded-asset risk as buyers shift to compliant suppliers.

76 Reuters (2024), France Investigates TotalEnergies over 2021 Mozambique Attack
77 Climate Court (2024), Kenya Cracks Down on Global Brands, Enforcing New Extended Producer Responsibility
78 For example, oil pollution in the Niger Delta
79 A Critical Review of Life Cycle Assessments of Cocoa: Environmental Impacts and Methodological Challenges for Sustainable Production
80 Parra-Paitan et al. (2024), Deforestation and climate risk hotspots in the global cocoa value chain

Smallholder farmers, often lacking resources for adaptation, face significant income instability due to crop failures and rising input costs. This can trap them in cycles of poverty, perpetuating unsustainable practices or forcing them out of cocoa cultivation entirely, further eroding future supply. Companies may need to invest in farmer support programmes, including training in sustainable agricultural practices and financial incentives, to safeguard long-term operational resilience.

For directors of African companies and financial institutions, the implications are acute and immediate. A company's nature-related impacts — whether direct or transmitted through its value chain — can affect it in significant and diverse ways, making them directly relevant to the role and responsibilities of a company's directors. For financial institutions, lending, investment and underwriting decisions made today are embedding nature-related exposure into balance sheets that will be stress-tested by an increasingly formalised regulatory and disclosure regime over the next decade. Directors who cannot demonstrate they have identified, assessed and where appropriate managed their institution's material nature-related exposures — both direct and through the portfolios they finance — are not only falling short of emerging best practice; they also risk breaching the duties of care and loyalty they owe to their institutions under the laws of Kenya, South Africa and Nigeria as those duties apply today.

Nature-related risks and directors’ duties in Africa

This section considers how nature-related risks relate to and inform directors’ duties to their company, particularly those imposed by the duty of loyalty and the duty of care. It focuses on three common law countries in Africa — Kenya, Nigeria and South Africa — while recognising that the findings are likely to be relevant across the sixteen other common law jurisdictions on the continent, given the significant commonalities across their legal systems.

DIRECTORS’ DUTIES GENERALLY

Generally, directors in a variety of jurisdictions owe two core duties to their companies when discharging their functions:

1. the duty to promote the success of the company (also described as the duty of loyalty); and
2. the duty of care (often described as skill, diligence and competence).

These duties are exercised in strategic planning, oversight of foreseeable and material risks, and attesting to disclosure and financial reports.[81] Directors’ duties are dynamic; the law commonly assesses the standard of directors’ care and loyalty by reference to the market, and to social and regulatory context. Furthermore, evolving standards may raise the bar as it relates to directors of certain companies.

While the specific articulation of these duties may vary across jurisdictions, these core principles underpin corporate law in many jurisdictions, including African nations.[82]

THE DUTY OF LOYALTY / DUTY TO PROMOTE THE SUCCESS OF THE COMPANY

The duty of loyalty is commonly a requirement to act in good faith in the best interests of the company. In several African jurisdictions this duty explicitly encompasses environmental considerations. In Kenya, directors must have regard to a non-exhaustive list of factors including the impact of the company’s operations on the community and the environment; and the long-term consequences of their decisions. In Nigeria, CAMA goes further, codifying a direct obligation on directors to have regard to the impact of the company’s operations on the environment in the community where it carries on business.[83] South Africa’s King V similarly requires boards to consider the company’s impact on the environment as part of responsible corporate citizenship.[84]

The duty to promote the success of the company is usually broad and flexible.[85] [86] It is not necessarily true that a company’s success is limited to the generation of short-term profits over long-term stability. Rather, in many jurisdictions, directors should consider factors such as a company’s resilience to financial risks[87] across all time horizons, as well as its social impact and reputation,[88] when thinking about decision-making in the best interests of the company.

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81 Ramos and Sedilekova (2022), [Biodiversity Risk: Legal Implications for Companies and their Directors]

82 African Corporate Governance Network

83 Section 305(3) of the *Companies and Allied Matters Act* (CAMA) 2020

84 Principle 3 of the *King V Code on Corporate Governance for South Africa 2025*

85 Shivji and Stubbs (2024), Nature related risks and directors’ duties under the law of England and Wales

86 Keay on Director’s Duties (4th Ed.) states at [6.54] that “in s 172 we seem to have complete reliance on a subjective test”, notwithstanding some dissatisfaction with that position in some academic commentary and judicial dicta. See, most memorably, the comment of Bowen LJ in Hutton v West Cork Railway Company (1883) 23 Ch D 654 (CA) at 671: “Bona fides cannot be the sole test, otherwise you might have a lunatic conducting the affairs of the company, and paying away its money with both hands in a manner perfectly bona fide, yet perfectly irrational”

87 In previous iterations of companies legislation under the laws of England and Wales, it was suggested that directors should take into account “material factors”; see the 2002 White Paper (Modernising Company Law (Cm 5553, 2002, DTI)) which preceded Companies Act 2006 included in the draft Companies Bill the following as part of the precursor to s. 172: “A director of a company must… in deciding what would be most likely to promote[the success of the company], take account in good faith of all the material factors that it is practicable in the circumstances for him to identify.”

THE DUTY OF CARE

The duty of care and diligence is particularly relevant to identifying and governing the management of nature-related risks and opportunities. In many jurisdictions the standard applied to a director's duty of care is that of a reasonable person in comparable circumstances and often involves making informed decisions after reasonable enquiry. This can, depending on jurisdiction, include a subjective element (the actual knowledge, skills and experience of the director) as well as an objective element (the standard that would be exercised by a reasonably diligent person with the skill, knowledge and experience reasonably expected of a person in their position).

APPLICATION OF DIRECTORS' DUTIES TO NATURE-RELATED RISKS

Five landmark legal opinions have been published on directors' duties and nature-related risk since 2023.[89] The opinions clarify the legal basis for the relevance of nature in board decision-making. They explain how nature-related risks arise from dependencies on and impacts on nature, and fall within existing financial risk categories that directors must consider like any other material risk. They further demonstrate that a director's conduct could constitute a breach of their duties of care and loyalty if the director fails to identify and, where appropriate, mitigate financial risks arising from unaddressed nature-related impacts and dependencies, exposing themselves to shareholder scrutiny and legal consequences.

88 Keay on Director's Duties (4th Ed.) at [6.79]: "Whether a company is able to be successful is likely to depend on its relations with its trading partners, customers and other stakeholders, so considering the interests of stakeholders could well contribute to success. Also, success, in many ways, is reliant on having a good reputation and this is related, to an extent, as to how it deals with its stakeholders. Of course, 'reputation' is a factor that is included in those that are enumerated in s 172(1) and to which directors are to have regard." Reputation "can be seen as the most important intangible asset of the company": Keay on Director's Duties (4th Ed.) at [6.133]

89 Chapman Trip, New Zealand Legal Opinion (2023); Commonwealth Climate and Law Initiative and Pollination, Hartford-Davis and Bush, Nature-related risks and directors' duties (2023); Commonwealth Climate and Law Initiative, Shivji and Stubbs, Nature related risks and directors' duties under the law of England and Wales (2024); Commonwealth Climate and Law Initiative, DeMarco and Vollmer, Nature-related risks and the duties of directors of Canadian corporations (2025); Commonwealth Climate and Law Initiative, Villanueva et al., Nature-related risks & opportunities, and the duties of company directors under Philippine law (2026)

The Canadian opinion - commissioned by CCLI and authored by Resilient LLP in Canada - adds two findings of particular relevance to African jurisdictions. First, it concludes that directors who are unduly passive toward nature-related risks, who do not engage in a reasoned process to identify and analyse them, and who have no governance process to oversee material nature-related dependencies and impacts, are very unlikely to benefit from the discretion afforded by the business judgment rule (see below box). Second, and distinctively, it concludes that the duty of care under the *Canada Business Corporations Act* may extend beyond the corporation itself to external stakeholders, including Indigenous and local community rightsholders — a principle with clear resonance across Africa, where constitutional protections for communities' rights to land, natural resources and a clean environment form a central part of the legal framework in Kenya, South Africa and Nigeria.

Notably, these opinions do not create new law. They clarify existing legal duties under existing corporate law frameworks in each jurisdiction, and their findings may have implications for common and civil law countries across Africa — particularly in jurisdictions where UK legal opinions carry significant persuasive authority in court.

WHAT IS THE BUSINESS JUDGMENT RULE?

The business judgment rule is a legal principle that protects corporate directors and officers from personal liability for decisions they make on behalf of a company, provided those decisions were made in good faith, with due care and in the honest belief that they were acting in the company's best interests.

Core elements the courts often look for:

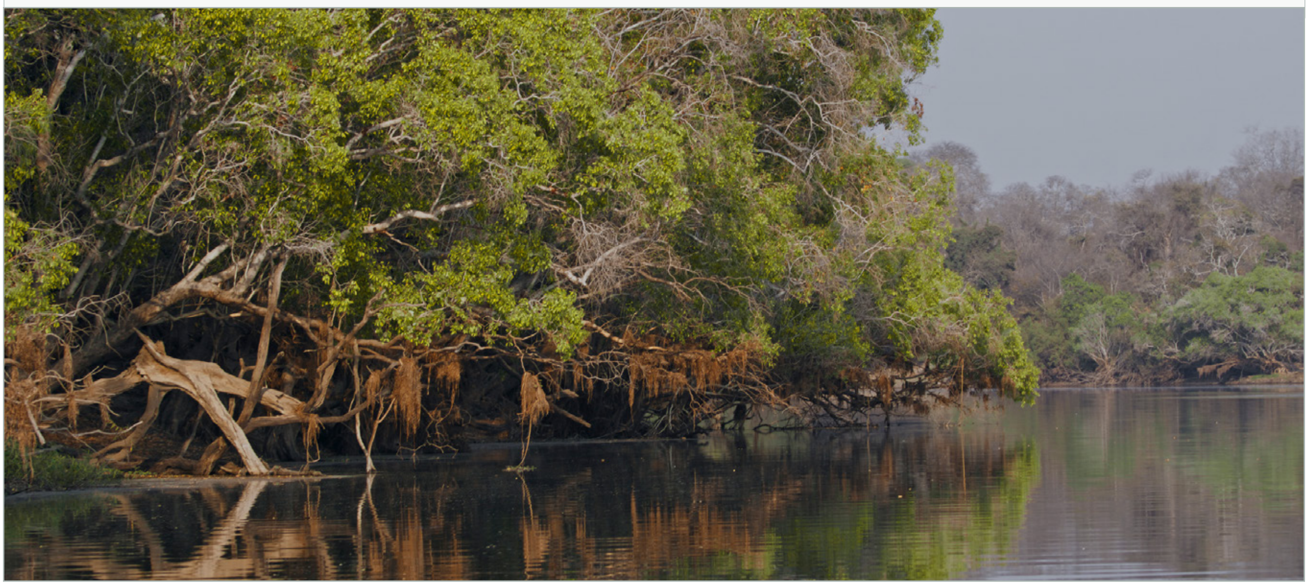
A director is generally protected if they acted on an informed basis, in good faith, and in a manner they reasonably believed to be in the best interest of the corporation. Courts are unlikely to second-guess the outcome of a business decision, only the process by which it was made.

What it protects against:

It shields directors from liability even when a decision turns out to be a poor one – losses, failed strategies, or bad acquisitions – as long as the decision-making process was sound.

What it does not protect:

The rule is unlikely to apply when there is evidence of fraud, bad faith, self-dealing or gross negligence. If a director had a conflict of interest, or completely failed to inform themselves before a decision was made, then the protection falls away.



Nature-related opportunities for companies

Directors should not only focus on managing nature-related risks but on actively identifying and capturing the opportunities that the transition to a nature-positive economy creates. Africa's extraordinary natural wealth, including its forests, wetlands, savannas, coastlines and biodiversity, is increasingly recognised not as a constraint on development but as an investable asset class in its own right. Companies and financial institutions that position themselves early in this transition stand to access new capital flows, command premium pricing, and build the long-term social licence to operate that nature-dependent businesses require. A growing body of work has highlighted the extent of nature-related opportunities for companies, including TNFD's 2025 discussion paper on nature-related opportunities,[90] the World Economic Forum's 2026 report on 50 investible nature opportunities,[91] and Global Canopy's 2026 Little Book of Nature Business.[92]

90 Discussion paper on nature-related opportunities – TNFD
91 50 Investible Opportunities for a New Nature Economy | World Economic Forum
92 The Little Book of Nature Business – TNFD

CASE STUDIES: NATURE-RELATED OPPORTUNITIES IN AFRICA

Example 1: Ecobank closes world's first ICMA Nature Bond issued by a commercial bank[93]

In May 2026, Ecobank Group launched the world's first ICMA commercial bank-issued Nature Bond on the London Stock Exchange, creating a new route for international and African capital to protect Africa's biodiversity. The USD 450 million bond was priced following strong investor demand, with the final orderbook exceeding USD 1.36 billion — 3.9 times the original target — enabling Ecobank to increase the transaction by USD 100 million and tighten pricing by 50 basis points. The Nature Bond designation under the ICMA framework requires proceeds to actively contribute to nature-positive outcomes, including transforming economic activities to reduce the drivers of nature loss at scale — reaching farmers, agri-processors and water operators whose daily activities collectively determine ecosystem outcomes. 81% of the eligible lending pool is allocated to markets where agricultural land-use change is the primary driver of biodiversity loss, with Côte d'Ivoire, Burkina Faso and Ghana named as key deployment markets.

Example 2: Carbon Accelerator Programme for the Environment (CAPE)[94]

FSD Africa's work illustrates the scale and diversity of these opportunities in practice. In November 2024, FSD Africa launched the Carbon Accelerator Programme for the Environment (CAPE) in partnership with the African Natural Capital Alliance (ANCA) and Finance Earth. Chosen from over 100 applicants across 28 African countries, the first cohort of four projects — spanning Kenya, Nigeria, Tanzania and Zambia and covering more than one million hectares — demonstrates the commercial viability of combining high-integrity carbon credits with biodiversity conservation and community benefit.[95] CAPE directly addresses two of the principal barriers to nature finance in Africa: the shortage of early-stage funding for projects with strong fundamentals, and the confidence gap among investors about the integrity and scalability of nature-based markets. By providing recoverable grants and transaction advisory support, CAPE is helping projects move from concept to investment readiness — and showing that nature can serve as both a climate solution and an economic asset.

Example 3: FirstRand Bank's Cape Water Performance-Based Bond[96]

A third example illustrates how ecosystem restoration can be directly monetised through capital markets. In April 2026, FSD Africa Investments anchored the Cape Water Performance-Based Bond — listed on the Johannesburg Stock Exchange — a R2.5 billion instrument arranged by Rand Merchant Bank and backed by the International Finance Corporation. The bond is the first issued by a commercial bank worldwide that ties investor returns directly to an ecological restoration outcome: the removal of invasive alien vegetation from Cape Town's water catchment areas, implemented by The Nature Conservancy through the Greater Cape Town Water Fund. Invasive plants were already consuming the equivalent of two months of Cape Town's annual water supply; by clearing water-intensive species from over 54,000 hectares of catchment land, the programme has recovered more than 17 billion litres of water per year — securing the city's supply against future droughts, reducing wildfire risk, and restoring native biodiversity in one of the world's most ecologically sensitive regions. The bond's structure — combining a conventional fixed-income instrument with performance-linked success premiums and independent impact verification — demonstrates that nature-based solutions can be packaged as credible, bankable assets, not just philanthropic investments, and that FSD Africa Investments' role as anchor investor is actively opening this market across the continent.

For directors on boards in Africa, the signal is clear: international capital markets are now pricing African nature risk and African financial institutions are building the enabling infrastructure to capture related opportunities.

93 Ecobank Issues $450 Million Nature Bond to Back Biodiversity, Sustainable Agriculture Across Africa - ESG Today
94 https://fsdafrica.org/fsd-africa-launches-carbon-accelerator-programme-for-the-environment-cape-to-unlock-finance-for-high-integrity-nature-based-carbon-projects-in-africa/
95 https://fsdafrica.org/four-african-projects-selected-for-capes-first-cohort/
96 'RMB Launches Africa's First Nature-Linked Outcomes-Based Bond' (RMB News, April 2026) https://www.rmb.co.za/news/rmb-launches-africas-first-naturelinked-outcomesbased-bond

These African examples are part of a broader global picture. In October 2024, BloombergNEF profiled twelve companies already realising measurable financial gains by mitigating the drivers of nature loss. A selection of these examples is set out in the table below.

Table 4: Examples of companies realising financial gain by mitigating the drivers of nature loss

Company	Driver of nature loss mitigated	Details	Relevance to directors' duties
Perfect Day (food technology)	Reducing pressure on land-use	Perfect Day reached USD 1.6 billion valuation with an animal-free whey protein that cuts the need for land-intensive livestock in dairy production.	Land-use risk is acute across African agriculture and agribusiness. Directors with significant landholding or supply chain exposure should assess transition risk as regulations and investor expectations tighten.
Ecolab (science based solutions)	Minimising resource exploitation	Ecolab sells equipment and services to optimise industrial water use and drive efficiency gains, generating USD 4 billion in annual revenue and adjusted earnings growth of 35% year-on-year.	Water scarcity is among the most material nature-related risks for African operations. Directors have a duty to oversee water dependency in business models where they constitute foreseeable and material risks.
PTx Trimble (software)	Reducing pollution	The joint venture sells technology enabling more precise pesticide application. Its majority owner's annual revenue increased by USD 600 million.	Pollution of soil and waterways generates regulatory and reputational liability. Directors should scrutinise input-intensive operations.
Forico (forestry)	Reducing climate change	Forico produces sustainable eucalyptus forestry for wood fibre and keeps natural forests for biodiversity uplift and carbon sequestration. The company was acquired for USD 670 million after nine years.	African forestry and land businesses face growing scrutiny over ecosystem degradation. Directors integrating biodiversity uplift into business models may be able to unlock premium valuations.

Source: BloombergNEF (2024)

The investment backdrop has also shifted materially, with implications for African companies. BlackRock, the world's largest asset manager, now treats natural capital as a core asset class rather than an externality.[97] Goldman Sachs Asset Management has launched a dedicated Biodiversity Bond Fund;[98] Norges Bank Investment Management, managing Norway's USD 2.1 trillion sovereign wealth fund, published its Nature Expectations in March 2026, setting out requirements for all portfolio companies to assess, disclose and manage nature-related risks — and warning that companies failing to engage may be candidates for divestment.[99] Triodos Investment Management has launched Value Nature Fund I, a EUR 300 million closed-end natural capital fund structured as a return-seeking institutional vehicle.[100]

For African companies seeking international debt, equity listings or institutional partnerships, nature risk is no longer a voluntary disclosure question – it is becoming standard due diligence. Those that can demonstrate credible nature risk management are likely to gain access to a growing pool of dedicated capital.

97 BlackRock (2025), Our approach to engagement on natural capital
98 Goldman Sachs Biodiversity Bond
99 Norges Bank Investment Management (2026), Nature Expectations
100 ESG Today (2026), Triodos IM, Fondaction Launch New Euro 300 million Natural Capital Fund

Jurisdictional spotlights

Directors' duties and nature-related risks in Kenya

THE RELEVANCE OF NATURE TO THE KENYAN ECONOMY

Kenya is a mega bio-diverse country with over 35,000 species of flora and fauna and 467 inland lakes and wetland habitats covering about 2.5% of the total area. [101] A number of species are endemic to Kenya and found nowhere else in the world. It is no surprise, therefore, that Kenya's economy is highly dependent on nature, with agriculture, water, fisheries, forestry and energy sectors contributing an estimated 42% of GDP and supporting 70% of overall employment.[102]

Although biodiversity in Kenya is highly protected, there are many unprotected areas that are causing its status to quickly decline. The major threats to biological diversity in Kenya are: high population pressure; escalating poverty and conflicts; poor land use practices; inadequate laws, policies and institutional framework; poor education and inadequate involvement of the community; invasive species (e.g. water hyacinth in Lake Victoria); and land degradation and pollution.[103] This in turn makes Kenya highly exposed to nature-related risks, which can have direct and significant financial consequences for companies and those that finance them.

However, these risks are not evenly distributed across the economy. The real estate sector offers an instructive lens through which to examine them. Given its direct reliance on land, water and ecosystem services, and its frequent encroachment into wetlands and other sensitive habitats, real estate illustrates with particular clarity how nature-related risk can crystallise into legal and financial exposure for directors and the companies they govern.

Spotlight: nature-related financial risks in the real estate sector

The real estate sector plays an important role in the Kenyan economy. The most recent data indicates its contribution is around 10% to 11% of GDP,[104] and it has shown consistent growth over the years. But the sector is highly exposed to nature-related financial risks. These risks can be categorised into physical risks, transition risks and liability risks, and can impact property values, development viability and long-term asset resilience.

Figure 1 shows how nature-related financial risks might manifest in the real estate sector.

101 Kenya Biodiversity, National Clearing House Mechanism
102 National Environment Management Authority Kenya (2021), The Kenya State of Environment Report 2019 - 2021
103 Convention on Biological Diversity, Kenya – Country Profile
104 Cytonn Investments (2024), Kenya Real Estate Retail Sector Report 2024

Figure 1: Framework for identifying nature-related financial risks in the real estate sector

(CISL, 2021)

Nature-related financial risks in the real estate sector

A Type of risk	B Risk manifests as a result of...	C Examples of impact on companies	D Examples of resultant financial risk
Physical risk	**Water scarcity** Decreased water availability due to drought or ecosystem degradation can impact construction processes, landscaping, and the operational costs of buildings.	**Operational disruption** Companies may face mandatory water rationing, forcing it to reduce production or invest heavily in expensive purification or alternative water sourcing technology.	**Credit:** developers with projects in water-stressed regions might see their credit rating downgraded by lenders due to increased concerns around operational costs.
	Biodiversity loss impacting ecosystem services Loss of healthy soil structure can lead to erosion, landslides or subsidence, threatening the structural integrity of buildings.	**Asset damage and value depreciation** Insurers recognising the heightened risk, may increase premiums or refuse coverage altogether.	**Business:** a hotel chain in a region hit by sever drought faces water rationing, leading to temporary closure or reduced services, resulting in lost revenue and increased operating costs for trucking in water.
	Heat island effect Insufficient green infrastructure in urban areas can exacerbate urban heat island effects leading to higher energy consumption for cooling buildings.	**Heat island effect** Insufficient green infrastructure in urban areas can exacerbate urban heat island effects leading to higher energy consumption for cooling buildings.	**Liquidity:** a real estate company might face sudden, large-scale repair costs after a flood, draining its case reserves.
Transition risk In response to land degradation, such as...	**Policy and regulation** Countries or regions introducing mandatory biodiversity net gain require developers to demonstrate an increase in biodiversity. New protected areas, stricter environmental impact assessments, or bans on development in ecologically sensitive zones can limit expansion opportunities.	**Increased development costs** New ecological surveys and design requirements may directly add to project costs and complexity.	**Business:** increased development costs and project delays. **Credit:** banks lending to developers who are unprepared for new regulations may face increased credit risk in their development loan portfolios. **Business:** additional due diligence required by financial institutions to ensure that clients adhere to biodiversity targets.
	Market and consumer preferences Growing tenant and buyer demand for "green buildings" and access to green spaces might impact property value	**Loss of market share** Companies may be forced to reconfigure their supply chains, investing in new sustainable sourcing practices.	**Market:** public criticism and negative media about a company's negative impacts on nature can lead to a drop in share price.
Liability risk	**Litigation** Legal action against developers or property owners for environmental harm caused during construction or operation. Non-compliance with environmental regulations can result in significant financial penalties.	**Legal fees and settlements** Companies may face legal costs and regulatory fines.	**Business:** direct financial outlays.

DIRECTORS' DUTIES AND NATURE UNDER KENYAN LAW

The main corporate governance legislation in Kenya is the *Companies Act (2015) Cap 486 of the laws of Kenya (Kenyan Companies Act)*. The *Kenyan Companies Act* consolidates and codifies the roles, responsibilities and liabilities of company directors, which previously largely evolved through common law and equitable principles.[105] A "director" is defined broadly to mean any person occupying the position of director, by whatever name called, including executive directors, non-executive directors, de facto directors and shadow directors.[106] Further, the objectives of the *Kenyan Companies Act* are to facilitate commerce, industry and other socio-economic activities and to provide regulation for those entities in the public interest. It has been argued that the use of the phraseology of 'socio-economic activities' and the 'public interest' in corporate legislation, signals that the statute requires companies to take into account other considerations that affect society and the public interest, including the environment.[107]

Under the *Kenyan Companies Act*, directors in Kenya hold two core duties:

1. **The duty to promote the success of the company.**[108]
2. **The duty to exercise reasonable care, skill and diligence.**[109]

While these two core duties are of central importance, the *Kenyan Companies Act* also outlines other responsibilities relating to nature and environmental risks. Section 144(1) outlines the duty of independent judgement, requiring directors to exercise their minds as to the environmental risks that may materialise. Similarly, section 635 requires preparation of financial statements reflecting a true and fair view of the company at all times, which would include relevant nature and environment-related risks.

The duty to promote the success of the company

The duty to promote the success of the company is a fiduciary duty. A director must act in a way in which the director considers, in good faith, would be most likely to promote the success of the company for the benefit of its members as a whole. In doing so, the director must have regard to a non-exhaustive list of matters including *"the likely consequences of any decision in the long term"* and *"the impact of the operations of the company on the community and the environment."*

"The impact of the operations of the company on the community and the environment"

The *Kenyan Companies Act* does not define "environment". That definition is supplied by the *Environmental Management and Co-ordination Act (1999), Cap 387 of the laws of Kenya (EMCA)*, which is Kenya's primary environmental statute. *EMCA* defines "environment" broadly to mean "*the physical factors of the surroundings of human beings including land, water, atmosphere, climate, sound, odour, taste, the biological factors of animals and plants and the social factor of aesthetics and includes both the natural and the built environment".*[110] In plain terms, this definition captures biodiversity, functioning ecosystems and the services those ecosystems provide — such as water filtration, soil fertility and pollination. It follows that any company activity which damages or degrades these natural systems falls squarely within the environmental considerations that section 143 of the *Kenyan Companies Act* requires directors to take into account. **Nature-related risks are not, therefore, a matter that directors may treat as peripheral. They are part of the legal framework within which directors in Kenya already operate.**

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105 Kenya Companies Act (2015), Cap 486 (KE), s140(3)

106 Kenyan Companies Act, s2

107 M Muriungi, 'Directors' Duties and Climate Change in Africa: Evidence from Kenya, Nigeria and South Africa' (2023) ex/ante-Special Issue 65, 68.

108 Kenya Companies Act (2015), Cap 486 (KE), s143

109 Kenya Companies Act (2015), Cap 486 (KE), s144

110 Environmental Management and Co-ordination Act 1999, Cap 387 (KE), s2

The constitutional framework reinforces this analysis and gives it additional force. Article 42 of the *Constitution of Kenya 2010* confers on every person the right to a clean and healthy environment. Articles 69 and 70 go further, imposing corresponding obligations on the State - and, by extension, on all persons and entities operating within Kenya, including companies and the directors who manage them - to protect and conserve the environment. Article 69(2) expressly requires every person, including companies, to cooperate with State organs and other persons to protect and conserve the environment and to ensure ecologically sustainable development and use of natural resources. These constitutional provisions provide the interpretive backdrop against which Kenyan courts will assess the conduct of directors when environmental harm is alleged. It is unlikely that a director who fails to give serious consideration to foreseeable nature-related risks can easily argue, in the face of these constitutional obligations, that such risks lay outside the scope of their responsibilities.

"The likely consequences of any decision in the long term"

Section 143 of the *Kenyan Companies Act* requires directors to take a holistic and forward-looking view of what it means to promote the company's success. The standard applied is, in the first instance, subjective: a court will ask whether the director honestly and in good faith believed that the act or omission in question served the interests of the company. However, that subjective protection has limits. A director who gives no thought whatsoever to whether a particular course of action or inaction promotes the company's success — including by ignoring risks that are plainly material to the business — risks being assessed against a more demanding, objective standard. [111]

Given the extent to which nature underpins the Kenyan economy, any director exercising reasonable diligence should be alert to the nature-related risks that are material to their sector. A director of a tea estate, for example, should be actively considering soil health and water availability; a director of a construction company should be assessing the impact of extreme weather events on supply chains and project timelines. These are not speculative concerns — they are foreseeable financial risks that a diligent board is expected to engage with.

The duty to exercise reasonable care, skill and diligence

The duty to exercise reasonable care, skill and diligence governs the standard to which directors will be held in discharging their responsibilities, including those relating to nature-related risks. Under section 145 of the Kenyan Companies Act, this duty is both objective and subjective: directors must exercise the care, skill and diligence of a reasonably diligent person carrying out the same functions (the objective test), and are also held to the higher standard of the knowledge, skill and experience they actually possess (the subjective test).[112]

Under the subjective element of this duty, a director who brings specific expertise to the board will be expected to apply it. A director with a background in water resource management who sits on the board of a beverage company exposed to water scarcity cannot reasonably remain passive in the face of that risk; they would be expected to ensure that appropriate stewardship strategies are in place, and a failure to do so could constitute a clear breach of duty.

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111 See *Ajay Shah v Deposit Protection Fund Board (Liquidator of Trust Bank Ltd)* [2016] KECA 436 (KLR), where the Kenya Court of Appeal reaffirmed that directors' obligations are not assessed purely by what they personally thought was acceptable; directors are expected to meet a minimum standard of diligence tied to the office, and where a director occupies a role involving particular responsibility or competence, the evaluation of diligence is correspondingly more exacting.

112 Section 145 of the Kenyan Companies Act. For judicial application of this dual standard, see *Mae Properties Limited v Muigai* (Civil Appeal 147 of 2018) [2024] KECA 29 (KLR), at para 18, where the Kenya Court of Appeal explained that section 145 imposes both an objective test requiring directors to exercise the care of a "reasonably diligent person" carrying out the same functions, and a subjective test that holds directors to the higher standard of their actual knowledge, skill and experience.

The objective element sets a minimum baseline: even a director with no specialist environmental knowledge is expected to meet the standard of a reasonably diligent person in the same position. Where the board as a whole lacks the expertise needed to assess material nature-related risks, the duty of diligence requires directors to seek external, independent professional advice — for example, by commissioning a biodiversity risk assessment, engaging a specialist environmental adviser, or obtaining an independent opinion on climate-related exposures. Delegating these matters to management without adequate board-level oversight is unlikely to be sufficient.

The "Business Judgment Rule"

Although the *Kenyan Companies Act* does not contain an express statutory business judgment rule, Kenyan courts apply the common law principle that courts will not readily second-guess the commercial decisions of directors, provided those decisions were made honestly, in good faith and on a rational basis.

The High Court of Kenya affirmed this position in *Isaiah Waweru Ngumi & 2 others v Muturi Ndung'u* [2016] eKLR, recognising that the business judgment rule forms part of Kenyan company law. In practice, this means that a director who takes documented, well-reasoned steps to identify and manage nature-related risks — such as commissioning biodiversity assessments, obtaining independent environmental advice, or integrating nature-related risk into the board's risk governance framework — will be in a strong position to rely on this protection if their decisions are later challenged. The protection, however, is not unconditional. It will not shield a director who acts in bad faith, who pursues an improper purpose, whose decisions are made without any adequate enquiry, or who simply ignores material risks that a reasonably diligent director would have identified and addressed. Nor will it avail a director who is in breach of specific statutory obligations, including those imposed by *EMCA* or section 33(2) of the *Climate Change Act 2016*.

Two recent decisions sharpen this point. In *Export Processing Zone Authority & Others v NEMA & Others* [2024] KESC 75 (KLR) — the Owino Uhuru lead poisoning case — Kenya's highest court, the Supreme Court of Kenya held that a company's possession of a valid operating licence did not assist its defence and did not establish that due diligence had been exercised. The court applied the polluter pays principle[113] with full force against both the private company and the state agencies that had failed to regulate it. In *Menengai West Stakeholders Forum v NEMA & Sosian Energy Ltd* (Environment and Land Court, Nakuru, March 2025), the court cancelled a company's environmental impact assessment (("(**EIA"**)[114]) licence and ruled that a climate impact assessment must be completed before project approval — not as an afterthought. Together, these cases establish that regulatory approvals do not substitute for substantive environmental due diligence, and that courts will look behind the licence to assess whether genuine care was taken. The rule rewards diligence and good process; it does not excuse passivity or wilful blindness.

113 The polluter pays principle is a foundational concept in environmental law which holds that those who produce pollution or cause environmental damage should bear the costs of managing it to prevent harm to human health or the environment. In Kenya, the principle is enshrined in section 2 of EMCA and has been applied by the courts as a basis for holding polluters liable for remediation costs and compensation to affected communities.

114 An environmental impact assessment (EIA) is a systematic process required under EMCA (sections 58–67) before certain projects or activities can proceed. It evaluates the potential environmental effects of a proposed development, identifies measures to mitigate adverse impacts, and requires public participation. In Kenya, NEMA issues EIA licences following review of the assessment report; projects that may significantly affect the environment cannot lawfully commence without an approved EIA.

Implications for directors

The legal landscape surrounding director liability for mismanagement of nature-related risks in Kenya is nascent. Practical barriers remain significant: claimants face real difficulties in establishing causation, gathering sufficient evidence and securing litigation funding.[115] Breach of duty will not, in every case, translate into personal liability for directors. That said, two landmark Kenyan judgments delivered in late 2024 and early 2025 demonstrate that the courts are prepared to impose substantial liability for corporate environmental harm and to apply rigorous standards of environmental due diligence — standards that carry clear implications for how directors approach their governance responsibilities.

In *Export Processing Zone Authority & Others v NEMA & Others* [2024] KESC 75 (KLR), the Supreme Court of Kenya upheld an award of Ksh 1.3 billion in compensation to approximately 450 households in Owino Uhuru Village, Mombasa, whose constitutional rights to a clean and healthy environment, to health and to life were violated by toxic lead emissions from a nearby battery recycling plant, Metal Refinery (EPZ) Limited. The court additionally ordered Ksh 700 million for environmental remediation. The court found that the company's possession of a valid operating licence provided no defence: the polluter pays principle applied with full force, and a causal link between the company's negligence and the harm suffered was sufficient to establish liability. State agencies, including NEMA, were held jointly liable for failing to regulate the company's operations despite clear evidence of ongoing environmental harm. The court also affirmed that where environmental damage is a continuing violation — as it often is with industrial pollution, soil degradation or ecosystem loss — constitutional remedies are not barred by the timing of the original act.

In *Menengai West Stakeholders Forum v NEMA & Sosian Energy Ltd, supra*, the court cancelled an EIA licence for a geothermal project after finding that the public participation process had been inadequate and that a climate impact assessment had not been conducted prior to approval. The court held that a project of such scale must address the concerns and potential risks to affected communities before operations begin, and directed that the climate impact assessment be completed and made available for public review before any fresh approval is granted. Together, these two decisions signal a Kenyan judiciary that is willing to scrutinise corporate environmental conduct at the highest level, impose landmark awards of compensation and remediation costs, and require substantive — not merely procedural — environmental due diligence as a condition of lawful operation.

115 For an account of extant procedural barriers to enforcement on this subject, see: Muriungi (2023), Directors' Duties and Climate Change in Africa: Evidence from Kenya, Nigeria and South Africa, Muriungi (2022), Corporate accountability for climate change: An inquiry into the company laws of Commonwealth Africa, in *Business and Human Rights Law and Practice in Africa,* Chapter 6 (pages 93-107) 106.

The growing volume of climate and environmental litigation globally,[116] with cases against companies and their directors now representing around 20% of all climate filings globally, makes clear that similar claims relating to broader nature-related harms may follow. It should be acknowledged that both the Owino Uhuru and Sosian Energy decisions were brought against companies and regulatory bodies rather than against individual directors personally, and neither case concerned nature-related financial risk in the corporate governance sense that this paper addresses. That distinction matters. But it does not diminish their significance for directors. The standards of environmental due diligence that those courts demanded of corporate actors — substantive enquiry, meaningful public participation, proactive risk assessment before operations commence — are precisely the standards that directors are required to oversee and ensure are met. As mandatory sustainability reporting under frameworks such as IFRS S1 and S2 and the Kenya Green Finance Taxonomy takes hold, and as the evidential record of what boards knew and when becomes more transparent, the gap between corporate liability for environmental harm and direct personal liability for the directors who governed those decisions is likely to narrow.

In Kenya, a director who fails to identify and manage a foreseeable and financially material nature-related risk — and where that failure leads to adverse outcomes for the company, whether in the form of financial losses, lost opportunities, regulatory fines, operational disruption or reputational harm — may be exposed to a claim for breach of duty under the *Kenyan Companies Act*. A finding of breach of duty can expose a director to personal liability for compensating the company for losses flowing from the breach, an account of any profit improperly made, and, in some cases, disqualification from acting as a director. Courts may also grant injunctive relief or set aside transactions entered into in breach of the relevant duty. Direct environmental harm can additionally trigger personal criminal liability for directors under *EMCA*, where the director had knowledge of an environmental offence and failed to exercise due diligence to prevent it. Section 33(2) of the *Climate Change Act 2016* creates a parallel regime of personal liability in the climate context. Taken together, these provisions suggest that environmental compliance is not a matter that directors can safely leave to management alone. It requires active board-level engagement, oversight and accountability.

116 Setzer and Higham (2025), Global Trends in Climate Change Litigation: 2025 Snapshot

Directors' duties and nature-related risks in South Africa

THE RELEVANCE OF NATURE TO THE SOUTH AFRICAN ECONOMY

South Africa is one of 17 megadiverse countries in the world, with exceptional species richness, including many found nowhere else on Earth.[117] However, the country also contains three of the world's 36 biodiversity hotspots[118] - areas where high levels of endemism meet the most severe pressures from human activity. Its economy is profoundly dependent on nature. A study by the French Development Agency (AFD) found that 70% of household consumption in South Africa, and 83% of net exports, are highly dependent on at least one ecosystem service[119] — a finding that, as noted at South Africa's 2024 National Capital Accounting Forum, means that "biodiversity loss is a potential risk to the financial stability of the country." More specifically, research has shown that more than 30% of the country's production is generated by activities highly dependent on water provision and flood and storm protection, 20–30% is highly dependent on climate regulation and mass stabilisation, and 8% is highly dependent on water quality.

The significant dependence of South Africa's economy on nature, combined with its deep connection to broader economic systems, exposes the economy to a range of nature-related risks. Studies have demonstrated that the agricultural, forestry and fisheries, mining, manufacturing, transport, and finance sectors are all likely exposed to such risks.[120] Biodiversity supports agriculture and fisheries, offers resilience against natural hazards like floods and droughts, and provides the basis of a vibrant tourism industry[121]— making it a national asset and a contributor to inclusive growth and job creation. Experimental Biodiversity-Based Tourism Estimates released by Stats SA in July 2024 show that biodiversity directly contributed R27 billion and more than 90,000 jobs to South Africa's tourism sector in 2019 alone.[122]

The South African National Biodiversity Institute's (SANBI) landmark *National Biodiversity Assessment 2025* (*NBA 2025*)— the most comprehensive report to date on the state of the country's biodiversity, drawing on over 490 experts from more than 110 institutions— reinforces the urgency of these findings. Climate change, unsustainable land and sea use, pollution, invasive alien species, reduced freshwater flows and illegal harvesting continue to affect South Africa's ecosystems and species, and therefore the services they provide — with direct consequences for food production, water quality, jobs, tourism, and resilience to natural disasters. The *NBA 2025* underscores that protecting and restoring South Africa's biodiversity is an economic imperative.

117 Mittermeier et al., (1997), Megadiversity: Earth's biologically wealthiest nations
118 What Are Biodiversity Hotspots? | Conservation International
119 AFD (2023), Socio-economic and spatially explicit assessment of Nature-related risks: the case of South Africa
120 Siri et al., (2023), Socioeconomic and spatially-explicit assessment of Nature-related risks: the case of South Africa
121 SANBI (2025), National Biodiversity Assessment 2025
122 SANBI (2024), Nature's True Value: Integrating Biodiversity into National Planning

Spotlight: nature-related financial risks in the mining sector

The South African mining industry remains a cornerstone of the national economy. In 2024, mining contributed approximately 6% to South Africa's GDP, generated around R100 billion in taxes, and supported 471,000 direct jobs; the sector contributed 14% of all corporate tax revenue collected nationally,[123] underscoring its critical role in financing public services and infrastructure.

Mines are frequently located in areas of high natural capital value, and mining operations are deeply dependent on functioning ecosystems. They rely on a range of ecosystem services — including local climate regulation, slope and mass stabilisation to protect against landslides, and soil and water quality — to safeguard operations from disruption and maintain the stable conditions necessary for long-term planning. Investing in strategic wetland rehabilitation or conservation, for example, can support flood mitigation at mine sites while benefiting neighbouring communities, avoiding both flood damage and production delays.[124] Mining also has a particularly high dependence on water, and South Africa's water-stressed environment makes this reliance an increasingly material risk.

Looking ahead, the strategic importance of mining is set to grow significantly. According to the International Energy Agency (IEA), the energy sector's overall needs for critical minerals could increase by as much as six times by 2040, depending on how rapidly governments act to reduce emissions.[125] Meeting the goals of the Paris Agreement would require a quadrupling of mineral requirements for clean energy technologies by 2040, with demand for use in electric vehicles and battery storage growing at least thirty times over the same period.[126] This growth is underpinned by the global clean energy transition and the need for metals and minerals such as copper, cobalt, nickel, lithium, platinum group metals, and rare earth elements in clean energy infrastructure and electrified transport. South Africa — as a globally significant producer of several of these critical minerals — is well positioned to benefit from this transition, provided that nature-related risks to the sector are proactively identified and managed.

Figure 2 (below) shows how nature-related financial risk might manifest in the mining sector.

123 Minerals Council South Africa (2025) *Facts and Figures Pocketbook 2024*. Available at: https://www.mineralscouncil.org.za (Accessed: 2 April 2026)

124 Carbon Trust (2024), Impact of climate change on South Africa's mining industry

125 IEA (2021), The Role of Critical Minerals in Clean Energy Transitions

126 International Energy Agency (2021), The Role of Critical Minerals in Clean Energy Transitions

Figure 2: Framework for identifying nature-related financial risks in the mining sector

(CISL, 2021)

Nature-related financial risks in the mining sector

A Type of risk	B Risk manifests as a result of...	C Examples of impact on companies	D Examples of resultant financial risk
Physical risk Direct degradation of nature and ecosystem services, and the increased severity / frequency of natural hazards	**Water scarcity** Declining water tables, reduced river flows, or increased droughts in mining regions due to climate change or localised over-abstraction **Extreme weather events** Increased frequency or intensity of floods, landslides or extreme heat impacting mine infrastructure.	**Operational disruption** Mines facing water rationing may lead to reduced processing capacity or temporary shutdowns. **Damage to infrastructure:** Mine pits, processing plants, or tailings dams are damaged by floods or landslides, requiring costly repairs and delaying operations.	**Credit:** banks with significant loan exposure to mines highly dependent on water in water-stressed regions face elevated credit risk in their portfolios due to concerns about operational continuity and the borrower's ability to generate cash flow for debt servicing. **Liquidity:** major landslides due to heavy rainfall damages a mine's access roads and a processing plant, requiring immediate emergency capital injection which may lead to liquidity issues. **Market:** a gold mine located in a region increasingly attected by chronic water stress or extreme weather may see its asset valuation discounted by institutional investors, impacting the company's overall market capitalisation.
Transition risk Changes in regulations, market preferences, technology and societal expectations in response to nature degradation.	**Stricter environmental regulations** New las on waste disposal (especially tailings), water discharge limits, biodiversity offsetting or mine closure and rehabilitation. **Technological innovation** Development of new, less impactful mining methods or alternative materials that reduce demand for certain mined products. **Changes in demand/supply:** market shifts away from "dirty" minerals.	**Increased compliance costs** Companies may need to invest in new, more expensive tailings management facilities to comply with stricter safety and environmental regulations. **Shifts in investor preferences** Large institutional investors divest from companies with poor ESG performance.	**Credit:** banks may increase collateral requirements or impose stricter covenants on loans to mining companies exposed to significant physical or transition risk. **Business:** delays or rejection of new mining permits due to biodiversity concerns can stifle a company's growth pipeline. **Liquidity:** unexpected fines or litigation related to noncompliance could create unforeseen liquidity issues.
Liability risk	**Litigation** As a result of environmental damage, non-compliance or "greenwashing"..	**Legal action, regulatory fines, clean-up and remediation and operational restrictions/closures**	**Credit:** a company facing a lawsuit may see its credit rating drop, signalising an increase in tis default risk to creditors. This may make any future borrowing prohibitively expensive.

DIRECTORS' DUTIES AND NATURE UNDER SOUTH AFRICAN LAW

The major sources of South African company law are the *Companies Act 71 of 2008 (SA Companies Act)* and the common law as applied in accordance with the *Constitution of the Republic of South Africa, 1996 (the SA Constitution)*. Both the *SA Companies Act* and the common law relating to companies find their origin in English law, with previous South African legislation borrowing significantly from its English predecessor.[127] Consequently, English law continues to carry significant persuasive force for South African courts when interpreting and applying common law.[128]

Under the *SA Companies Act*, directors' core duties largely codify and in some aspects extend common law principles. These duties require directors to act in the best interests of the company and with appropriate skill.

The two core duties, applicable to South African directors under the *SA Companies Act* are:

1. **The duty to act in good faith and for a proper purpose[129] and in the best interests of the company.** [130]
2. **The duty to exercise reasonable care, skill and diligence**.[131]

The *SA Companies Act* must be interpreted and applied in a manner that gives effect to its purposes (section 5(1)). One of the purposes of the *SA Companies Act* is to promote compliance with the Bill of Rights as provided for in the *SA* Constitution in the application of company law (section 7(a)).

The *SA Companies Act* further provides that when determining a matter brought before it in terms of the *SA Companies Act*, or making an order in terms of the *SA Companies Act*, a court must develop the common law as necessary to improve the realisation and enjoyment of rights established in terms of the *SA Companies Act* (section 158(a)) and must prefer interpretations which best promote the spirit and purpose of the *Companies* Act (section 158(b)(ii)). Courts must also comply with section 39(2) of the Constitution when interpreting legislation and developing the common law.

The Bill of Rights includes the right to (i) an environment that is not harmful to health or well-being, and (ii) have the environment protected for the benefit of present and future generations through reasonable legislative and other measures that prevent pollution and ecological degradation, promote conservation and secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development (section 24).

While as yet untested, if a court is called upon to interpret whether directors' conduct which is negative to the environment offends their fiduciary duty, the court is required, in terms of the *SA Companies Act*, to apply and interpret such duties in a way that promotes compliance with the Bill of Rights, including the environmental right in section 24 of the *SA Constitution*.

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127 The practice of borrowing from English law dates back to 1861 with the first act providing for the incorporation of companies, the Cape Joint Stock Companies Limited Liability Act being based on the English Joint Stock Companies Act 7 & 8 Vict c 110 (repealed in 1856) and the Limited Liability Act 18 & 19 Vict c 133 (repealed in 1857).

128 Hahlo & Kahn (1968), *The South African Legal System and its Background* Juta & Co. Ltd 200; The Law of South Africa (LAWSA) *Companies Part 1* "Sources and History - The influence and relevance of English law"

129 Section 76(3)(a) of the SA Companies Act

130 Section 76(3)(b) of the SA Companies Act

131 Section 76(3)(c) of the SA Companies Act

The duty to act in good faith and for a proper purpose and in the best interests of the company

This is a fundamental fiduciary duty. A director, when acting in that capacity, must exercise and perform functions in good faith and for proper purpose, and in what they reasonably believe to be in the best interests of the company. South African company law adopts what King V describes as the Enlightened Shareholder Value approach: directors, in exercising their powers, are entitled and obliged to take into account the impact of their decisions in the short term and in the long term, and in discharging their duties to the primary stakeholder (the shareholders) must account for the impact on employees, consumers, suppliers, the local community, the State and the environment. What constitutes a company's "best interests" is accordingly a general term which, if interpreted so as to promote the Bill of Rights (including section 24 of the *SA Constitution*), may arguably extend beyond profit maximisation, to embrace socially and environmentally responsible board decisions which will benefit the company and its shareholders in the long-term.[132]

The potential threats posed to a company from its impacts and dependencies on nature are directly relevant to determining what is in the company's best interests. South Africa is one of the world's most water-stressed countries. Prolonged droughts, erratic rainfall and the progressive degradation of catchments and wetlands pose foreseeable and material physical risks to water-intensive sectors including mining, manufacturing, agriculture and energy. Directors who fail to account for those risks in its strategy and risk management may not be able to claim they are acting in the company's best interests. Where nature-related risks are ignored or overlooked, the financial consequences are direct: higher operational costs, production disruptions, supply chain failures and reputational harm with investors and lenders who are themselves under increasing pressure to manage portfolio-level exposure to nature-related risk.

The duty to exercise reasonable care, skill and diligence

This duty speaks to the competence with which a director must discharge their responsibilities.[133] In assessing whether a director has fulfilled this duty, courts apply two tests: an objective test and a subjective test.

The objective element sets a baseline standard: a director is expected to exercise the degree of care, skill and diligence that may reasonably be expected of a person carrying out the same functions in relation to the company. The Supreme Court of Appeal confirmed in *Da Silva v CH Chemicals (Pty) Ltd 2008 (6) SA 620 (SCA)* that the objective baseline applies even where a director claims ignorance of the relevant risk. As standards of corporate governance evolve and as the ISSB, TNFD and King V all make explicit that nature-related risks are a governance matter that baseline rises accordingly. King V's Principle 1 requires directors to lead ethically and effectively, cultivating competence, responsibility and accountability. Principle 8 requires the board to govern risk in a way that enables the company to sustain and optimise its strategy and objectives. Read together, these principles reinforce the expectation that directors must actively engage with material nature-related risks as part of their oversight function.

The subjective element means that a director who brings specific expertise to the board is expected to apply it. A director with a background in water resource management who sits on the board of a mining company exposed to water scarcity cannot reasonably remain passive; they would be expected to ensure appropriate risk management strategies are in place, and failure to apply their expertise could constitute a clear breach of duty.

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132 Khumalo et al. (2024), Legal Memorandum Concerning Director Duties and Liability for Climate Risk Under South African Law. Ramnath, p 113

133 Khumalo et al. (2024), Legal Memorandum Concerning Director Duties and Liability for Climate Risk Under South African Law

Where the board as a whole lacks sufficient expertise to assess material nature-related risks, the duty of diligence requires directors to seek external, independent professional advice. For example by commissioning specialist biodiversity risk assessments, obtaining independent legal opinions on regulatory exposure or engaging qualified environmental advisers. Delegating these matters to management without adequate board-level oversight and scrutiny will not discharge the duty. There is a core, irreducible requirement for directors to be involved in the management of the company and to take all reasonable steps to be in a position to guide and monitor. In *Fisheries Development Corporation of SA Ltd v Jorgensen 1980 (4) SA 156 (W)*, the court held that directors must display reasonable care and that mere reliance on subordinates does not discharge the duty of oversight.

In discharging both duties, directors should be alive to the following legal and governance frameworks, each of which reinforces the expectation that nature-related risks should be incorporated into strategy and decision-making at board level.

- **Section 24 of the *Constitution and the Bill of Rights*** requires courts to promote the right to an environment that is not harmful to health or wellbeing, and to mandate prevention of pollution, promotion of conservation and ecologically sustainable development. Courts must take this into account when interpreting directors' duties. The Constitutional Court's decision in *Fuel Retailers Association of Southern Africa v Director-General: Environmental Management 2007 (6) SA 4 (CC)* required integration of environmental and socio-economic considerations in decision-making, holding that the obligation to consider environmental impact under section 24 is substantive, not merely procedural. Section 24, read with section 8(2) of the Constitution, provides a constitutional foundation for accountability when environmental harm results from failures of governance.
- **The *National Environmental Management Act 1998*** (*NEMA South Africa*)[134] imposes a broad statutory duty of care on directors to prevent, minimise and rectify significant pollution and environmental degradation. Critically, *NEMA South Africa* establishes joint and several strict liability[135] for directors for negative environmental impacts, regardless of intent or negligence. Regulators can issue directives against directors for breaches and hold them liable for remediation costs; directors can also face criminal liability for environmental offences committed by the company. A lender who steps into management of a borrower's operations in enforcing its security, whether through the exercise of rights under a security cession, the exercise of step in rights or rights under a direct agreement, may attract *NEMA South Africa* liability if that lender becomes a person who 'controls' the activity of the borrower.

134 In addition to NEMA South Africa, the National Environmental Management: Biodiversity Act 10 of 2004 (NEM:BA) may also be relevant. This statute governs biodiversity conservation, establishing the legal framework for the protection of threatened ecosystems and species. The National Water Act 36 of 1998 (NWA) governs water resource management in South Africa, imposing liability on persons, including juristic persons and their directors who own, control, occupy or use land where pollution or degradation of water resources occurs, and empowering authorities to issue directives for remediation. The Mineral and Petroleum Resources Development Act 28 of 2002 (MPRDA) imposes environmental management obligations on holders of mining rights, including financial provision for rehabilitation and closure. The MPRDA creates a framework under which directors can be held personally liable for non-compliance with environmental management obligations associated with mining operations.

135 Joint and several liability under NEMA South Africa ensures that all parties responsible for environmental harm can be held accountable, either collectively or individually. Accordingly, while a director is not automatically liable by virtue of a company being responsible for pollution, if a director had a connection to the pollution (for example involvement in the decisions that led to the pollution) such director may be jointly and severally liable together with the company. This principle supports the effective enforcement of environmental obligations and aligns with the duty of care provisions in NEMA South Africa.

- **King V,** which came into force for financial years commencing on or after 1 January 2026, is unambiguous in its assertion that contemporary governance concerns – including climate change biodiversity loss and water scarcity – must be incorporated across all governance domains as integral to organisational ethics, corporate citizenship, strategy, risk management and reporting. King V defines corporate governance as "*the exercise of ethical and effective leadership by the board towards the realisation of governance outcomes, including ethical culture, performance and value creation, conformance and prudential control, and legitimacy, within the company's economic, social and environmental context.*" Its Principle 3 requires the board to ensure that the company's purpose, strategy and business model support performance that creates sustainable value within this context. Principle 13 mandates a stakeholder-inclusive approach in the long-term best interests of the company. King V further introduces the concept of double materiality, requiring companies to report not only on sustainability matters that affect their finances, but also on their impact on the environment and society. Critically, King V operates on an "apply or explain" basis: while King V does not have direct legal force, South African courts have consistently drawn on its predecessors when interpreting directors' duties under the *SA Companies Act,*[136] and are likely to do so again with King V. A failure to apply its principles, or to explain adequately why they have not been applied, may therefore be treated as evidence of a governance shortfall in any subsequent assessment of whether directors have discharged their statutory duties.

The "Business Judgment Rule"

Unlike Kenya, South African law includes a statutory business judgment rule[137] that provides a codified safe harbour for directors exercising their decision-making. A director will be considered to have satisfied their duties of loyalty and care in respect of a particular matter if they::

- took reasonably diligent steps to become informed about it;[138]
- had no material personal financial interest in it;
- made or supported a decision with a rational basis for believing, and did believe, that it was in the best interests of the company;[139] and
- were entitled to rely on information, opinions or advice from employees, legal counsel, accountants or board committees that they reasonably believed to be reliable and competent.[140]

The focus of the rule is on the process of decision-making and the rationality of the belief at the time the decision was made, not on the outcome. A well-informed, good-faith decision that turns out to be commercially wrong will not generally give rise to liability. This rule encompasses both extraordinary and routine business decisions.[141]

In the context of nature-related risk, the statutory business judgment rule is a meaningful protection for directors who engage proactively to take reasonably diligent steps to understand their company's material nature-related dependencies and impacts, who seek independent expertise where the board lacks it, and who integrate nature-related considerations into their risk governance framework in good faith. The rule is not a shield for those who do none of these things. .

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136 South African courts have in the past used King predecessors as evidence of the applicable standard of governance, rather than treating non-compliance with the Code as, in itself, a breach of duty. King V does not have the force of legislation, and there is as yet no judicial consideration of its specific provisions.

137 Section 76(4) of the SA Companies Act

138 Visser Sitrus (Pty) Ltd v Goede Hoop Sitrus (Pty) Ltd and Others 2014 (5) SA 179 (WCC).

139 Section 76(4)(a)(iii) of the SA Companies Act

140 Section 76(4)(b), read with section 76(5), of the SA Companies Act

141 Hutchison (2014), Directors' Duty Of Care And Skill And the Introduction of the Business Judgment Rule: Answering the Critics *South African Company Law*

Two recent cases illustrate where the protection falls away.

- In *The Green Connection NPC and Natural Justice v Minister of Forestry, Fisheries and the Environment and Others* (Case No. 5676/2024, Western Cape High Court, 13 August 2025),[142] the court set aside TotalEnergies' environmental authorisation for offshore oil and gas exploration, finding that the EIA had failed to examine the full consequences of a major blowout or oil spill on coastal communities, had ignored coastal protection legislation and had omitted climate and cross-border impact considerations. The court confirmed that *NEMA South Africa's* risk-averse principle requires companies to err on the side of caution when material uncertainty exists. A board that approves a project on the basis of an EIA with these deficiencies is unlikely to demonstrate that it took reasonably diligent steps to become informed.
- In August 2024, the Advertising Regulatory Board[143] found that TotalEnergies' claim to be "committed to sustainable development and environmental protection" was misleading, given that its core business involved the ongoing exploitation of fossil fuels. A director who approves sustainability communications that misrepresent the company's actual environmental position is equally unlikely to satisfy the conditions of the rule. While the determination does not, of itself, establish liability under the *Consumer Protection Act 68 of 2008* (*CPA*), it demonstrates the possibility of a challenge under the prohibitions in the *CPA* against misleading representations.

By setting clear and demanding conditions for its protection, the rule actively encourages directors to build robust, substantive nature-related governance frameworks.

Implications for directors

The legal case for director accountability in relation to nature-related risks in South Africa is well-grounded in existing law and is strengthening. However, practical barriers to litigation remain — claimants face real difficulties in establishing causation and securing funding.

In *Minister of Water Affairs and Forestry v Stilfontein Gold Mining Co Ltd* 2006 (5) SA 333 (W), the court fined the directors of Stilfontein personally, holding them in contempt for failing to comply with a court order requiring the company to prevent pollution of valuable water resources. When the directors resigned from the board in an attempt to escape liability, the court held that they remained the directing minds of Stilfontein and were responsible for the company's failure. The court drew expressly on the King Committee's articulation of good corporate governance as requiring social responsibility, affirming that a good corporate citizen must be responsible with regard to environmental matters. While Stilfontein was decided under the predecessor *Companies Act 61 of 1973* its reasoning on the 'directing mind' doctrine and good corporate citizenship remains persuasive under the current statutory framework. Although personal liability arose from contempt of a court order rather than directly from a breach of fiduciary duty under the *SA Companies Act*, this case does demonstrate judicial willingness to pierce corporate structures and impose personal accountability upon directors for environmental harm. This reasoning is now reinforced by King V's Principle 2, which requires boards to govern corporate ethics and responsible citizenship, and by section 72(4) of the *SA Companies Act*, which requires certain companies to appoint a Social and Ethics Committee with express oversight responsibilities for environmental impacts. Stilfontein remains the clearest South African precedent for direct personal liability of directors for corporate environmental harm.

142 This decision is binding within the Western Cape Division of the High Court and carries persuasive, but non-binding authority in other divisions. The decision did not directly address directors' duties under the Companies Act. Its relevance to directors' governance obligations is accordingly inferential rather than a direct judicial holding.

143 The Advertising Regulatory Board (ARB) is a self-regulatory body whose rulings do not carry the force of law and do not create binding legal precedent. This decision however is a significant indicator of regulatory and reputational risk.

Three more recent cases demonstrate that South African courts continue to apply demanding standards of environmental accountability and are increasingly willing to scrutinise the substance of corporate environmental decision-making, not merely its procedural form.

- **In *African Climate Alliance and Others v Minister of Mineral Resources and Energy and Others* [2024] ZAGPPHC 1271** (4 December 2024) — the #CancelCoal case — the Gauteng High Court declared the government's decision to procure 1,500 megawatts of new coal-fired power unconstitutional, finding that decision-makers had failed to assess the impact on children's environmental and health rights under sections 24 and 28 of the Constitution. This was the first time a South African court framed a climate-related challenge in constitutional rather than administrative law terms, and the first time a court held that a decision's impact on the climate and on the rights of current and future generations required substantive constitutional justification. While the case was brought against the government, it has implications for corporate governance: as the same constitutional framework applies with equal force to company boards.
- **In *The Green Connection NPC and Natural Justice v Minister of Forestry, Fisheries and the Environment and Others*** (Case No. 5676/2024, Western Cape High Court, 13 August 2025), discussed above under the business judgment rule, the court set aside TotalEnergies' environmental authorisation for offshore drilling, finding that the EIA was substantively deficient. While this case did not directly address director's duties under the *SA Companies Act* its reasoning indicates that approving a project on the basis of an assessment that fails to examine material environmental consequences is unlikely to survive judicial scrutiny. The Advertising Regulatory Board ruling against TotalEnergies discussed above adds a further dimension: while not a determination carrying the force of law, it indicates that greenwashing claims may give rise to regulatory and reputational risk, and directors who approve sustainability communications that misrepresent the company's actual environmental position should be aware of potential exposure under the *Consumer Protection Act 68 of 2008*, notwithstanding that this remains an untested area of South African law.

The cases described above were brought against companies and regulatory bodies rather than against individual directors personally, and neither the #CancelCoal case nor the TotalEnergies drilling case concerned nature-related financial risk in the corporate governance sense that this paper addresses. That distinction matters as a statement of current law. But it does not diminish their significance for directors. The standards of substantive environmental due diligence that those courts demanded of decision-makers, namely rigorous impact assessment, meaningful consideration of constitutional rights, transparent and complete disclosure of environmental risks, reflect the standards that the *SA Companies Act*, *NEMA South Africa* and King V require directors to oversee and ensure are met. In particular, the constitutional framing adopted in the #CancelCoal case, which required substantive justification of a decision's impact on environmental and health rights under sections 24 and 28 of the *Constitution*, aligns directly with King V's insistence that governance must be exercised within the company's environmental context and with the section 7(2) obligation on courts to promote the rights in the Bill of Rights when interpreting any legislation, including the *SA Companies Act*.

As South Africa's mandatory sustainability disclosure regime under IFRS S1 and S2 takes effect, and as the South African Reserve Bank's nature-related stress testing programme raises market expectations of what boards are required to know, the evidential record of what directors knew and when will become materially more accessible. The gap between corporate liability for environmental harm and direct personal accountability at board level is likely to narrow as a result. Directors of companies exposed to material nature-related risks — particularly in mining, agriculture, water-intensive manufacturing and financial services — would be unwise to treat these cases as confined to their specific facts.

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South Africa's leadership

South Africa has already seen its financial sector undergoing nature-related risk stress tests (i.e. by the South African Reserve Bank) indicating a clear move towards integrating these risks into prudential oversight. This could be interpreted to create precedent and a higher expectation for directors in South Africa, given the indication by South African regulators that they expect the governing bodies of regulated entities to take nature-related risk into account in risk management, strategy and governance. South Africa's institutional infrastructure for nature data is also developing rapidly.

Furthermore, the South African National Biodiversity Institute (SANBI) participated in the TNFD's 2025 Nature Data Public Facility pilot programme and is actively working with Business Unity South Africa (BUSA) to better understand the biodiversity data needs of corporations and financial institutions in the context of nature-related disclosures. SANBI has indicated it will expand its existing data sharing platforms and co-develop new biodiversity indicator workflows to serve corporate and financial sector users. This means South African directors will increasingly have access to higher-quality, nationally specific nature data to support their disclosure obligations — and will face growing expectations to use it.

Directors' duties and nature-related risks in Nigeria

THE RELEVANCE OF NATURE TO THE NIGERIAN ECONOMY

Nigeria is one of Africa's most ecologically rich nations, encompassing four distinct ecological zones — coastal mangroves, tropical rainforests, savanna, and the Sahel — and is home to over 4,700 vascular plant species, more than 1,000 bird species, and a diverse array of mammals, amphibians, and reptiles.[144] This biodiversity is not merely a natural heritage asset; it is an economic foundation.

Agriculture alone engages approximately 35% of Nigeria's working population and constitutes a significant share of GDP, and it depends directly on productive soils, clean water, and predictable weather — all of which are sustained by functioning ecosystems.[145] Following Nigeria's GDP rebasing in 2025, agriculture, forestry, and fishing together account for approximately 27.8% of the economy[146] — a figure that underscores just how directly natural systems underpin national output. Nigeria's rural population is highly dependent on the country's varied forms of biodiversity, with approximately 70% of Nigerian households relying on biomass energy for domestic and commercial needs.[147] The disappearance of pollinators, wild crop relatives, and medicinal species would not only deepen poverty but also unravel vital safety nets for millions of Nigerians.

The mangrove forests of the Niger Delta — the largest in Africa — play a crucial role in supporting fisheries, agriculture, and biodiversity conservation. Yet these and other ecosystems face mounting pressure from oil pollution, deforestation, and infrastructure expansion. Nigeria's National Bureau of Statistics has recognised that natural capital accounting — a systematic approach to measuring and valuing the country's natural resources and the ecosystem services they provide — is essential to integrating nature's contributions into national economic planning and supporting low-carbon, climate-resilient development.[148]

With a population projected to reach 400 million by 2050, Nigeria's capacity to conserve and restore its land and seascapes will directly shape West Africa's environmental stability, food sovereignty, and long-term financial resilience. In this context, Nigeria's formal validation of its updated National Biodiversity Strategy and Action Plan (NBSAP) 2025–2030 — adopted as whole-of-government policy with 23 national targets aligned to the GBF — marks a significant shift in treating biodiversity as a governance priority, not merely a conservation concern.[149]

Spotlight: nature-related financial risks in the agriculture sector

Agriculture is a cornerstone of the Nigerian economy, employing over 35% of the labour force and contributing around 22% – 28% of GDP in recent years.[150] Over 80% of Nigerian farmers are smallholders who rely directly on natural resources for their subsistence and commercial crops.[151]

Figure 3 shows how nature-related financial risk might manifest in the agriculture sector.

144 Convention on Biological Diversity: Nigeria – Country Profile
145 Nwosu (2025), Environmental sustainability: A pathway to sustainable development in Nigeria
146 Africa Check (2025), Nigeria rebases its economy again – here's what sets it apart
147 TheCable (2024), Biodiversity in Nigeria: Challenges and opportunities
148 World Bank (2025), Nigeria's push for sustainable economic growth through natural capital accounting
149 Voice of Nigeria (2025), Nigeria validates National Biodiversity Strategy Action Plan
150 Nwankwo et al., (2024), Successive national agricultural policies/programmes, growth of gross domestic product (GDP) and expansion of agribusinesses in Nigeria
151 Chiaka et al., (2022), Smallholder Farmers Contribution to Food Production in Nigeria

Figure 3: Framework for identifying nature-related financial risks in the agriculture sector

(CISL, 2021)

Nature-related financial risks in the agriculture sector

A Type of risk	B Risk manifests as a result of...	C Examples of impact on companies	D Examples of resultant financial risk
Physical risk Ecosystem services at risk due to land use change, either in agricultural systems or due to other industries changing the landscape, the provision of water and/or the stability of soils.	**Water security degrading** deforestation disrupts local climate regulation and water supply **Food and other goods** provision degrading less genetic diversity of crops increases vulnerability to pests	**Stranded assets** Lower rainfall and increased vulnerability to pests threatens crop yields, reducing land value and compromising business viability	**Credit:** value of assets and collateral decline significantly if yields worsen chronically. Increases the probability of default and decreases recovery rate, therefore reducing the creditworthiness of the client. **Business:** If local rainfall cycle disrupted, this would impact the health of the entire industry in a region, reducing revenues available from clients in the value chain that in turn causes certain staff or service lines to become redundant. **Liquidity:** depth of regional commodities markets impacted if biodiversity tipping point, such as rainfall cycle disruptions, causes output to fall dramatically.
Transition risk In response to land degradation, such as...	**Policy and regulation** License to use land temporarily revoked as the result of new pollution regulation Introduction of biodiversity targets e.g. organic farming requirements.	**Disruption of activities or value chain** Temporary halt of activity results in cash burn **Adjustment or relocation of activities** Switching to different farming methods could mean additional up-front cost, placing strain on short term profitability. The less future-proofed the business the higher and more shocking the cost to change will be.	**Credit:** working capital allowance may not be great enough for short term cash needs, affecting the overall creditworthiness of the client. **Market:** risk to investments in pesticide value chain from ban on certain pesticides. **Business:** additional due diligence required by financial institutions to ensure that clients adhere to biodiversity targets. **Liquidity:** increased cost of debt refinancing If licence to operate temporarily withdrawn. **Business:** fine for financing a client that causes environmental damage.
Liability risk	**Litigation**	**Disruption of activities of value chain** Damages awarded to repair environmental damage, such as fertiliser run off impacting ground water supply.	

DIRECTORS' DUTIES AND NATURE UNDER NIGERIAN LAW

The main corporate governance legislation in Nigeria is the *Companies and Allied Matters Act 2020* (*CAMA*). *CAMA* consolidates and codifies directors' duties — many of which previously evolved through case law. Under section 269 of *CAMA*, a director includes any person duly appointed to direct and manage a company's business, encompassing executive and non-executive directors as well as de facto and shadow directors.

Under CAMA, directors in Nigeria hold two core duties:

1. **The duty to act in good faith and in the best interests of the company**.[152]
2. **The duty to exercise reasonable care, skill and diligence.**[153]

The duty to act in good faith and in the best interests of the company

This is Nigeria's most explicit codification of environmental responsibility in company law. Section 305(3) of *CAMA* requires a director to act as a faithful, diligent, careful and ordinarily skilful director would in the circumstances and, in doing so, to "*have regard to the impact of the company's operations on the environment in the community where it carries on business operations.*" Unlike some jurisdictions where environmental consideration is implied from broader duties, *CAMA* makes it an explicit, codified legal obligation — one to which shareholders, regulators and affected communities may make direct reference when holding directors accountable for environmental mismanagement. Directors are therefore legally expected to integrate nature-related and climate-related risks into their company's strategy and risk management, and a director who gives no consideration whatsoever to those risks may be assessed against an even more demanding, objective standard.

A number of other legal and policy instruments reinforce the foreseeability and materiality of nature-related risks under Nigerian law, and are directly relevant to how a court would assess the adequacy of a director's engagement with those risks.

- **The 1999 Constitution** mandates the State to protect and improve the nation's air, land, water, forests and wildlife.
- **The Nigerian Code of Corporate Governance 2018** requires boards to consider environmental risks as part of their governance responsibilities.
- **The *Climate Change Act 2021*** sets a framework for low-emissions development and imposes obligations on companies with 50 or more employees to designate climate officers and submit annual reports on climate adaptation and emissions reduction.
- **The *Petroleum Industry Act 2021*** introduces environmental, social and governance obligations for operators in the oil and gas sector, requiring boards to integrate environmental risk considerations into capital allocation, product design and community engagement decisions.
- **The *NESREA Act* empowers the National Environmental Standards and Regulations Enforcement Agency** to enforce environmental standards across sectors, with non-compliance foreseeably leading to fines, penalties and operational disruptions.
- **The *Environmental Impact Assessment Act*** requires directors overseeing major projects to ensure that comprehensive assessments are conducted and their findings integrated into board decision-making.
- **Nigeria's National Biodiversity Strategy and Action Plan 2025–2030 (NBSAP),** while not binding, sets national targets for biodiversity conservation and identifies the specific risks and focus areas that boards should use to anchor their biodiversity governance strategies.

A failure by directors to engage with material risks identified in these instruments could call their oversight squarely into question.

152 Section 305(1) CAMA 2020
153 Section 305(3) CAMA 2020

The duty to exercise reasonable care, skill and diligence

This duty governs the standard to which directors will be held in discharging their responsibilities. Section 308 of *CAMA* applies both an objective element — the degree of care, skill and diligence that may reasonably be expected of a person carrying out the functions of that director — and a subjective element: directors with specific expertise relevant to the company’s operations or risks are expected to apply it. Given the extent to which nature underpins the Nigerian economy, any director exercising reasonable diligence may be expected to be alert to the material nature-related risks relevant to their sector. The standard is not fixed: it will rise as awareness, data quality and reporting frameworks develop.

In practice, a director of an oil and gas company should be acutely aware of the risks posed by oil spills and gas flaring to local ecosystems, and of the cascading damage to agriculture, fisheries and drinking water — particularly given that courts have confirmed that companies can be held liable for legacy pollution across multiple incidents and many years. A director of a logistics or infrastructure company should be assessing the foreseeable impacts of extreme weather events on supply chains and operational continuity. A director with specialist environmental expertise is expected to apply it; a board that lacks that expertise altogether is expected to seek it, through independent professional advice, specialist biodiversity or climate risk assessments, or engagement with qualified external advisers. Delegating these matters to management without adequate board-level oversight will not discharge the duty.

The “Business Judgment Rule”

The Nigerian law does not expressly recognize the Business Judgment Rule. While directors may enjoy a degree of judicial deference when making business decisions, there is however no express statutory codification of the Business Judgment Rule in *CAMA*.

Nigerian law instead relies primarily on directors’ fiduciary duties and the duty of care, skill, and diligence. Accordingly, the courts and *CAMA* afford directors a measure of protection where decisions are made in good faith, for proper purposes, and with reasonable care and diligence.

Nevertheless, the courts will readily impose liability for breach of fiduciary duty, abuse of power, or negligence, self-dealing, or failure to exercise due care. These breaches of duty expose directors to personal liability to the company for losses and *CAMA* provides that no provision in the articles or any contract can exempt a director from liability for breach of these duties.

This position is reflected in Yalaju-Amaye v AREC Ltd[154], Longe v FBN Plc[155], and is now codified in sections 305–309 of *CAMA*.

154 *(1990) 4 NWLR (Pt. 145) 422; (1990) LPELR-3511(SC)*
155 (2010) 6 NWLR (Pt. 1189) 1; LPELR-1793(SC)

Implications for directors

The legal case for director accountability in relation to nature-related risks in Nigeria is grounded in *CAMA*. However, the legal landscape around nature-related risks is still developing. Practical barriers remain significant — claimants face real difficulties in establishing causation across multiple pollution incidents, gathering sufficient evidence and securing litigation funding — and there is not yet an established body of Nigerian case law specifically addressing director liability for biodiversity loss.

Three developments since 2024 illustrate a trajectory towards greater accountability.

- In litigation by the Bille and Ogale communities of the Niger Delta, the UK Court of Appeal ruled in October 2024 that communities affected by multiple, repeated incidents of oil pollution are not required to link each individual spill to each specific item of damage before the case can proceed to trial — a ruling that significantly reduces the evidentiary threshold for bringing complex environmental claims.[156]
- The UK High Court's preliminary issues ruling in *Alame & Others v Shell Plc* [2025] EWHC 1539 (KB), handed down in June 2025, confirmed that Shell plc as parent company can be held liable alongside its former Nigerian subsidiary for legacy oil pollution, and noted that environmental destruction on this scale may constitute a violation of human rights — a matter the court indicated should ultimately be resolved by Nigerian courts. The full trial is listed for March 2027.[157]
- In May 2025, the Federal High Court in Lagos ordered the Nigerian government to release detailed records on gas flaring by oil and gas companies — including the names of all companies involved, volumes flared, and penalties due and paid — holding that this was information of clear public interest that could not lawfully be withheld.[158]

As the expectation is for environmental data about corporate operations becomes compulsorily disclosed and publicly available, the evidential basis for holding companies and their boards accountable for foreseeable environmental harm will strengthen materially. The Human and Environmental Development Agenda Resource Centre (HEDA) has separately filed a 2025 suit challenging the legality of the transfer of oil mining licence assets from international oil companies to Nigerian entities for alleged non-compliance with the *Petroleum Industry Act 2021* and associated environmental regulations — a case that will test whether remediation and regulatory compliance obligations travel with asset transfers. Together, these developments signal a Nigerian judicial and civil society environment in which corporate environmental accountability is being actively pursued and the practical obstacles to litigation are being progressively reduced.[159]

While these cases were brought against companies rather than individual directors personally, and the Shell litigation is proceeding in English rather than Nigerian courts, they remain significant. As Nigeria's mandatory IFRS S1 and S2 adoption for public interest entities from 2028 increases the transparency of what boards knew and when, the gap between corporate liability for environmental harm and direct personal liability for the directors who governed those decisions will narrow. Breach of duty under *CAMA* can lead to civil liability for losses incurred by the company, removal from the board, disqualification from holding directorships for up to ten years, and potential regulatory sanctions.[160] Directors who govern companies exposed to material nature-related risks in Nigeria — particularly in oil and gas, agriculture and financial services — would be unwise to treat these cases as concerning someone else.

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156 Alame & 4 Ors v Shell Plc & Anor [2024] EWCA Civ 1500. Matrix Chambers (2024) Court of Appeal judgment in major group litigation concerning oil pollution in the Niger Delta - Matrix Chambers.

157 Amnesty International (2025). Global: Nigerian residents take Shell to UK High court following 10-year fight for justice - Amnesty International

158 The Guardian (2025). Court compels FG to release gas flaring data

159 Setzer and Higham (2025), Global Trends in Climate Change Litigation: 2025 Snapshot

160 Pavestones Legal, 2025; Pinheiro LP, n.d.

Nature-related financial disclosures

OVERVIEW OF THE DISCLOSURE REGIME IN AFRICA

International pressure (from standards such as ISSB, initiatives including TNFD, consumer preferences and associated regulations, and investors), regional initiatives and national regulatory developments are driving the rapid evolution of the nature-related disclosure regime across Africa. As biodiversity loss, water scarcity, land degradation and pollution continue to pose substantial and growing financial risks to businesses and economies on the continent, the direction of travel is clear: mandatory nature-related disclosure requirements are expanding, and the window for voluntary preparation is narrowing.

However, key challenges continue to exist, including data availability and quality, harmonisation of national regulations with international frameworks, and capacity building. These practical implementation challenges are not unique to Africa, but they are particularly acute on the continent. In November 2025, the TNFD published its "Recommendations for Upgrading the Nature Data Value Chain for Market Participants", which identified that 61% of nature data providers globally do not use formal metadata standards, that the nature data value chain remains highly fragmented and expensive to navigate, and that SMEs face disproportionate costs in accessing the state-of-nature data needed for disclosure. Critically, the TNFD's proposed Nature Data Public Facility (NDPF) — designed to provide open, free access to core state-of-nature data for SMEs and smaller organisations — is intended to begin operations around 2027 onwards, subject to funding. If established, this would substantially reduce one of the key barriers currently preventing African companies from engaging meaningfully with TNFD-aligned reporting. Directors should monitor and, where possible, engage with developments in this space.

The TNFD is playing a pivotal role in accelerating the adoption of nature-related disclosures on the continent. While the TNFD itself is a voluntary, market-led initiative, its influence is significant due to its structured approach, its alignment with other global standards, and its dedicated efforts to build capacity and engage with stakeholders across different geographies. In Africa, the TNFD is working closely with FSD Africa and the African Natural Capital Alliance (ANCA) to advance coordinated action and amplify Africa's voice in global nature finance discussions. Through the TNFD Africa programme, FSD Africa has supported 23 leading financial institutions on their nature-related risk and disclosure journey. To date, six institutions have become formal TNFD adopters, while a further 14 are actively integrating nature and biodiversity-related risks and opportunities into their governance, strategy and decision-making. Importantly, these efforts are already translating into action, with participating institutions mobilising more than £400 million in nature finance in less than two years.[161]

Seven African countries are currently actively engaged with the TNFD framework for integration into national reporting requirements: South Africa, Kenya, Nigeria, Mauritius, Namibia, Rwanda and Botswana. Further countries — including Ghana, Egypt, Morocco, Uganda and Tanzania — are in the process of adopting the framework.[162] Nigeria, Kenya, South Africa and Rwanda have each implemented legislation and developed roadmaps for ISSB standards adoption.

161 TNFD Adopters Global Registry
162 TNFD 2025 Status Report

In April 2026, the ISSB decided to advance nature-related disclosures through an IFRS Practice Statement rather than a standalone standard, with an exposure draft targeted for COP17 in October 2026. While some sustainability leaders, scientists and civil society organisations expressed disappointment that the ISSB did not proceed directly to a mandatory standard, the decision keeps nature firmly within the ISSB architecture: the Practice Statement will draw on the TNFD framework, and applying it will have the full effect of an ISSB Standard. For directors in African common law jurisdictions, little turns on the change of instrument. The duties of care and loyalty analysed in this paper are grounded in existing domestic corporate law and are not contingent on ISSB action. Moreover, on the ISSB's own position, IFRS S1 already requires disclosure of material nature-related information, so boards in jurisdictions that have adopted ISSB standards must already be assessing and disclosing material nature-related risks. Voluntary TNFD alignment therefore remains the most important preparatory step, and the most credible signal to investors and regulators of governance intent.

International frameworks and investor pressure are also driving the trend towards increased disclosure on nature-related issues in Africa. For example, the EUDR — delayed by one year following the formal adoption of Regulation (EU) 2025/2650 in December 2025, with full enforcement now applying from 30 December 2026 for large and medium operators — continues to impose significant disclosure and due diligence obligations on operators and traders that place commodities including cocoa and coffee on the European market. A European Commission simplification review is required by 30 April 2026 and may result in further legislative changes. Evolving international investor frameworks indicate a growing appetite by international investors to manage nature risk.[163]

NATURE-RELATED DISCLOSURES IN KENYA

Kenya's disclosure landscape for nature-related and sustainability matters is shaped by a combination of statutory requirements, regulatory guidelines and voluntary best practices, with a clear and accelerating trend towards mandatory ESG reporting. The influence of international standards and frameworks - including IFRS S1 and S2, the TNFD framework and GRI - is increasingly evident, driving Kenyan companies towards globally comparable and decision-useful sustainability disclosures. The Nairobi Securities Exchange's ESG Disclosures Guidance Manual, issued in November 2021 and developed in collaboration with the GRI, requires listed companies to report publicly on their ESG performance at least annually as part of their integrated annual reports, following a one-year transition period that ended in November 2022.[164] The Manual also places responsibility for ESG oversight squarely with boards and senior management, reinforcing the governance dimension of disclosure. Building on this, the Institute of Certified Public Accountants of Kenya (ICPAK) has committed to mandatory adoption of IFRS S1 and S2 for all Public Interest Entities from 1 January 2027, with a voluntary adoption phase running from 2024.[165] Kenya's corporate sector is therefore now in a focused compliance preparation window: directors of listed and public-interest companies should be actively building the governance and data infrastructure that these standards will require.

While there is no standalone legislation mandating comprehensive sustainability reporting for all companies, binding obligations arise under a range of legal and regulatory frameworks. The principal sources are set out below.

- Under the *Kenyan Companies Act***,** directors must promote the success of the company (Section 143) — which expressly requires them to have regard to the impact of the company's operations on the community and the environment — and exercise reasonable care, skill and diligence (Section 145). Section 655 imposes specific reporting obligations on quoted companies, including mandatory disclosure of environmental impacts, material non-financial risks and key performance indicators in the annual business review. Failure to comply constitutes a criminal offence carrying a fine of up to KES 1 million or imprisonment of up to five years per director in default. These are not aspirational obligations — they carry personal liability.

163 CCLI/Rachel Crossley

164 Nairobi Securities Exchange, ESG Disclosures Guidance Manual (November 2021), available at https://www.nse.co.ke/wp-content/uploads/NSE-ESG-Disclosures-Guidance-Manual.pdf

165 Sustainability Roadmap - ICPAK

- Sections 58 and 68 of the ***Environmental Management and Co-ordination Act (EMCA) No. 8 of 1999*** require companies to conduct Environmental Impact Assessments (EIAs) and submit periodic environmental audit reports to the National Environment Management Authority for projects with significant environmental impacts. Directors bear personal responsibility for ensuring compliance with these requirements, which include mandatory disclosure of environmental risks and the mitigation measures being applied. *EMCA's* broad definition of "environment" — which encompasses biodiversity, ecosystems and the services they provide — means that these obligations extend to nature-related risks and impacts.
- For publicly listed companies, the **Capital Markets Authority (CMA) Code of Corporate Governance Practices for Issuers of Securities to the Public (2015)** requires boards to integrate ESG considerations into governance and to disclose material ESG risks in annual reports. The **Nairobi Securities Exchange (NSE) ESG Disclosures Guidance Manual (2021)** provides a voluntary sustainability reporting framework for listed companies, aligned with TCFD and TNFD, emphasising transparency on environmental and social impacts. The NSE publishes the names of compliant companies, creating a meaningful reputational incentive for adoption.
- Kenya's participation in global frameworks — including the **Convention on Biological Diversity (CBD)** and its **National Biodiversity Strategy and Action Plan (NBSAP)** — creates growing regulatory and market expectations for companies to disclose biodiversity and nature-related impacts, particularly in sectors such as agriculture, tourism, manufacturing and financial services. These frameworks strengthen the political and policy context in which Kenya's domestic disclosure requirements will continue to develop.

While comprehensive sustainability reporting is not yet mandatory across every sector in Kenya, directors of quoted companies and those operating in environmentally sensitive industries are already subject to binding disclosure obligations — with real personal liability consequences for non-compliance. The direction of regulatory travel is firmly towards greater mandatory requirements, and the window for voluntary preparation is narrowing. Directors should treat the current period as an active compliance preparation phase, not a waiting period.

In April 2025, the Central Bank of Kenya released the Kenya Green Finance Taxonomy (KGFT) and the Climate Risk Disclosure Framework (CRDF) for implementation by the banking sector.[166] These documents lay the groundwork for a more comprehensive approach to environmental risk management across Kenya's financial sector. While currently focused on climate, their design — particularly the "Do No Significant Harm"[167] principle — already encompasses nature-related considerations, and the CBK's explicit commitment to expand coverage in future updates signals a clear trajectory towards integrating nature-related risks in line with the TNFD framework. Kenya's approach reflects a wider continental trend: Ghana's Bank of Ghana issued a Climate-Related Financial Risk Directive in November 2024 (effective from 1 January 2026), and similar moves are underway across multiple African jurisdictions. The CBK press release expressly confirmed:[168]

"Other environmental objectives, such as biodiversity and related objectives, will be considered in future updates."

Key nature-related disclosure obligations in Kenya are set out at **Annex 3**

166 Central Bank of Kenya (2025), Kenya Green Finance Taxonomy & Climate Risk Disclosure Framework

167 The "Do No Significant Harm" (DNSH) principle is a structural legal and regulatory standard built into sustainable finance taxonomies to prevent greenwashing and ensure that progress in one environmental area does not come at the expense of another.

168 Central Bank of Kenya (2025), Public Notice: Issuance of the Kenya Green Finance Taxonomy and Climate Risk Disclosure Framework for the Banking Sector; Bowmans (2024), The Kenya Green Finance Taxonomy

NATURE-RELATED DISCLOSURES IN SOUTH AFRICA

South Africa has a progressive and rapidly evolving disclosure regime for nature-related issues. It is driven by a combination of strong corporate governance principles — in particular King V's requirement for integrated reporting and double materiality — binding environmental legislation, and growing alignment with international sustainability reporting standards. While certain elements remain voluntary, the trajectory is clearly towards greater mandatory requirements — particularly for larger and listed entities. These obligations arise from a range of sources, set out below.

King V's Principle 4 requires that external reports enable stakeholders to make informed assessments of how the company creates, preserves and erodes value within its economic, social and environmental context — a requirement that, for companies exposed to material nature-related risks, demands substantive engagement with those risks in disclosure.

The South African Companies and Intellectual Property Commission (CIPC), in collaboration with the Department of Trade, Industry and Competition, is currently developing a mandatory sustainability-related disclosure framework under section 188(1) and (3) of the *SA Companies Act*, aligned with IFRS S1 and IFRS S2, which will apply to a broader range of companies. The CIPC is currently requesting market feedback on sustainability reporting sentiment, practices and current application in order to prepare for the implementation of such a framework. The Financial Sector Conduct Authority (FSCA) has also published its intention to support the embedding of IFRS S1 and S2 across the financial sector.

A further source of mandatory sustainability reporting already in effect under the *SA Companies Act* is the requirement that certain companies — public companies, state-owned companies and other companies meeting a minimum public interest score — must establish a Social and Ethics Committee (SEC). The SEC is responsible for overseeing and ensuring the company's adherence to ethical standards and social responsibilities, including those relating to the environment, health and public safety. Under Regulation 43(5) of the Companies Regulations, the SEC must fulfil monitoring and reporting functions relating to the impact of the company's activities, products and services on the environment — a requirement that encompasses nature-related impacts and disclosures. King V reinforces the SEC's role through its Principle 2 (ethical culture and responsible corporate citizenship) and Principle 6 (effective delegation to committees), and recommends that the SEC's mandate expressly encompass the company's environmental stewardship and its impact on natural capital and biodiversity.

South Africa's Green Finance Taxonomy 2022 aligns with international best practices, and particularly the EU's Sustainable Finance Taxonomy (the EU Taxonomy), to provide a standard methodology for classifying, labelling and reporting on 'green' investments in the South African context, namely investments that have environmental benefits. The South African taxonomies identify six environmental objectives. To be taxonomy-aligned, eligible activities must: i) make a substantial contribution to one of the six environmental objectives, ii) must meet technical criteria for the selected activities, iii) may not do significant harm to any of the other environmental objectives, and iv) must adhere to social safeguards. South Africa's Green Finance Taxonomy has so far only identified activities under the first two environmental objectives, which are climate change mitigation and climate change adaptation. The Green Finance Taxonomy is voluntary and no implementation or disclosure regulations have been put in place. However, the National Treasury is looking to the Reserve Bank and Financial Sector Conduct Authority (FSCA) to develop plans for implementation.[169]

In line with the National Treasury's encouragement, the FSCA has conducted research into the development and implementation of climate disclosure requirements for financial entities, including large listed corporations. Its research concluded that, while several listed entities already provide disclosure aligned with TCFD and IFRS S2, mandatory requirements will ultimately be necessary to improve overall levels of disclosure and to provide certainty on corporate sustainability disclosure obligations across the financial sector. The FSCA has acknowledged the risk of gaps and duplication where different authorities implement their own disclosure requirements in isolation, and has accordingly committed to working closely with the Prudential Authority and the Department of Trade and Industry to develop a coherent, cross-sector disclosure framework.

169 South African Green Finance Taxonomy (2022); CCLI Directors' Duties Navigator: Climate Risk and Sustainability Disclosures (2024)

This coordination is particularly significant given that the Prudential Authority has published its own Guidance Notice on climate-related disclosure, specifically targeting banks and insurers. The FSCA has most recently indicated to the market in its 2026 Sustainable Finance Update that it intends to, in the short-term, support the incorporation of ISSB-aligned, climate-first disclosure expectations into listing requirements as an interim measure. The FSCA intends to form a practical bridge, supporting immediate progress in market transparency and comparability while the National ISSB Adoption Roadmap for South Africa is operationalised and the broader sustainability disclosure framework evolves.

Although currently voluntary, the Johannesburg Stock Exchange's Sustainability Disclosure Guidance is one of the most practically significant tools for sustainability disclosure by listed companies in South Africa. It sets out clear environmental disclosure metrics across climate change and energy, water use, pollution and waste, biodiversity and land use, with the aim of enabling more consistent and comparable sustainability reporting and, in turn, better-informed investment decision-making.

Key disclosure requirements that directors and companies in South Africa should be aware of are set out at **Annex 3**

NATURE-RELATED DISCLOSURES IN NIGERIA

Nigeria's disclosure framework for nature-related and sustainability matters is shaped by an increasingly robust body of legislation, regulatory guidance and international standards. Nigeria stands out among African jurisdictions for the pace of its formal adoption of international sustainability disclosure frameworks: it was the first African country to adopt the IFRS sustainability standards and has published a clear roadmap towards mandatory reporting for public interest entities. While comprehensive nature-related disclosure is still developing, the cumulative effect of the instruments described below is already substantial — and the direction of travel is firmly towards greater mandatory requirements.

The principal disclosure frameworks applicable to directors are set out in Table 3. Of particular note is Nigeria's position as the first African country to formally adopt the IFRS sustainability disclosure standards, the key features of which are summarised below.

IFRS Sustainability Disclosure Standards (IFRS S1 & S2): Nigeria adopted these standards in June 2023, effective for reporting periods beginning on or after 1 January 2024, becoming the first country in Africa to do so. Under IFRS S1 and S2, directors must disclose how they oversee and monitor sustainability-related risks and opportunities that are financially material — including an explanation of how that oversight is embedded in company policy and governance structures. This means directors need to be able to assess and articulate how financially material sustainability risks and opportunities, including nature-related ones, are expected to affect the company's strategy, cash flows and prospects across short, medium and long-term horizons. Nigeria has published a phased implementation roadmap: voluntary compliance applies from 2024 to 2027, with mandatory adoption for public interest entities (excluding government organisations) from 2028.[170] Directors of public interest entities should be in active preparation now.

Key disclosure requirements applicable to directors and companies in Nigeria are set out at **Annex 3**

170 The Economic Times (2025). FRC Unveils Phased Roadmap for Sustainability Disclosure Standards in Nigeria | The Economic Times

Conclusion

The analysis set out in this paper supports a number of conclusions that are relevant to company directors in Africa. These conclusions draw on the jurisdictional spotlights for Kenya, South Africa and Nigeria, the examination of nature-related risks and their effects on companies, and the legal opinions on directors' duties and nature-related risks published to date. While the legal position in each jurisdiction is necessarily fact-specific, and directors should seek independent advice in respect of their particular circumstances, the following general observations are well-supported by the analysis.

NATURE-RELATED RISKS ARE FORESEEABLE AND, IN MANY CASES, MATERIAL TO COMPANIES OPERATING IN AFRICA

An estimated 62% of African GDP is moderately or highly dependent on the services that nature provides. The IPBES Business and Biodiversity Assessment (2026) confirms that biodiversity loss is a present-day financial reality, and that this dependence is material and measurable across the continent's core economic sectors. A 2024 nature stress test across five African banking systems found that cumulative expected credit losses could rise by up to 21% by 2050 in the absence of nature-positive action. Physical risks, including those arising from soil degradation, water scarcity, and the loss of pollination services, are already affecting core sectors across the continent. These risks manifest across multiple dimensions: physical disruption to operations and supply chains; transition risks arising from changing regulation, investor expectations, and export compliance requirements such as the EUDR; liability risks from litigation and greenwashing claims; and systemic risks arising from cascading ecosystem breakdown.

The extent to which any particular nature-related risk is material will be company- and sector-specific. However, given African economies' structural dependence on natural capital, many African companies are likely to face nature-related risks across at least one of these categories with greater speed and severity than businesses in markets less structurally reliant on natural capital. Where that is the case, those risks fall within the scope of the directors' duty of care and the duty to promote the success of the company.

EXISTING DIRECTORS' DUTIES IN KENYA, SOUTH AFRICA AND NIGERIA ALREADY ENGAGE NATURE-RELATED RISKS

In each of the three jurisdictions examined, the core duties owed by directors — the duty to promote the success of the company and the duty to exercise reasonable care, skill and diligence — are capable of encompassing nature-related risks where those risks are foreseeable and material. New legislation is not required to bring nature-related risks within the scope of these duties. The duties, as they stand, are sufficiently broad.

In Kenya and Nigeria, the statutory formulation of the duty of loyalty expressly requires directors to have regard to the impact of company operations on the community and the environment, bringing nature-related considerations squarely within the scope of that duty. In South Africa, the duty to act in good faith and in the best interests of the company, read alongside *NEMA*, the constitutional right to an environment not harmful to health or wellbeing, and the requirements of King V, supports a similar conclusion. Nigeria goes furthest in explicit codification: Section 305(3) of *CAMA* imposes a non-discretionary obligation on directors to have regard to environmental impact, rather than leaving it as a matter for the exercise of judgment.

Many African countries, including South Africa, Kenya, Nigeria, Uganda and Zimbabwe, have legal systems that are either directly based on or heavily influenced by English common law, meaning that company law principles — including directors' duties — share substantial similarities with those in the UK *Companies Act 2006*. Five legal opinions published since 2023, in New Zealand, Australia, England and Wales, Canada, and the Philippines, have reached consistent conclusions on this point in their respective jurisdictions. Those opinions do not create new law; they confirm that nature-related risks fall within the scope of existing duties and should be treated as any other category of foreseeable and material financial risk. An authoritative legal opinion from a jurisdiction such as the UK clarifying the application of directors' duties to nature-related risks can therefore be highly persuasive in African courts; while not strictly binding, such opinions may be cited by courts when interpreting analogous local company law provisions. The reasoning in the Canadian opinion (Resilient LLP, 2025) is of particular relevance: it concludes that directors who have no governance process in place to identify and oversee material nature-related risks are unlikely to benefit from the discretion afforded by the business judgment rule, and that the duty of care may extend to the interests of Indigenous and local community rightsholders — a principle that resonates directly in African jurisdictions where constitutional protections for community rights to land and to a clean environment form part of the legal framework.

THE DISCLOSURE AND REGULATORY LANDSCAPE IS EVOLVING, AND THE DIRECTION OF TRAVEL IS TOWARD GREATER MANDATORY REQUIREMENTS

The disclosure framework for nature-related financial risks is developing at pace. Seven African countries are actively engaged with the TNFD framework. Nigeria has adopted IFRS S1 and S2, with mandatory application for public interest entities from 2028; Kenya's ICPAK has committed to mandatory adoption for public interest entities from 2027; and South Africa's CIPC, FSCA and Prudential Authority are each developing aligned mandatory frameworks. While the ISSB's April 2026 decision to develop a non-mandatory Practice Statement on nature rather than a standalone standard represents a more cautious approach than had been anticipated, the ISSB has confirmed that IFRS S1 already requires disclosure of material nature-related information, meaning that existing adopters are not released from the obligation to assess and disclose material nature-related risks. Voluntary TNFD alignment remains the most important preparatory step and the most credible signal to investors and regulators of governance intent.

The growing number of climate- and environment-related cases brought against companies and directors on the continent — including proceedings involving Shell in Nigeria, TotalEnergies in South Africa, and the EACOP pipeline across East Africa — indicates an increasing willingness to use litigation as a mechanism for holding boards to account for environmental harm. As mandatory reporting obligations take effect and the evidential basis for such claims strengthens, the risk of analogous litigation relating specifically to nature and biodiversity is likely to increase.

NATURE-RELATED CONSIDERATIONS GIVE RISE TO OPPORTUNITIES AS WELL AS RISKS

The analysis in this paper is not limited to risk. Africa's natural capital — its forests, wetlands, savannahs, coastlines and biodiversity — represents a significant and growing opportunity set. Carbon and biodiversity markets, sustainable agriculture, nature-based infrastructure, and other nature-positive financing instruments are creating new pathways to investment. The examples of the Ecobank Nature Bond and RMB's Cape Water Performance-Based Bond illustrate how nature-related value can be intermediated through capital markets in ways that generate commercial returns alongside positive ecological outcomes. Directors who identify and actively manage nature-related opportunities, as well as risks, are likely to be better positioned to fulfil their duty to promote the long-term success of their companies, to access capital on favourable terms, and to maintain the social licence to operate in communities directly dependent on functioning ecosystems.

THE PRACTICAL STEPS AVAILABLE TO DIRECTORS

The legal landscape surrounding director liability for mismanagement of nature-related risks is still developing, both globally and in Africa. Established case law on this specific question remains limited in the three jurisdictions examined, and structural barriers — including the challenges of establishing causation, securing litigation funding, and meeting standing requirements — mean that a breach of duty will not in every case result in personal liability for a director. Nonetheless, the increasing foreseeability and materiality of these risks — combined with regulatory trends, the growing body of persuasive international legal opinion, and Africa's structural dependence on nature — means that proactively identifying and managing nature-related risks that are foreseeable and material to the company's short, medium and long-term value is becoming an expectation of markets, investors and regulators, and not merely a matter of best practice. The analysis in this paper suggests that the following steps are both prudent as a matter of good governance and supportable as a basis for demonstrating compliance with the duties of care and loyalty:

- understand how and where the business depends on and impacts nature;
- ensure that the board has access to the knowledge and expertise needed to assess material nature-related risks, and seek independent professional advice where that expertise is absent;
- integrate nature-related considerations into strategic planning, risk management and capital allocation decisions; and
- engage with the evolving disclosure frameworks that increasingly formalise these expectations.

These steps reflect the approach that, on the analysis presented in this paper, a diligent director in Kenya, South Africa or Nigeria would be expected to adopt in respect of material nature-related risks. They are also consistent with the minimum standards identified in the Canadian legal opinion as necessary to engage the protection of the business judgment rule. Directors who can demonstrate that they have taken these steps on an informed and good-faith basis are more likely to be able to show that they have discharged their legal duties. Those who have no governance process in place to consider nature-related risks, and who have not sought to identify whether such risks are material to their companies, are less likely to do so.

Key questions for directors

All businesses in Africa depend, directly or indirectly, on nature. With significant evidence to show that nature-related risks are foreseeable and financially material to business in Africa, this paper recommends that directors on the continent consider the following questions to carry out their legal duties. These questions are in line with TNFD's "Asking Better Questions on nature; for board directors", which was released in May 2025.

1. **How and where does our business depend and impact on nature?**
2. **How do our dependencies and impacts on nature give rise to potential financial and non-financial risks?**
3. **How do our dependencies and impacts on nature generate potential opportunities for the organisation?**
4. **What is the interplay between our nature and climate-related dependencies, impacts, risks and opportunities?**
5. **How are we assessing and measuring our potential material nature-related dependencies, impacts, risks and opportunities?**
6. **How are we engaging with our value chain and Indigenous Peoples, Local Communities, affected and other stakeholders to understand their views with respect to our nature-related issues?**
7. **How does management integrate nature into short- and long-term decision-making?**
8. **How do we expect our understanding of nature-related issues to change over time in our sector and in the markets and locations in which we operate?**
9. **Are we up to date with shifting regulatory developments, both voluntary and mandatory, industry standards and investor expectations across the jurisdictions in which we operate?**
10. **Does the board and senior management team have the requisite skills and experience to adequately manage the organisation's nature-related issues?**
11. **Are the organisation's skills and capabilities on nature-related issues, including assessment and learning, being institutionalised in the long term?**
12. **Are we confident that we are fulfilling our legal duties in relation to nature across the jurisdictions in which we operate? What evidence do we have that we are doing this?**

ANNEX 1: List of key definitions

NATURE-RELATED RISKS AND OPPORTUNITIES

Nature-related risks[171]	Potential threats (effects of uncertainty) posed to an organisation that arise from its and wider society's dependencies and impacts on nature. Nature-related risks encompass but are broader than climate-related risks.[172]
Nature-related opportunities	Activities that create positive impacts on nature or mitigate negative impacts on nature. Nature-related opportunities are generated through nature-related impacts and dependencies and can occur: • when organisations avoid, reduce, mitigate or manage nature-related risks; or • through the strategic transformation of business models, products, services, markets and investments that actively work to reverse the loss of nature, including by restoration, regeneration of nature and implementation of nature-based solutions.[173]

Nature-related risks can be broken down into four risk categories:

Nature-related physical risk	Risks resulting from the degradation of nature (such as changes in ecosystem equilibria, including soil quality and species composition) and consequential loss of ecosystem services that economic activity depends upon. These risks can be chronic (e.g. a gradual decline of species diversity of pollinators resulting in reduced crop yields, or water scarcity) or acute (e.g. natural disasters or forest spills). Nature-related physical risks arise as a result of changes in the biotic (living) and abiotic (non-living) conditions that support healthy, functioning ecosystems. These risks are usually location-specific.

171 All definitions from TNFD Glossary v4.0 (2026)
172 Shivji and Stubbs (2024), Nature-related risks and directors' duties under the law of England and Wales;
173 TNFD Glossary, p.49

Nature-related systemic risk	Risks arising from the breakdown of the entire system rather than the failure of individual parts. Nature-related systemic risks are characterised by modest tipping points combining indirectly to produce large failures and cascading interactions of physical and transition risks. One loss triggers a chain of others and stops systems from recovering their equilibrium after a shock.
Nature-related transition risk	Risks to an organisation that stem from a misalignment of economic actors with actions aimed at protecting, restoring and/or reducing negative impacts on nature. These risks can be prompted, for example, by changes in regulation and policy, legal precedent, technology, or investor sentiment and consumer preferences. They can also arise from activities aimed at restoring nature that no longer align with, for example, revised policies.
Liability risk	Risks that arise directly or indirectly from legal claims. As laws, regulations and case law related to an organisation's preparedness for nature action evolves, the incident or probability of contingent liabilities arising from an organisation may increase.

NATURE-RELATED DEPENDENCIES AND IMPACTS

Companies are exposed to nature-related risks via their dependencies and impacts on nature. Nature-related dependencies and impacts are defined as follows[174]:

Nature-related dependencies	Aspects of environmental assets and ecosystem services that a person or an organisation relies on to function. A company's business model, for example, may be dependent on the ecosystem services of water flow, water quality regulation and the regulation of hazards like fires and floods; provision of suitable habitat for pollinators, who in turn provide a service directly to economies; and carbon sequestration.
Nature-related impacts	Changes in the state of nature (quality or quantity), which may result in changes to the capacity of nature to provide social and economic functions. Impacts can be positive or negative. They can be the result of an organisation's or another party's actions and can be direct, indirect or cumulative. A single impact driver may be associated with multiple impacts.

174 All definitions from TNFD Glossary v3.0 (2025)

NATURE, BIODIVERSITY, ECOSYSTEM SERVICES AND CLIMATE CHANGE

Nature and biodiversity are often used interchangeably but are defined differently.

Nature	the natural world with an emphasis on the diversity of living organisms and their interactions with each other and the environment.
Biodiversity	the variability among living organisms from all sources; this includes diversity within species, between species and of ecosystems.
Ecosystem services	benefits provided by nature to people, corporations and economies for free. They are often categorised into four different types of services: supporting[175], provisioning[176], regulating[177] and cultural[178].
Climate change	change in climate attributed directly or indirectly to human activity. When climate conditions are destabilised, ecosystem services are disrupted, and biodiversity is lost. Climate change is one of the five drivers of biodiversity loss.[179]

175 For example, nutrient cycling, soil formation and the provision of habitat for biodiversity

176 For example, the provision of crops, wood or water

177 For example, climate regulation (carbon sequestration and temperature moderation), water regulation (flood control and water purification), air regulation, disease and pest control and pollination.

178 Cultural services are the non-material benefits that ecosystems provide. For example, recreational opportunities (hiking, fishing, bird watching), aesthetic enjoyment (scenic landscapes), spiritual and cultural enrichment (sacred natural sites) and educational opportunities.

179 IPBES (2019), Summary for policymakers of the global assessment report on biodiversity and ecosystem services

ANNEX 2: Summary of nature-related risk and directors' duties in UK, Australia, Canada, Kenya, Nigeria and South Africa

	Duty of loyalty	Duty of care	Legal opinion clarifying directors' duties and nature loss?
UK *(Companies Act 2006)*	A director of a company must act in the way he considers, in **good faith**, would be most likely to **promote the success of the company** for the benefit of its members as a whole, and in doing so have regard (amongst other matters) to (a) the likely consequences of any decision in the long term, [...] (d) the impact of the company's operations on the community and the **environment**. (Section 172)	A director of a company must exercise reasonable **care, skill and diligence.** (Section 174)	Yes – nature-loss (including climate change) is regarded as a foreseeable financially material risk, which falls squarely within directors' duties.
Australia *(Corporations Act 2001)*	A director must exercise their powers and discharge their duties in **good faith** in the **best interests** of the corporation, and for a proper purpose. (Section 181(1))	A director must exercise their powers and discharge their duties with the degree of **due care and diligence** that a reasonable person would exercise in the relevant circumstances. (Section 180(1))	Yes - nature-loss is regarded as a foreseeable financially material risk, which falls squarely within directors' duties.

Kenya *(Companies Act 2015* (No.17 of 2015)	A director must act in the way in which the director considers, in good faith, would promote the success of the company for the benefit of its members as a whole, and in doing so have regard (amongst other matters) to (a) the likely consequences of any decision in the long term, [...] (d) the impact of the company's operations on the community and the environment. (section 143(1))	A director must exercise the same care, skill and diligence that would be exercisable by a reasonably diligent person. (section 145(1))	Yes — nature-related risks are foreseeable and financially material to companies in Kenya. Section 143 of the *Kenyan Companies Act* requires directors to have regard to the impact of operations on the environment, and the broad definition of "environment" under EMCA (Cap 387) — which explicitly encompasses biodiversity and ecosystem services — brings nature-related risks squarely within scope. The constitutional framework (Articles 42 and 69) reinforces this. Directors who fail to identify and manage material nature-related risks risk breaching both the duty of loyalty and the duty of care. The business judgment rule, recognised by Kenyan courts, protects directors who take informed, good-faith steps to address these risks. Direct environmental harm may also trigger personal criminal liability under EMCA and s.33(2) of the *Climate Change Act 2016*.

Nigeria *(Companies and Allied Matters Act 2020)*	A director must exercise the powers and discharge the duties of his office honestly, in good faith and in the best interests of the company. (section 305(2))	A director must exercise his duties with the degree of care, diligence and skill which a reasonably prudent director would exercise in comparable circumstances. (section 308))	Yes — nature-related risks are foreseeable and financially material to companies in Nigeria. Section 305(3) of CAMA 2020 codifies an explicit and non-discretionary obligation on directors to have regard to the impact of company operations on the environment: this is the most direct statutory link between directors' duties and environmental considerations of the three jurisdictions examined. This obligation extends to nature-related risks. Nigeria's broader environmental legal framework — including the 1999 Constitution, NBSAP 2025–2030, Nigerian Code of Corporate Governance 2018, *Climate Change Act 2021* and the *NESREA Act* — reinforces the foreseeability and materiality of these risks. Breach of duty under CAMA can result in civil liability, removal from the board, and disqualification from holding directorships for up to ten years. Nigeria's adoption of IFRS S1 and S2 (mandatory for public interest entities from 2028) will further increase the scrutiny of directors' decisions.

South Africa *(Companies Act 71 of 2008)*	A director must exercise the powers and perform the functions of director (a) in good faith and for proper purpose; (b) in the best interests of the company (section 76(3)(a) and (b)	A director must exercise the powers and perform the functions of director with the degree of reasonable care, skill and diligence (section 76(3)(c).	Yes — nature-related risks are foreseeable and financially material to companies in South Africa. South Africa's economy is profoundly dependent on nature: an estimated 59% of profits and 80% of net exports are generated in sectors highly dependent on at least one ecosystem service[180]. The duty of good faith and the duty of care under the *Companies Act 71* of 2008 require directors to consider these risks. NEMA imposes broad statutory environmental duties on directors, including joint and several strict liability for environmental harm. The Constitution's Bill of Rights, which courts must promote, includes the right to an environment not harmful to health or wellbeing. King V (finalised October 2025, in force January 2026) explicitly requires boards to address nature-related risks as integral to governance, strategy and risk management. The South African Reserve Bank has already conducted nature-related stress tests on the financial sector. Mandatory IFRS S1 and S2 sustainability reporting is under active development by the CIPC and FSCA, which will heighten the scrutiny of directors' decisions as they relate to material nature-related risks.

180 AFD (2023), Socio-economic and spatially explicit assessment of Nature-related risks: the case of South Africa

Canada *(Canada Business Corporations Act)*	A director must "act honestly and in good faith with a view to the **best interests of the corporation**". The Supreme Court of Canada has confirmed that directors may consider broader stakeholder interests, the environment, and the long-term interests of the corporation when discharging this duty. (Section 122(1)(a) CBCA)	Directors must exercise "the **care, diligence and skill** that a reasonably prudent person would exercise in comparable circumstances". Uniquely, the duty of care is not expressly limited to the corporation — it may extend to external stakeholders including Indigenous and local community rightsholders. (Section 122(1)(b) CBCA)	Yes — nature-related risks are foreseeable and financially material to companies in Canada. The opinion (DeMarco and Vollmer, Resilient LLP for CCLI, July 2025) confirms that directors who are unduly passive toward nature-related risks, and who have no governance process to oversee material nature-related dependencies and impacts, are very unlikely to benefit from the business judgment rule. Directors should at minimum: identify nature-related dependencies and impacts; have governance oversight processes in place; and consider current and longer-term nature-related risks. Failing to do so may give rise to derivative actions, shareholder or creditor lawsuits, greenwashing claims, negligence suits, and liability for failing to respect Indigenous rights. Notably, the duty of care may extend beyond the corporation to Indigenous and local community rightsholders — a principle directly relevant to African jurisdictions where constitutional protections for community land rights and the right to a clean environment are central to the legal framework. Given the structural similarity between the CBCA and the Companies Acts of Kenya, Nigeria and South Africa, the reasoning carries significant persuasive weight for directors across African common law jurisdictions.

ANNEX 3: Key nature-related disclosure obligations in Kenya, South Africa and Nigeria

KEY NATURE-RELATED DISCLOSURE OBLIGATIONS IN KENYA

Regulatory / legal instrument	Target entities	Key disclosure obligations	Purpose & scope
Companies Act 2015	All registered companies (directors)	**Annual Report Information:** Directors' reports (including business review) must include information on environmental matters and the impact of company operations on the environment.	Codifies directors' duties, including the need to consider environmental impact when promoting long-term company success and in statutory reporting.
Climate Change Act, CAP 387A	All economic sectors; public & private entities	Creates the legal framework for mainstreaming climate change. While not specifying immediate detailed disclosures, it provides the basis for future regulations to impose private sector obligations no climate action and related reporting.	Provides a national legal framework for climate change response, aiming to integrate climate action into development planning and foster private sector contribution to low-carbon, climate resilient development.
Central Bank of Kenya's Guidance on Climate-Related Risk Management (2021) & Kenya Green Finance Taxonomy (2025)	Banks, discount houses and designated financial institutions	**Climate Risk Disclosure:** Integration of climate-related risks/opportunities into governance, strategy, and risk management frameworks, with mandatory disclosure in annual sustainability, or dedicated climate reports (aligned with TCFD). **Financing impact disclosure:** Disclosure of the environmental impact of financed businesses and projects using the KGFT. **Quarterly reports:** Regular updates to CBK on implementation of climate risk plans	Strengthens financial sector resilience to climate risks. Promotes transparent identification and management of climate-related financial risks and encourages financing of green/sustainable activities. Addresses greenwashing.
Nairobi Securities Exchange ESG Disclosure Guidance Manual (2021)	Listed companies on NSE (and encourages non-listed companies)	**Sustainability reporting:** comprehensive disclosure of environmental risks and opportunities. **Performance metrics:** reporting using specific environmental performance indicators/metrics (i.e. aligned with GRI). NSE publishes names of compliant companies.	Encourages standardised, comprehensive ESG reporting for listed companies, enhancing transparency for investors and facilitating comparability of performance. Promotes adoption of international best practices.

Capital Markets Authority Code of Corporate Governance	Issuers of securities to the public	**ESG policy implementation:** Boards are required to pay attention to sustainability and implement relevant policies. **Public disclosures:** proposed public disclosures of ESG performance in annual reports and on company websites.	Provides corporate governance guidelines, fostering the integration of broader sustainability considerations (including environmental) into company and public reporting
Environmental Management and Coordination Act, CAP 387 & Regulations	All entities undertaking projects with significant environmental impact; existing facilities	**Environmental Impact Assessments:** Mandatory reports for new projects outlining potential impacts and mitigation. **Environmental audits:** periodic evaluations of environmental management for existing facilities. **Compliance information:** provision of data to NEMA to demonstrate adherence to regulations (waste, pollutions, water and biodiversity).	Overarching framework for environmental protection. Ensures proactive assessment and ongoing monitoring of environmental impacts of operations.

KEY NATURE-RELATED DISCLOSURE OBLIGATIONS IN SOUTH AFRICA

Regulatory / Legal Instrument	Target Entities	Key Disclosure Obligations	Purpose & Scope
Companies Act 71 of 2008	All companies (directors)	**Fiduciary Duty & Duty of Care, Skill, and Diligence:** Directors must act in the best interests of the company with due care, skill, and diligence. This implicitly includes managing foreseeable environmental risks that could impact the company's financial health or reputation. **Expanded Disclosure (Amendments):** Recent amendments to Section 26 expand third-party access to company records, including annual financial statements, which may contain environmental information (subject to public interest score and privacy considerations).	Codifies directors' general duties; while not explicitly listing environmental disclosures, it implies that material environmental risks (as financial risks) must be considered and potentially disclosed to fulfil these duties. Aims for increased transparency.

King V Code on Corporate Governance for South Africa, 2025 (in force from January 2026)	All organizations (apply and explain principle); particularly influential for listed companies.	**Integrated Reporting:** Requires organisations to produce integrated reports providing a holistic view of financial and non-financial performance, including environmental impacts, risks and opportunities. **Responsible Corporate Citizenship:** Boards must oversee how the organization's activities affect its status as a responsible corporate citizen, including environmental stewardship and its impact on natural capital and biodiversity. **Nature-related Risks:** King V explicitly requires boards to address nature-related risks – including climate change, biodiversity loss and water scarcity – as integral elements of governance, strategy, risk management and reporting. **Materiality:** Disclosure of material sustainability and ESG matters affecting long-term value creation, applying double materiality (impact on organisation value and impact on the environment).	Provides principles and leading practices for good corporate governance, treating governance as a lever for long-term value creation. King V explicitly embeds nature-related risks – including biodiversity, water and climate – as governance requirements, and is actively used by South African courts when interpreting directors' duties under the SA Companies Act. King V operates on an "apply or explain" basis: organisations must explain any non-adoption or modification of recommended practices, and the board must issue a concluding statement that the principles and their implementation have realised value within the company's economic, social and environmental context. King V further introduces integrated thinking, requiring consideration of the connectivity and interdependencies between factors affecting value creation, and double materiality, requiring reporting on matters that affect both the company's finances and its impact on the environment and society.
Johannesburg Stock Exchange (JSE) Sustainability Disclosure Guidance (2022, updated 2025)	Listed companies on the JSE.	**Sustainability Reporting:** Recommends and, for Premium Board companies, implicitly mandates robust sustainability reporting, either in integrated reports or standalone reports. **Alignment with Global Standards:** Aligns with leading international frameworks such as TCFD, GRI, and most recently, **IFRS S1 and S2 (ISSB)**. **Detailed ESG Disclosure:** Requires disclosure of environmental, social, and governance (ESG) risks and opportunities, including climate-related aspects, water security, biodiversity, pollution, and waste. **Double Materiality:** Emphasizes reporting on issues that affect the company's financials *and* the company's impact on society/environment.	Enhances transparency and comparability of ESG disclosures among listed companies, aligning South Africa with global best practices in sustainable finance and attracting responsible investment.

National Environmental Management Act (NEMA South Africa), 1998 & Sectoral Legislation	All entities conducting activities with environmental impact.	**Environmental Impact Assessments (EIAs) & Environmental Management Programmes (EMPrs):** Mandatory assessments and plans for listed activities, with public participation and disclosure of reports. **Pollution & Waste Management:** Specific regulations require permits, licenses, and reporting on emissions, waste generation, and hazardous substances. **Self-Reporting of Incidents:** Obligation to immediately report environmental incidents (e.g., spills, leaks) to relevant authorities. **Public Access to Information:** NEMA South Africa, along with the *Promotion of Access to Information Act* (PAIA), provides for public access to environmental information held by public and private bodies.	Provides the overarching framework for environmental management and protection. Ensures that environmental considerations are integrated into development planning and that environmental information is publicly available.
Prudential Authority (PA) / South African Reserve Bank (SARB) Guidance (Ongoing)	Banks and insurers (financial institutions).	**Climate-Related Disclosures, Governance, and Risk Practices:** Guidance notes encourage integrating climate-related risks (physical and transition) into governance, risk management frameworks, and capital adequacy. **Alignment with ISSB:** Disclosures are being encouraged to align with IFRS S2 (Climate-related Disclosures) as an international baseline. **Monitoring:** PA monitors implementation through supervision and seeks to enhance industry practices on a voluntary basis, with the expectation of future mandatory requirements.	Aims to ensure the safety and soundness of financial institutions by incorporating climate-related financial risks into regulatory and supervisory activities, fostering financial stability.

KEY NATURE-RELATED DISCLOSURE OBLIGATIONS IN NIGERIA

Regulatory /Legal Instrument	Target Entities	Key Disclosure Obligations	Purpose & Scope
Companies and Allied Matters Act (CAMA) 2020 (Section 305(3))	All registered companies (directors)	**Annual Report Information:** Directors, when promoting the company's success, "must have regard to the impact of the company's operations on the environment in the community where it carries on business operations." Implicitly requires related disclosure in reports.	Codifies directors' fiduciary duties, including the duty to act in the best interests of the company. Explicitly incorporates environmental impact as a factor directors must consider, aligning with global trends for ESG frameworks.
Nigerian Code of Corporate Governance (NCCG) (Principle 26)	All public companies (listed and unlisted); private holding companies of listed/regulated entities.	**Sustainability Policy Implementation:** Boards must pay adequate attention to sustainability issues (including environment) through policy creation and implementation. **Monitoring & Reporting:** Board monitors implementation and reports on the extent of compliance with these policies. **Annual Report Information:** Company's annual report is required to provide information on environmental risks and opportunities.	Promotes good corporate governance by emphasizing the board's role in addressing sustainability issues for long-term business performance and responsible corporate citizenship.
Climate Change Act 2021	**Public Entities:** All MDAs of Federal Government. **Private Entities:** Those with 50+ employees.	**Public Entities:** Obligations relating to climate change may be imposed via regulations by the Climate Change Council. **Private Entities:** - Designate a Climate Change Officer/ Environmental Sustainability Officer. - Prepare and submit **annual reports** on climate adaptation plan efforts and carbon emission reduction targets. - Prepare reports on the **status of performance of climate obligations** (reporting period to be prescribed). - **Non-Compliance Report:** If obligations are not met, prepare a report on past, current, and future actions for compliance.	Develops and implements mechanisms for low carbon emission and sustainable environment. Aims for accountability and compliance from various stakeholders towards national climate change obligations.

Nigerian Exchange (NGX, formerly NSE) Sustainability Disclosure Guidelines (2018)	Listed companies on the NGX (mandatory for Premium Board companies).	**Sustainability Reporting:** Mandates listed companies to adopt sustainability reporting, either in annual reports or separate sustainability reports. **Detailed Description:** Reports must contain a **detailed description of companies' environmental risks and opportunities**. **Performance Indicators:** Prescribes specific **environmental performance indicators/metrics**. (NGX annually publishes names of compliant companies).	Encourages and standardizes corporate transparency on sustainability issues for listed companies. Provides a roadmap for disclosing how operations affect the environment and society, enhancing investor decision-making.
Securities and Exchange Commission (SEC)'s Nigerian Sustainable Finance Principles (2021)	Regulated companies (issuers, intermediaries, etc.).	**ESG Progress Reporting:** Mandates reporting on the progress of implementation of ESG principles. ESG **Compliance Disclosures:** Requires companies to make disclosures on ESG compliance. ESG Risk **Assessment:** Companies must set criteria for and perform ESG risk assessment processes on their activities (implying disclosure of outcomes).	Directs capital market participants towards sustainable finance. Aims to ensure integration of ESG considerations into business models and transparent disclosure of ESG performance and risks.
Central Bank of Nigeria (CBN)'s Nigerian Sustainable Banking Principles (NSBPs) (2012)	Banks, discount houses, and Designated Financial Institutions.	**Environmental Integration & Compliance Reporting:** Requires financial institutions to integrate environmental considerations into their decision-making processes and report their compliance on these. **E&S Risk Management:** Reporting on E&S risk assessment processes, including clients and engagements by risk category, sector, and financial product type. **Public Reporting:** Annual public reports on implementation progress.	Promotes responsible banking practices by integrating environmental and social risk management into financial sector operations, lending, and investment decisions. Encourages green financing.

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