Climate Governance Initiative

CCLI Commonwealth Climate and Law Initiative

World Benchmarking Alliance

Improving governance on nature-related risks and opportunities

Board briefing

March 2024

Biodiversity loss and ecosystem breakdown can pose foreseeable risks to a company's best interests. Therefore, directors have a duty to carefully consider these increasingly pressing issues as part of their strategic planning, rather than as a compliance exercise.

This briefing explores analysis of companies integrating nature considerations into their strategies, aligning with the World Benchmarking Alliance's Nature Benchmark (the 'Nature Benchmark'). We explore six of the Nature Benchmark's forty-three indicators in the context of relevant duties in company law and compare them with the practices of the companies analysed, to highlight areas of potential risks and opportunities for board directors' attention. This can help board directors to comply with their legal duties to act with due care and promote the success of their company (see Biodiversity Risk: Legal Implications for Companies and their Directors), and guide them to insights on how their company could thrive in the nature-positive transition.

Five Takeaways for Board Directors

1. **Sustainability Strategy (Indicator A1)**: While a majority of companies embed sustainability strategies within corporate strategy, deeper, holistic approaches that integrate companies' impacts on nature are needed to more reliably address risks to the company's overall success.
2. **Accountability for Sustainability Strategy (Indicator A2):** While most companies have established some foundational structures for sustainability governance, there is still a gap when it comes to translating these principles into executive incentives and board expertise. This may inhibit thorough board oversight of nature risks and inhibit leadership from achieving a positive transition mindset.
3. **Stakeholder Engagement (Indicator A3):** Over half of the companies assessed engage with stakeholders on sustainability issues. However, there is inconsistent integration of the outputs of these processes into companies' sustainability strategies. There is thus a need to bridge stakeholder needs and perspectives with company target setting and risk management processes.
4. **Impact and Dependency Assessment (Indicators B1 and B2):** Most companies do not robustly assess their impacts and dependencies on nature, which creates a blind spot for directors by concealing significant latent risks to their companies' success and hazarding missed opportunities.
5. **Ecosystem Conversion (Indicator B5)**: Whilst some companies are taking steps to minimise their ecological footprint, efforts to achieve conversion-free supply chains are in early stages. This is a particularly high risk for companies in or linked to industries with high ecological impacts, who would be shrewd to waste no time in identifying more profitable alternatives.

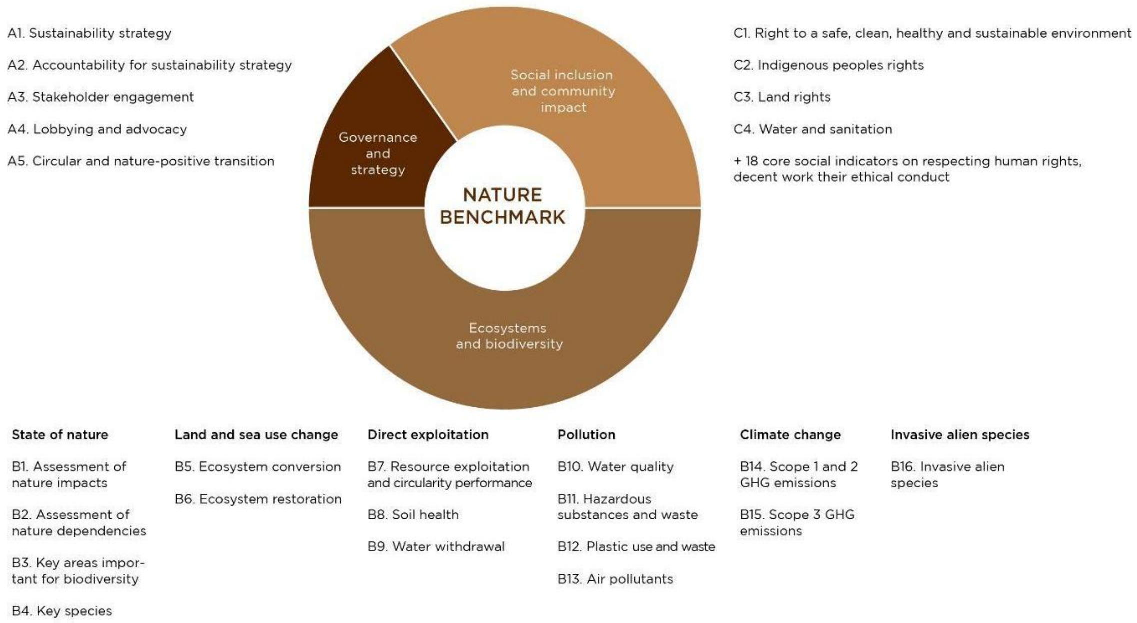
Introduction

Increasingly, directors need to understand **nature and biodiversity risks** both as a component of **climate risk** and independently of it. Nature and biodiversity loss significantly impact greenhouse gas emission mitigation. There is growing global recognition that the interconnected climate and nature crises cannot be addressed in isolation (as reported jointly by the IPCC and IPBES and by UNEP). Companies that can swiftly understand the significance of this for their business can reap the rewards of being the first movers in the nature-positive transition.

The financial risks associated with biodiversity loss arise from companies' impacts and dependencies on nature. These are not a new category of risk, but rather drivers that translate into traditional financial risk categories. As the financial implications of biodiversity loss become more prominent on the business and policy agendas, legal and governance principles will need to be copied from the climate playbook, possibly within a shorter time frame than the climate governance response.

In many jurisdictions around the world, national **corporate law frameworks require directors to act with care and diligence and to promote the success of their companies**. These duties are exercised through strategic planning, oversight of foreseeable and material risks, and ensuring adequate disclosure and reporting (see Primer on Climate Change: Directors' Duties and Disclosure Obligations and Biodiversity as a Material Financial Risk: What Board Directors Need to Know). Companies are increasingly being required to comply with upcoming nature-related due diligence and disclosure requirements such as the EU Corporate Sustainability Due Diligence Directive (see Developments in Climate-Related Litigation, Disclosures and Due Diligence Requirements: What Board Directors Need to Know). Rather than complying in a limited manner only when they are forced, the most astute and resilient companies will turn these regulatory transition risks into an occasion to exploit new markets, innovate and adopt agile approaches to maximise their ability to weather the global polycrisis.

FIGURE 1. THE NATURE BENCHMARK'S INDICATORS



The Nature Benchmark analyses companies' publicly disclosed information to assess their practices in relation to more than forty indicators (Figure 1). The 769 companies reviewed in 2022-2023 were selected based on revenue size, industry-specific keystone metrics, and influential roles within their sectors and regions, with diverse representation of global presence. The Nature Benchmark's Methodology was developed in collaboration with a multi-stakeholder group to reflect international best practice standards. Many of its indicators align with the actions board directors could prudently take to act with the required care and diligence and promote the success of their company.

In this piece we focus on six of those indicators (A1, A2, A3, B1, B2 and B5) in the context of directors' duties. However, transition risks arising from governments incorporating the goals of the Global Biodiversity Framework into regulatory frameworks and investors and governments gradually adopting the Taskforce on Nature-related Financial Disclosures (TNFD) mean that a wider range of environmental topics and indicators will become increasingly relevant to demonstrate how directors comply with their legal duties and how companies are adopting a positive transition mindset. Going forward, company performance across a broad range of the topics covered by the Nature Benchmark's indicators will be critical not only in addressing physical risks and opportunities arising from a company's dependence on nature but in mitigating the risk of legal liability for a company's nature-related impacts. For instance, companies' impacts on nature can cause harm to other parties and biodiversity related litigation is on the rise. (See for example legal risks in the global food sector or case studies showing how nature risks have materialised into significant financial consequences for companies). Identifying impacts may also point to potential partnership opportunities arising through location-based conservation and restoration projects.

Nature Benchmark Indicators and Directors' Duties

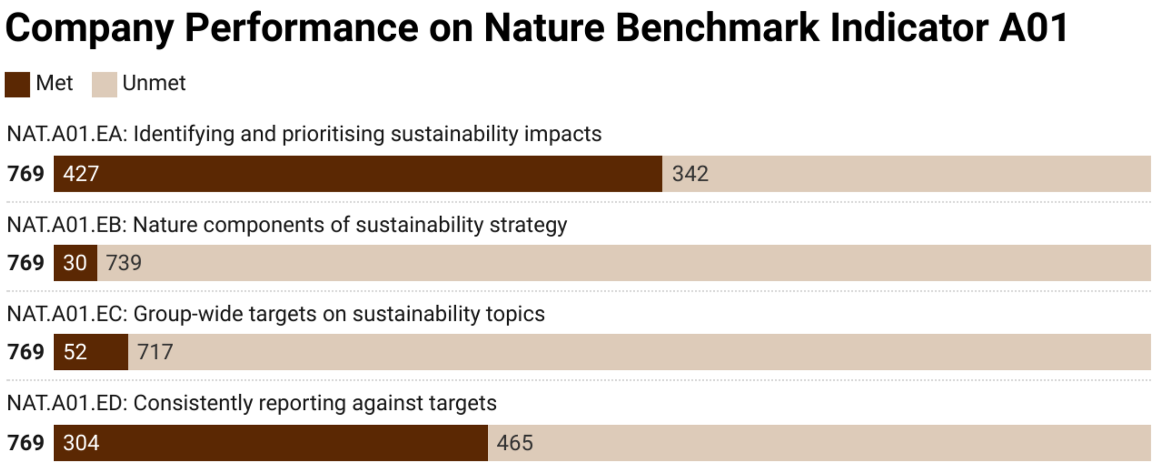
Indicator A1. Sustainability strategy
Sustainability objectives and targets embedded in a company's strategy and business model.

For directors to carry out their duty of care and diligence as well as their duty to promote the success of the company, they must oversee the identification and management of material sustainability-related risks and opportunities. These risks and opportunities, arising from the company's impacts and dependencies on nature, have the potential to significantly impact the company's success. Ensuring a strong risk management framework that specifically identifies material risks and opportunities can enable directors to effectively address and incorporate them into the company's core strategy. This includes the company committing to and reporting against concrete objectives and targets that address the company's impacts and dependencies on nature. It could also include mapping out the company's nature-positive transition pathway.

Whether or not companies currently deem their environmental impacts to create material risks or opportunities, the European Corporate Sustainability Reporting Directive) will require that many companies disclose their significant impacts.

The Nature Benchmark provides a snapshot of the current performance of companies in this regard. Out of the 769 companies assessed, 65% (525 companies) met at least one element of Indicator A1 (Figure 2). However, the performance across the different elements is not consistent.

FIGURE 2. THE PROPORTION OF THE 769 COMPANIES THAT MEET THE REQUIREMENTS OF THE ELEMENTS OF INDICATOR A01



The Benchmark finds that it is relatively common practice among the assessed companies to:

- Conduct a materiality assessment to **identify and prioritise relevant sustainability topics and impacts** (A01.EA: 56% of companies).
- Consistently **report against all the sustainability targets** they set (A01.ED: 40% of companies).

However significantly fewer companies have:

- A **sustainability strategy which at least partially covers all the most significant environmental and social impacts** (A01.EB: 4% of companies).
- **Group-wide targets covering the most material sustainability issues** facing their industry (A01.EC: 7% of companies).

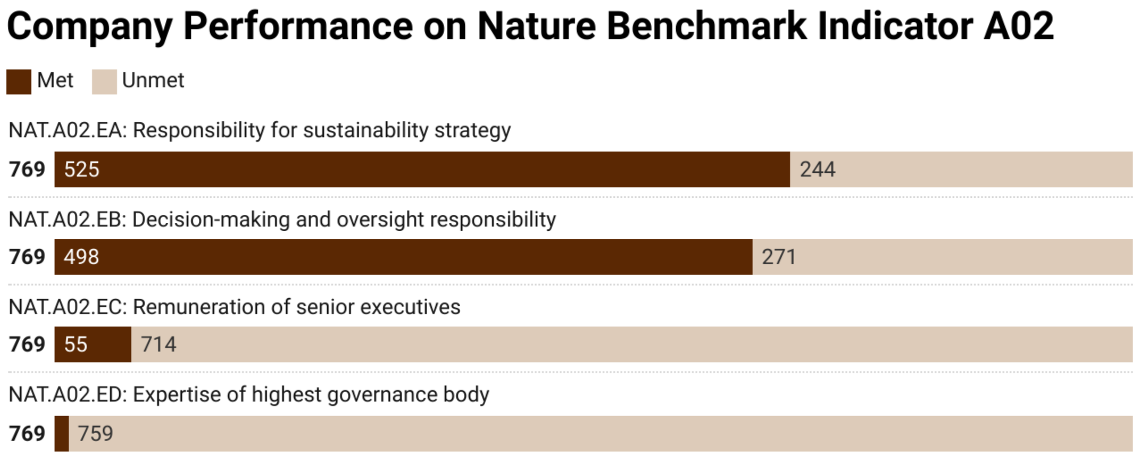
This reveals that most corporate sustainability strategies have significant gaps and do not holistically address the multifaceted nature of sustainability impacts. It underscores the urgent need for companies to strengthen responses to significant impacts on nature as part of strategic risk and opportunity management. Without comprehensive identification and targeted response to nature impacts, directors and companies will be poorly equipped to comply with company law duties or upcoming disclosure regimes and may fail to discern possibilities for a profitable adaptation and transition.

Indicator A2. Accountability for Sustainability Strategy

The company's governance system includes highest level responsibility and accountability for sustainability objectives and targets. Senior executive members have incentives to reward the effective delivery of relevant company strategies and initiatives.

In order to fulfil their duties of care and to promote the success of the company, directors need to ensure proper oversight, reliable delegation and strong processes to mitigate the company's sustainability related risks and take advantage of arising opportunities. In many jurisdictions, such as the U.S. and Australia, directors breach their duties if they fail to adequately inform themselves in relation to sustainability related risks or to establish and monitor information systems for 'mission critical' risks.

FIGURE 3. THE PROPORTION OF THE 769 COMPANIES THAT MEET THE REQUIREMENTS OF THE ELEMENTS OF INDICATOR A02



While 72% of companies in the Nature Benchmark met at least one aspect of Indicator A02 (Figure 3), a closer inspection shows that once again progress on some elements is much greater than on others.

- 68% of companies have designated persons or teams **responsible for the implementation of the sustainability strategy** (A02.EA).
- 65% of companies assign **decision-making and oversight responsibilities** for sustainability to their highest governance bodies (A02.EB).

However, a very small number of companies are embedding sustainability into their governance fabric, with a mere:

- 7% of companies link performance criteria in **senior executives' remuneration** policies to targets and objectives which cover nature and social issues (A02.EC).
- 1% show evidence that their **highest governance body has expertise** with respect to the company's most material sustainability topics (A02.ED).

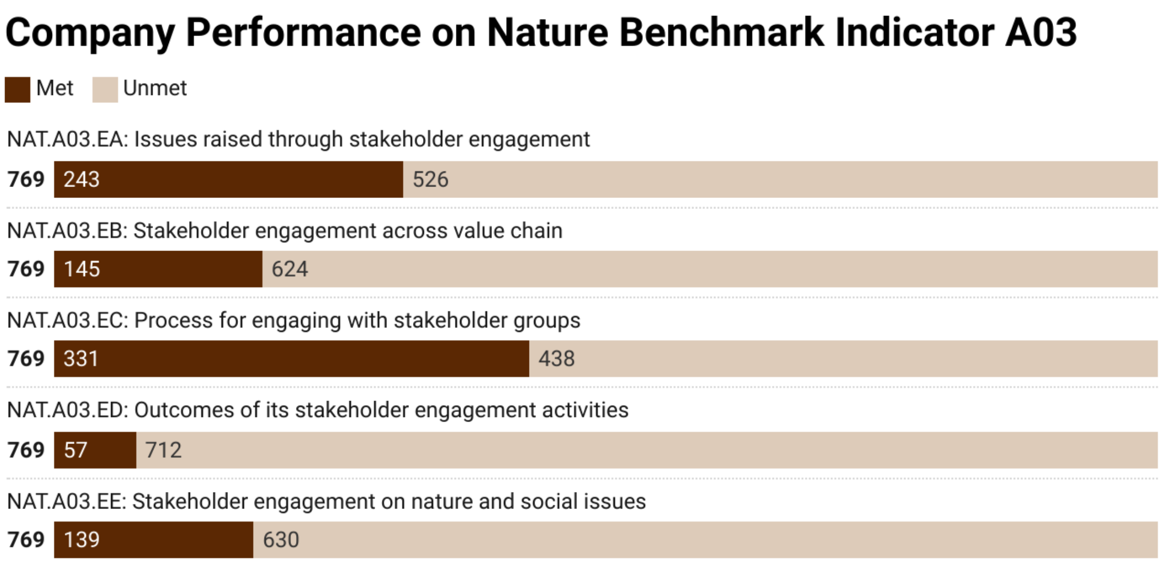
This underscores a critical shortfall in the depth of sustainability integration in executive and governance mechanisms. Although many companies are in the process of establishing the basic structures for sustainability accountability, these principles are not yet being incorporated into executive incentives or reflected in the expertise of board members. Companies that effectively integrate sustainability risk management and objectives into corporate governance and executive decision-making will provide better support for their board directors to fulfil their duties of care and promote the success of the company. By embedding a culture of nature-related enterprise and optimism throughout all levels of the company, the board can equip employees with an agile mindset that can identify new avenues of prosperity in harmony with nature that will improve the company's reputation.

Indicator A3. Stakeholder Engagement

The company engages with stakeholders on sustainable development issues and incorporates the outcomes of these activities in its strategy and operations.

In some jurisdictions around the world – such as the UK – companies will be required to report on how they have considered stakeholder interests. In India, directors are required to act in the best interests of stakeholders, including the environment, on an equal footing to the interests of the company. However, even when legislation does not explicitly require directors or companies to consider or engage with stakeholders, the long-term success of a company is highly dependent on understanding and serving the needs of relevant stakeholders. The stakeholder perspective is crucial in helping the company to discover novel solutions, capture value and navigate through a rapidly changing environment.

FIGURE 4. THE PROPORTION OF THE 769 COMPANIES THAT MEET THE REQUIREMENTS OF THE ELEMENTS OF INDICATOR A03



The Nature Benchmark finds that over half the companies (53%) met at least one of the elements of Indicator A03 (Figure 4).

- 31% of companies disclose the **issues raised during stakeholder engagemen**t (A03.EA).
- 43% of companies describe their **stakeholder engagement processes**, encompassing aspects like frequency and communication channels (A03.EC).

In contrast, only:

- 19% of companies disclose their processes for **identifying relevant stakeholders** (A03.EB).
- 7% of companies describe how they **integrate stakeholder feedback into their sustainability strategy** (A03.ED), a critical step in the evolution from disclosure to constructive feedback loops.
- 18% of companies' stakeholder engagement **addresses both nature and social issues** (A03.EE). This indicates a likely gap in company knowledge regarding stakeholder interests, as social aspects are fundamentally intertwined with nature.

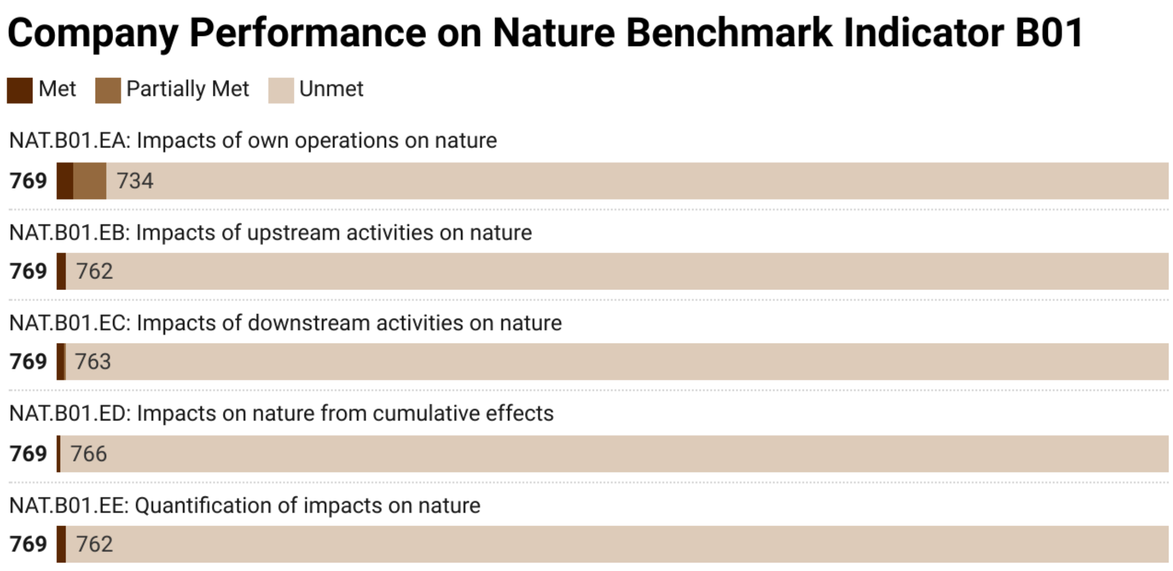
This highlights that companies would benefit from more extensively responding to and integrating stakeholder concerns into their sustainability strategies in order to address impacts and dependencies on nature, mitigate risks and identify opportunities to promote the success of the company.

Indicator B1. Assessment of Impacts on Nature

The company assesses its impacts on nature, including biodiversity and nature's contributions to people, within its own operations and its upstream and downstream value chain.

Companies' impacts on biodiversity can have consequences for ecosystems and other stakeholders. These impacts can give rise to risks and opportunities that are both foreseeable and financially material, falling under the purview of directors' governance and disclosure practices. Even if a company's biodiversity impacts do not pose any direct physical risks or opportunities, they can still be relevant to directors' duties due to their manifestation as legal and policy risks, reputational impacts, or changes in consumer preferences (collectively referred to as transition risks). By developing a clear understanding of their effects on the environment, companies can better equip themselves to anticipate and address emerging risks and opportunities.

FIGURE 5. THE PROPORTION OF THE 769 COMPANIES THAT MEET THE REQUIREMENTS OF THE ELEMENTS OF INDICATOR B01



Only 5% of companies surveyed have met or partially met any of the elements of Indicator B1 (Figure 5), revealing that most companies are not yet assessing or disclosing nature-related impacts.

- Only 5% of companies **assess and disclose their impacts on nature and biodiversity within their own operations**.
- Less than 1% of companies:
    - Assess and disclose their impacts on nature **within upstream and downstream value chains**.
    - Assess and disclose location-specific **cumulative effects of their impacts** combined with others.
    - **Quantify their impacts on nature**.

This suggests that many companies and their board directors are unaware of the close relationship between nature impacts and financial risk and opportunity, and the critical need to address this in their risk management and strategy. They may also be unequipped to turn potential adversity into business advantage. This is echoed by the data from Indicator B2 on assessment of corporate dependencies on nature.

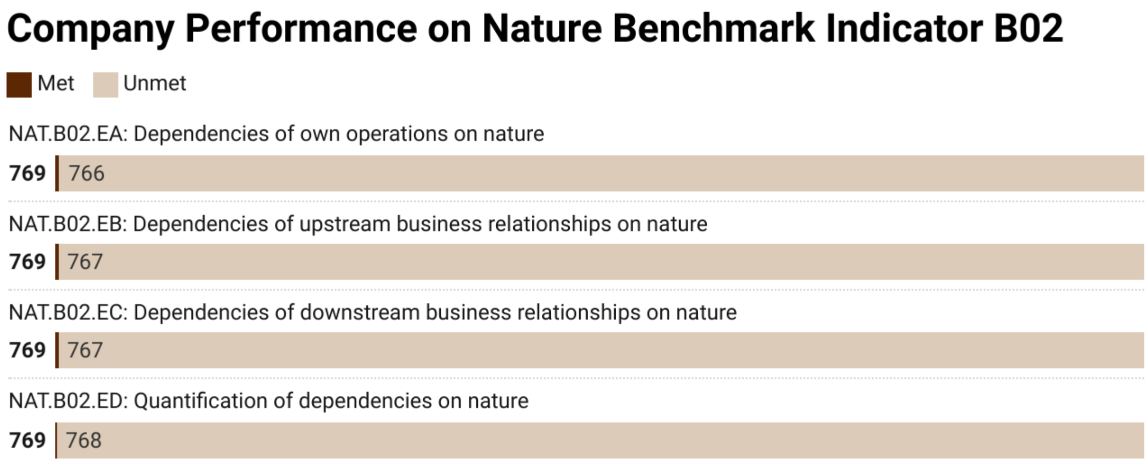
Indicator B2. Assessment of Dependencies on Nature's Contributions to People

The company assesses its dependencies on nature, including biodiversity and nature's contributions to people, within its operations and its upstream and downstream value chain.

All companies will have some dependence on ecosystem services, either when the companies' operations directly interface with nature (e.g. mining or agricultural companies) or indirectly through value chain dependencies. Increasing environmental degradation and biodiversity loss can impact the integrity of ecosystem services, leading to supply chain disruptions, with the risk of wider financial and systemic consequences. Bloomberg NEF showcase this through a series of case studies of companies that have experienced material financial losses, threats to profitability, and share price pressure due to poorly managed interactions with nature. The Cambridge Institute for Sustainability Leadership showcases companies that proactively respond to nature related dependencies to promote business resilience.

In order to have the necessary oversight of risk management to fulfil their duties of care and loyalty to the company, directors will want to ensure that the company's risk management processes accurately assess any risks posed to the company that arise from its dependencies on nature throughout its value chain and evaluate their materiality.

FIGURE 6. THE PROPORTION OF THE 769 COMPANIES THAT MEET THE REQUIREMENTS OF THE ELEMENTS OF INDICATOR B02



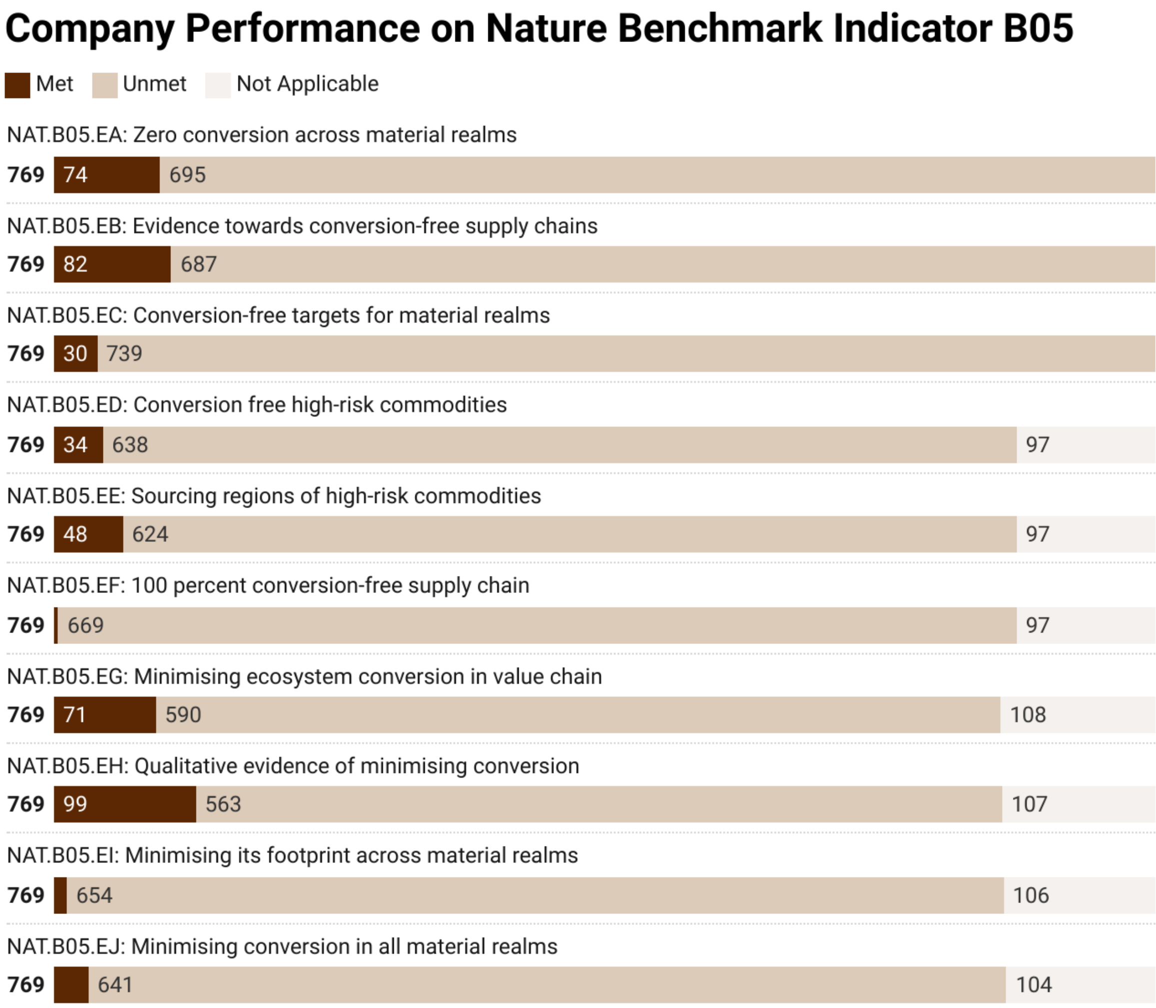
Only 0.5% of companies surveyed have met any of the elements of Indicator B02 (Figure 6). This shows that many companies do not yet recognise the critical business risks posed by their dependence on nature and reinforces that nature dependencies are often hidden by value chains.

Indicator B5. Ecosystem Conversion

The company minimises its footprint from its business activities across all relevant ecosystems and/or seeks to achieve conversion-free supply chains across relevant high-risk commodities.

Incoming legislation, including in the EU and the UK, will bring attention to the sourcing of products from regions with a high risk of deforestation and the need for corporate sustainability due diligence. This will affect not only companies operating in these jurisdictions, but also their suppliers. Already there has been an increase in legal claims related to supply chain impacts on nature, such as cases against supermarket chain Casino, wood pellet manufacturer Enviva, food giant Cargill, leather supplier Gruppo Pasubio and money laundering complaints against French banks relating to investments allegedly linked to illegal deforestation. All of this means that companies and their directors will need to ensure that their companies are ever more vigilant in monitoring supply chains for nature-related risks.

FIGURE 7. THE PROPORTION OF THE 769 COMPANIES THAT MEET THE REQUIREMENTS OF THE ELEMENTS OF INDICATOR B05.



While 32% of companies met at least one element of Indicator B05 (Figure 7), a detailed examination of these elements reveals a complex landscape of corporate commitments and actions in addressing ecosystem conversion and ecological footprints, that varies significantly across distinct industries.

There are varying levels of corporate engagement on the avoidance of ecosystem conversion - a critical component in combating global biodiversity loss and deforestation (B05.EA to B05.EF).

- 11% of companies provide **qualitative evidence towards conversion-free supply chains** (B05.EB).

- 0.4% of companies have **achieved 100% conversion-free supply chains for high-risk commodities** (B05.EF).

This points to initial steps taken by some companies in tackling ecosystem conversion and highlights the early stages of fully integrating these efforts into operational practices to yield tangible results.

Elements B05.EG to B05.EJ are designed to be inclusive of companies whose business models inherently involve some level of ecosystem conversion, such as those in extractive or construction sectors, and thus focus on minimising, rather than eliminating conversion. Here we find that only:

- 15% of such companies demonstrate **qualitative evidence of minimising ecosystem conversion** in biodiversity-critical areas (B05.EH).

This indicates a significant opportunity for these companies to enhance their ecological impact mitigation strategies.

Embarking on the journey to eradicate commodity-driven deforestation and conversion is challenging but feasible. Guidance from the Accountability Framework and emerging regulatory frameworks such as the EU Deforestation Regulation provide a strategic path for companies to transition from mere commitments to proactive integration of sustainable and ethical practices into business operations. This will become imperative for successful risk and opportunity management, regulatory compliance, reputational success and supply chain resilience.

Conclusion

The Nature Benchmark's findings emphasise the importance of companies adopting a more coherent approach to understanding and addressing nature-related impacts and dependencies. This involves board directors exploring ways to enhance corporate strategies and integrate them into performance and oversight mechanisms. By doing so, companies can strengthen their commitment to corporate accountability and environmental stewardship, thereby creating business viability and reputational value. Furthermore, this approach will enable companies to effectively address significant hidden nature-related financial risks and capitalise on potential opportunities to future-proof their business for the nature-positive transition.

Directors that want to act on these issues may consider prompting their companies to:

- Use structured methodologies to evaluate and manage nature-related issues, such as the TNFD's LEAP approach (see the Climate Governance Initiative's briefing for board directors on the TNFD).
- Review the company's current practices to assess biodiversity dependencies and impacts.
- Source sustainability training for the board, executive and management teams.
- Assign executive responsibility to apply the TNFD and Science Based Targets for Nature guidance.
- Require the sustainability department to engage with the World Benchmarking Alliance's process.
- Use the World Economic Forum's Principles for Effective Climate Governance for nature governance.
- Apply the Cambridge Institute for Sustainability Leadership's diagnostic tool, Decision-making in a nature positive world.

By implementing approaches such as these, companies can make more informed decisions that minimise negative impacts and improve their interactions with ecosystems. The insights from the Nature Benchmark's results are a compelling call for heightened corporate responsibility and transparency in environmental assessments, paving the way towards achieving global sustainability goals and companies that successfully work in partnership with nature to achieve shared value.

→ ***Contact Jenni Black at j.black@worldbenchmarkingalliance.org to learn more***

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The **World Benchmarking Alliance** is a non-profit organisation holding 2,000 of the world's most influential companies accountable for their part in achieving the Sustainable Development Goals. It does this by publishing free and publicly available benchmarks on their performance and showing what good corporate practice looks like. The benchmarks provide companies with a clear roadmap of what commitments and changes they must make to put our planet, society and economy on a more sustainable and resilient path. They also equip everyone – from governments and financial institutions to civil society organisations and individuals – with the insights that they need to collectively build corporate accountability. More on www.worldbenchmarkingalliance.org

The **Commonwealth Climate Law Institute** is a global non profit legal research and stakeholder engagement initiative. We produce legal research and practical tools on how to integrate the risks and opportunities of climate change and biodiversity loss into corporate and investment governance, in order to minimise the risk of personal liability for directors, officers and investor fiduciaries, and maximise near term efforts in the transition to a sustainable economy. We work to advance knowledge on effective sustainable governance practice. https://commonwealthclimatelaw.org/

The **Climate Governance Initiative** is a non-profit dedicated to mobilising boards to accelerate the transition to net zero and build climate resilience. We exist to develop and support a global network that mobilises chairs, non-executive and independent directors to take climate action by enhancing their knowledge and skills in climate governance. We are a rapidly growing global network with Chapters in over 70 countries worldwide, reaching more than 100,000 board members. The Climate Governance Initiative is developed in collaboration with the World Economic Forum and our work builds on the Forum's Principles for Effective Climate Governance.