Rainforest Action Network submission to the UK Environmental Audit Committee

September 2023

Introduction

Rainforest Action Network (RAN) is a San Francisco-based NGO that aims to work towards a world where the rights and dignity of all communities are respected and where healthy forests, a stable climate and wild biodiversity are protected and celebrated. RAN works to preserve forests, protect the climate and uphold human rights by challenging corporate power and systemic injustice through frontline partnerships and strategic campaigns.

We welcome the UK Environmental Audit Committee's invitation for those interested in the Taskforce on Nature-related Financial Disclosures (TNFD) to submit their views. Since March 2022, RAN has been heavily involved in monitoring, advocacy and analysis regarding the TNFD.

This submission starts by seeking to clarify the structure and workings of TNFD – as knowing *who* made TNFD's decisions and *how* they were made is critical to understand certain positions in the TNFD framework. Next, it outlines key concerns raised about its processes including the lack of public record of what feedback it received, and what views or evidence it adopted or dismissed. Following this, this submission outlines key concerns about the validity of the information that the TNFD framework will generate – particularly that company claims will not be able to be checked against realities on the ground. Lastly, it briefly highlights that the most formidable form of 'transition risk' is legal and regulatory risk (and attendant financial risk) – and raises concern that TNFD in fact distracts from public policy models that ensure that businesses face meaningful consequences for harming biodiversity which is critical to creating fairer market rules and protecting biodiversity and the people who protect and depend on it.

If you have any further questions or queries of this submission please contact Shona Hawkes, Advisor, Rainforest Action Network at shona@ran.org

TNFD: A taskforce of 40 global corporations

In our own experience, the structure of the TNFD can be very difficult to understand and it is important to clarify. The taskforce is a group of 40 executives from global corporations, including financial institutions. In its promotions and events, members are frequently identified by their corporate affiliations, for example, TNFD refers to its taskforce as representing 'over $20 trillion in assets under management'. In RAN's work we use the shorthand of referring to the taskforce as comprising 40 global corporations – as our understanding is that without this corporate affiliation members would not have been selected to the taskforce. While the taskforce members can seek advice from the TNFD secretariat or knowledge partners, they are the ultimate decision-makers of the framework. Hence, the TNFD framework is decided on by corporations.

The taskforce does not include scientists, academics, government officials, rights holders (such as Indigenous Peoples), community groups or the victim-survivors of corporate environmental harms. While often described as 'market-led' the TNFD can more accurately be described as 'corporate led' – as it does not include key elements of the market such as smallholder farmers, unions or small and medium enterprises. The FT has also critiqued the taskforce's lack of black members or fair geographic representation.

The taskforce not only limits membership to global corporations, it includes many corporations that are failing to act on credible and persistent allegations of their own environmental and human rights harms. One analysis recently found that TNFD taskforce companies have faced close to 300 allegations of rights violations by communities, non-profits or media outlets over the past 10 years. In some cases, civil society organisations (CSOs) who have spoken out with their concerns about TNFD have direct experience of unsuccessfully trying to urge these same companies to halt, or remedy, their role in specific cases of environmental and human rights harms. It has been particularly painful to see some of these corporations then presented as thought leaders on nature at TNFD or TNFD-affiliated events.

The taskforce includes **Bank of America**, the fourth largest banker of fossil fuels. There is **BNP Paribas** – which is facing two separate legal actions over its financing, to fossil fuels and also links to deforestation. The **Dow Inc** group has racked up over USD$6 million in penalties for environmental violations in the US alone over the last 5 years. **KPMG** featured in a 2023 expose by the International Consortium of Investigative Journalists over its environmental auditing of companies linked to deforestation. **Bunge** has been repeatedly shown to be buying from suppliers linked to land conflict and human rights abuses. **Suzano** has faced persistent allegations over its human rights and environmental practices throughout at least the last decade. There is **HSBC** which is estimated to have made $36.4 million in gross profit between 2016-2020 off $6.85 billion of financing to 19 separate company groups linked to deforestation and related human rights issues. **Anglo American** is a mining company which reports suggest has sued the Colombian government after the constitutional court suspended operations of its La Puente coal pit over concerns regarding the impact of re-routing a stream on local water supply. There is **BlackRock** which was kicked out of a UN Women partnership in 2022 after widespread outcry, given its own social and environmental record and a multi-year campaign over these concerns. According to Violation Tracker, the **Bayer** group has faced a staggering $12,808,000,000 in penalties for environmental violations via government agencies or private lawsuits since 2020.

For RAN, and many other groups, *who* forms the taskforce is key to explaining why core aspects of TNFD's framework deviates so significantly from existing evidence of what works, or doesn't, to change corporate behaviour or even basic common sense, as explored later in this submission.

Additionally, the framing of TNFD as a voluntary initiative by and for business has put more stock in making itself attractive to corporations than even-handed, diverse decision-making – also represented in its structure.

Concerns that TNFD is a back-door for global corporations to write future regulations

In mid-2022, RAN and other civil society organisations tracking TNFD became particularly alarmed when we saw that it was being promoted (p.31-32) by its co-founders and other insiders as a blueprint for future law. That is, TNFD represents a back-door for global corporations to write the template of future regulations. This is an extremely dangerous precedent given the obvious conflicts of interest involved and violations of the principles of basic good governance. In October 2022 and May 2023 dozens of rights holder and civil society organisations and networks – whose members span hundreds of organizations in 85 countries – publicly wrote to the TNFD speaking out about this, as well as other concerns. During the Montreal talks of COP 15 on biodiversity – various civil society organisations closely following negotiations also spoke out against TNFD (see here).

In July 2023, an academic article in the journal Conservation Letters analysed TNFD in-depth. It raised various concerns about TNFD – especially that it represents a form of 'corporate capture' of public decision-making, distracting from efforts pressing for laws on corporate accountability. Accounting academics have urged TNFD to explicitly say that its framework is not appropriate as a basis for public policy – as it has been written by global corporations. In 2020, long before TNFD launched, sustainable finance focused academics at University College London wrote a working paper that laid out an argument to central banks and financial supervisors as to why nature-related financial risks 'cannot be sufficiently managed through 'market-fixing' approaches based on information disclosure and quantitative risk estimates' – in essence, the TNFD model.

Days after the final framework launched even the FT raised concerns in its article 'How regulators have relinquished their work to corporate executives' explicitly concluding:

> *"While it is a valuable, carefully considered contribution to this space, this week's publication by the TNFD should be seen for what it is: a document produced by a group of corporate and financial executives, which must inevitably reflect their interests and priorities.* ***It cannot be a legitimate foundation for a massively important new area of regulation, which will have implications for every person and species on the planet."***

A broader concern is not only how TNFD's decision-making structure informs its content, but also the parameters of TNFD itself. That is, concern that TNFD in fact distracts from public-policy options that would deliver legal and regulatory risks (and attendant financial risks) for businesses that harm biodiversity and human rights, examined later in this submission.

A lack of an evidence-based approach

This section examines separate examples of TNFD's failure to take an evidence-based approach on fundamental issues. While TNFD *says* it's science-based but it hasn't taken steps to test its recommendations against real-world examples. Corporations saying that TNFD will help them do better isn't the same as independent analysis of whether it will or not.

Secretive decision-making

As highlighted above, the primary concern that RAN and many others have, is that the TNFD itself is a taskforce composed solely of 40 global corporations. However, a further lack of transparency also means there is little record of what evidence or information was provided to the TNFD, and by who. Recently the TNFD has highlighted that it received 'over 3000' pieces of feedback during its drafting process. However, only around 60 public comment letters were listed on its website (we can no longer find these on TNFD's website but have stored copies here). A rough estimate is therefore that around **98%** of these 3000+ pieces of feedback were made in secret – they cannot be scrutinised or examined. It is not clear where this feedback came from; what groups were included or excluded; and whether feedback was acted on or not. After the second of four TNFD drafts was released, CSOs advocated for transparency of submissions – for the default to be that submissions are made public, unless privacy is specifically nominated, similar to other initiatives. This was not adopted until the feedback for draft 4 – meaning that there is no public record of feedback or evidence presented to TNFD on drafts 1, 2 or 3. Additionally, on draft 4 TNFD did not make the default for submissions public – organisations had to specifically request their submission to be made public. Of 170 submission letters, only around 60 were made public. In short, the decisions for this 'disclosure' initiative have been made through hidden processes, behind closed doors. Additionally, TNFD established multiple 'national' consultation groups. However, TNFD did not disclose the members of its national consultation groups. The groups were facilitated again by groups working in the financial sector – again, as there is no record it is impossible to ascertain if these groups in different jurisdictions included fair balance or representation, or even CSOs at all. In fact, we know more about the policy positions of TNFD taskforce members from their public submissions to an International Sustainability Standards Board (ISSB) consultation, than TNFD.

While TNFD would engage privately with groups on request, in essence the TNFD had no real public access consultation process. While anyone could make a submission – to join open consultations, required groups to first join what was called the TNFD Forum. Many CSOs repeatedly pointed out serious concerns with this – as the TNFD Forum was only open to groups who 'consent to the TNFD Secretariat to use your institution's name and brand identity on our website signalling your support for the TNFD'. This precluded groups from participating who may be critical of the TNFD but still wish to learn more or share their views, or even groups who had no formed opinion and wanted to formulate their view.

What would a TNFD report look like?
A key challenge that we encountered is that TNFD is not explained in an easy-to-understand format. Many people first encountering its format assume that while they do not understand it, there must be other experts who do. In many areas, the lack of clarity, vague language and lack of clear examples make it difficult to ascertain what TNFD is recommending. We are currently familiarising ourselves with the final TNFD framework – but one example we are exploring further is its recommendation on 'location'. This appears to suggest that companies provide a 'list' or a 'spatial map' of their location but with no other criteria. Presumably a 'spatial map' could cover a vast area, a list could include geolocations and local suppliers, but similarly could be a list of broad-based regions that span thousands of kilometres.

Since at least May 2022, NGOs requested of TNFD that it provide examples, even hypothetical examples, of what a company TNFD report would look like. We believed this to be a simple ask. This would allow grassroots organisations and others with deep expertise in biodiversity – and adverse interactions with corporations – to understand what it was proposing, to share their analysis and to see how TNFD's model compared to existing initiatives. We believe that essential to creating a framework concerned with biodiversity loss was that biodiversity experts, or anyone active in the fight against biodiversity loss, should be able to understand what was proposed and meaningfully share their views.

Throughout our work on tracking TNFD we found that people we encountered frequently felt that they understood a core aspect of TNFD which was actually incorrect. This was not only CSOs or NGOs, but also academics, journalists and investors themselves. This was also evident in reading the 60 or so public comment letters on draft 4 – where it is possible to see contrasting opinions on such basic information as whether TNFD recommended a company report on its impacts on biodiversity irrespective of whether these financially affected its business or not (double materiality) or only on those deemed financially material.

We are aware that others, including businesses, also made this request to TNFD. TNFD presented some case studies of how a business should approach TNFD reporting. However, over more than 18 months and 4 drafts TNFD did not present a single example of what a TNFD report would look like – let alone multiple examples that would allow people to better understand how proposed reporting recommendations would appear for different types of businesses, sectors, and affected biodiversity –

nor how this changed through successive drafts. In this same time, TNFD facilitated over 200 separate pilots of its framework by companies.

RAN worked with other CSO to compile various case studies – shared privately and publicly – drawing on cases they were familiar with of specific corporations engaged in harmful environmental and human rights practices. These case studies sought to understand if the TNFD framework was written in a way that would provide useful, accurate information – or if its structure included vital omissions that meant it could be used to promote misinformation. These case studies were provided to the TNFD secretariat, showing how TNFD's framework not only risked being ineffective, but actually facilitating greenwashing and misinformation. RAN itself presented over 150+ pages of evidence, analysis and, in places, discussions of technical options to the TNFD secretariat on a range of areas. We also worked alongside other organisations who also shared their expertise.

We urged TNFD at several points to resource a process to allow groups to test case studies, even hypothetical case studies based on real-world aspects, against its recommendations so that this could inform the development of its framework. This did not occur during its drafting.

Failure to investigate credible risks that re-pricing nature risk may adversely affect low or middle-income countries

One issue first raised by the organisation Third World Network (covered later in submissions by RAN and multiple CSO open letters) was concern that nascent research may suggest that lower and middle-income countries could be disproportionately impacted by a repricing of credit. That is, if credit becomes more expensive in places with the greatest risk of biodiversity loss this could have less impact in high-income countries with low biodiversity – such as in Western Europe – because they have comparatively little biodiversity left to lose. This should be of fundamental concern for issues of inequality, the burgeoning Global South debt crisis and whether increasing debt renders states more likely to permit environmentally harmful activities if they feel fiscal pressure to do so. At several points, TNFD was urged to come up with a process to investigate this further but this was ignored.

Similarly questions about the impacts of TNFD on broader commodification – by pricing nature – were raised by various groups at points. The Intergovernmental Platform on Biodiversity and Ecosystem Services authoritative 2022 values report explicitly outlines that it is the over-representation of market-based perspectives that have contributed to biodiversity loss, and recommended the importance of elevating diverse views – such as those that respect nature's intrinsic right to exist, as well as addressing asymmetries in power in decision-making.

Lack of evidence behind the model of TNFD

The Conservation Letters article titled 'Risky Business' examines TNFD in depth. The article is open access. Step by step, the article examines many of the assumptions behind TNFD highlighting how they are deeply flawed. As well as its own analysis, it draws on academic work from University College London economists and other researchers, often going back years. This points to a persistent lack of evidence that the model behind TNFD works – pointing to everything from the 'radical uncertainty' of predicting where and how biodiversity impacts will occur, to the disincentives and conflict of interests in trusting companies to self-report their own bad practices. The authors also question the convoluted rationale behind TNFD: that instead of calling for laws to outline clear obligations for companies on biodiversity, multiple governments are funding a taskforce of companies to come up with their own reporting guidelines; and that these guidelines rely on companies speculating at what future point hypothetical regulations ('transition risks') will occur and how these hypothetical regulations may affect the business case for harming biodiversity. Rules that businesses themselves are often lobbying against.

Critical examples of where corporate preferences defy evidence

The Kunming-Montreal Global Biodiversity Framework clearly outlines the interconnected nature of human rights and environmental outcomes – including on gender, on intergenerational equity and on Indigenous Peoples' rights. Yet there has been no gender analysis of TNFD's recommendations. There has been no effort to meaningfully seek, or act on, the advice of grassroots women or youth movements. While TNFD has, after much advocacy, acknowledged that human rights exist – the real-world impact of this is limited by the fact that TNFD's framework doesn't recommend the most basic of transparency. Primarily, that the effectiveness of a company's policies on human rights or biodiversity will be limited – if local people do not even have the right to know if the company is operating in, sourcing from or financing activities in their area.

Materiality: The TNFD doesn't even make a baseline recommendation that corporations should report their impacts on nature

A key implication of the TNFD being written by global corporations – including many with a concerning environmental and human rights record – is, in RAN's view, that they would prefer not to openly disclose where they were linked to environmental or human rights harms.

In simple terms, TNFD's baseline is that a company should only report on nature-related issues that will significantly financially affect its business. The baseline recommendation isn't that a company also report on its impacts on biodiversity, irrespective of financial risks to itself (double materiality) – unless the company is in a jurisdiction that specifically requires this.

Our concern is that the final framework decision for TNFD not to set a basic standard that includes double materiality also seeks to lock-out impact reporting from future regulations, including efforts to promote this corporate written framework as the basis of future law. If a business chooses to report its impacts under TNFD it can – but that is not the basic expectation.

RAN, CSOs and many others engaged extensively with the TNFD on this issue throughout the TNFD framework development. We have engaged deeply and extensively with the arguments and evidence on this, including providing a 20 discussion paper to TNFD including many case studies and other evidence, pointing to evidence that double materiality has overwhelming support in similar initiatives, and showing that support for double materiality spans industry groups, actuaries, financial regulators and companies.

The point ultimately is an intuitive one. What is the point of a disclosure initiative on biodiversity if it does not, as a baseline, recommend that corporations report their adverse harms on biodiversity?

Points commonly raised on this issue include:

- The precise timing, extent and impacts of biodiversity loss can be hard to predict by scientists, let alone business people. It is not possible to understand if a business' understanding of its own impacts or exposures are accurate or valid – on which its materiality assessment is then based - if that information is not disclosed.

- This approach appears likely to fail to pick up the worst environmental issues – as companies linked to egregious practices are most likely to believe that harming biodiversity is not 'financially material' – and that therefore their biodiversity impacts need not be reported.

- Investors are unable to ascertain whether they agree or disagree with a company's claims that its impacts on biodiversity are not financially material – as they are not provided information as to what those impacts are. This also means that investors themselves cannot know their own biodiversity exposures.

- Assessing whether harms to biodiversity will financially affect a business or not can be highly subjective – especially given the widespread impunity we see today for corporate harms to nature. If you presented two different corporations with the same impacts on biodiversity they could have vastly different interpretations as to whether these are material or not, which leads to chaotic data.

- The biodiversity and extinction crisis is a systemic risk to the entire economy – therefore, as some investors and others argue – all biodiversity harms are financially material and should be disclosed.

- The materiality of biodiversity harms may be different for different companies – for example, an investor invested in multiple companies may see its portfolio harmed if one company is polluting in a way that impacts the others, even if the polluting practices do not harm the company itself. However – an investor will not be able to assess its own exposure because the company does not disclose its biodiversity impacts.

- The failure to adopt double materiality makes reporting highly subjective and convoluted. By failing to set a clear, basic standard it leaves loopholes for corporations to justify not reporting biodiversity harms they cause or contribute to.

Where companies do report on their biodiversity impacts, this will mostly take the form of high-level aggregated data. It does not take a form that can be checked against realities on the ground. This is despite an abundance of evidence that shows that companies undertaking reporting at this level systematically fail to disclose environmental and social harms. This is seen, for example, in Global Witness analysis of palm oil supply chains using supplier lists, which identified a range of environmental, human rights and conflict related issues that companies themselves had not publicly identified and BankTrack's long-term analysis and research into Equator Principles banks' disclosures.

Communities' rights to know if a company or bank is operating in, sourcing from or financing activities in their area

As the NGO Forest People's Programme (FPP) observe: *'it is hard to recall any major case of human rights abuse or environmental destruction that has been exposed by company self-reporting. It is the communities negatively affected who have to sound the alarm bells and expose corporate wrong-doing.'* In fact, one of the fundamental ESG tools for businesses, controversies mapping, typically relies on reports raised by communities, often with the assistance of journalists or NGOs. FPP continue: '*TNFD does nothing to rectify this. Not only is the logic of TNFD flawed – the framework doesn't even help indigenous peoples and local communities with customary tenure rights to know which company is operating in, buying from or financing activities in their lands and territories.'*

This basic point was one raised persistently and continuously to TNFD again and again. While TNFD makes reference to human rights, such as Free, Prior and Informed Consent, this cannot be realised if communities are not 'informed' of such basic information as which company is involved in potential or actual harms in their area, let alone any rights they may have under its biodiversity or human rights policies and commitments.

Grievance list reporting

A fundamental point of advocacy from RAN to the TNFD was for TNFD to adopt grievance list reporting. As modelled in the palm oil sector, this is a process to systematically disclose if a company is facing allegations or complaints about its environmental or human rights practices – discussed further in a draft discussion paper provided to TNFD. This would apply to complaints serious enough to be escalated to management or a risk officer. TNFD has made some small adaptations in its framework. For example, its metrics reporting recommends companies to report if they have been fined for environmental violations. Its governance section recommends that companies disclose if a complaint has been filed through a very specific system – the OECD complaint process – that only applies if a company has a presence in an OECD country. The governance section also discusses 'stakeholder engagement' and for a company to describe the nature of its engagement with different groups, but again stops short of a clear, systematic straightforward process to disclose grievances.

We feel it is hard to argue as to why an investor would not want to know that a company is accused of breaking its own biodiversity policies or failing to report its true biodiversity impacts.

Again, we feel that the final position of the TNFD framework does not reflect the basic evidence but reflects the position that global corporations would rather not report the complaints against them and make it easier for investors to see this information.

Together, these issues are examples of why many CSOs raised concerns that TNFD could not only be ineffective but could actually be used for misinformation and greenwashing. This is not a theoretical concern but also based on close observation of existing corporate adoption of reporting standards and similar issues.

To give two examples. As RAN outlined in a public blog and earlier submission, six of the seven reviewers of the 2022 World Benchmarking Alliance (WBA) ranking of 400 companies on their nature performance were staff from organisations closely affiliated with the TNFD, including the TNFD secretariat. The WBA ranked the company Vale the fifth best performing company on nature – despite the company's mining tailings dam collapse in Brazil in 2019 killing hundreds of people and devastating the environment (this followed its involvement in an earlier 2015 collapse). The violations were so severe that homicide charges were brought against company executives and the SEC filed legal action against the company alleging misleading reporting. In our view, the lack of outcry over this ranking and the willingness of reviewers to attach their name to this process was highly problematic and presented a real-world example of how harmful initiatives for assessing corporate impacts on biodiversity could become divorced from reality.

Another early example we presented relates to the world's largest meatpacker JBS. This highlighted that in 2020 various NGOs, media agencies, investors and even its own auditor raised concerns about JBS' environmental claims or brought forward allegations that it was sourcing cattle from tens of thousands of hectares of deforested land in the Brazilian Amazon. These concerns were put forward by Greenpeace

Brasil, The Bureau of Investigative Journalism, Chain Reaction Research, DNV-GL, Amnesty International, Global Witness and Nordea. JBS has disputed most, if not all, of these claims and credit ratings agencies also signalled they did not believe deforestation to present a significant financial risk to the company. We noted that the JBS 2021 self-report on cattle products to CDP failed to mention these reports and it received a favourable 'B' ranking. We signalled that under TNFD's proposed framework, the company's TNFD report would likely present the company in a similar vein. We stated that if TNFD recommended JBS to publish a grievance list of complaints and to report on nature-related impacts (not just financial risks to business) this information would likely be captured – at minimum, presenting that JBS' claims on deforestation were highly contested.

This is an example of the reasons why RAN, and many other organisations, raised concerns that TNFD's framework would not only not be ineffective, but could actually amplify and legitimise greenwashing that provided a misleading picture of the company's actual biodiversity and human rights practices.

Company claims under TNFD cannot be independently fact-checked against realities on the ground

A fundamental point raised by many CSOs concerned about TNFD's capacity for greenwashing is that a company's TNFD report cannot be checked against realities on the ground. Under TNFD corporations do not need to provide any public datasets that would allow their claims to be independently scrutinised. As outlined in the previous section, if communities observing biodiversity harms do not know what corporations are connected to those harms, if corporations do not disclose their supplier lists or client lists and if corporations are not recommended to provide any meaningful geolocation data this inhibits the capacity of their claims to be checked against on the ground realities. TNFD's recommended metrics are also based on high-level aggregated data. This is despite an abundance of evidence from prior initiatives that show that corporations routinely fail to report their links to environmental and social harms and risks if their claims cannot be checked against on the ground realities.

Data generated by TNFD reports will be non-standardised, non-comparable and chaotic

To summarise, under the TNFD framework corporations are free to pick if they report double materiality or just nature-related issues that will financially affect their business. They are free to use their own interpretation of what may, or may not be, 'financially material'. Reporting on biodiversity metrics is also non-standardised – corporations are free to use whatever methodology they like to ascertain their biodiversity metrics. TNFD does not recommend that corporations publish any form of standardised datasets that would allow their claims to be checked against realities on the ground - restricting the capacity of independent third parties to use their own research to try to compare data.

The TNFD does not align with Target 15 a) of the Global Biodiversity Framework

Target 15 a) of the Kunming-Montreal Global Biodiversity Framework notes that governments should take measures to encourage or enable businesses to:

> *"a) Regularly monitor, assess, and* ***transparently disclose*** *their risks, dependencies and* ***impacts*** *on biodiversity, including with requirements for all large as well as transnational companies and financial institutions along their operations, supply and value chains, and portfolios;*"

As described in the previous section, the TNFD framework does not set a basic standard that businesses need to report their impacts. In fact, it sets the baseline of not reporting impacts (only those if financially material to the business).

Additionally, arguably a business cannot be said to **transparently disclose** this information, if it is not done in a form that can be independently checked, including against realities on the ground. Fundamental to this is the basic right of communities to know if a company or bank is operating in, sourcing from or financing activities in their area.

Particularly important for states, is not only Target 15 but also Target 14. Target 14 of the Kunming-Montreal Global Biodiversity Framework specifically calls on governments to policies and other measures to align public and private flows with biodiversity targets. This would require clear actions and policies that have the objective of halting and reversing harms to biodiversity.

Yet the TNFD framework is not a tool to do this. The TNFD sets no objective standard for what collective biodiversity targets should be – and how an individual business meets this; there are no consequences for businesses failing to meet biodiversity standards, and it allows businesses to retain 100% of any profits they may make from environmental or human rights harms – which is a basic incentive for why businesses have failed to shift their behaviour. Further, the data generated by TNFD will be non-comparable, non-standardised and chaotic – so not even useful for central banks themselves to use data collection to understand what these private flows and risks are.

Transition risk is legal and regulatory risk: TNFD evades meaningful regulation and distracts from accountability

TNFD's approach is far-removed from the solutions to the biodiversity-crisis that rights holders and victim-survivors would have devised and the re-tooling of our financial infrastructure that is so desperately needed. By rights holder we refer to stakeholders whose human rights may be positively or negatively impacted – such as Indigenous Peoples, Afro-descendant communities, local communities or land and environmental defenders, including women and youth within these groups. Rights holders have a broad and diverse role in local and global environmental leadership, including spearheading new analysis, solutions, ambition and pathways for the future. Corporate-led harms to biodiversity can be nuanced and complex, and should be approached as such, which requires diverse perspectives. However, we cannot overlook that in the case of many environmental abuses, certainly the most serious, there are victims and perpetrators in some form – not simply different stakeholder groups. Trauma-informed approaches believe that the integrity of evidence-gathering and decision-making relies on elevating the voices and recommendations of those with lived experience of how abuse unfolds. They recognise that without particular effort to centre these voices or marginalised peoples more generally, their views will be side- lined, we will default to our own assumptions of their experience or fail to consider it at all.

TNFD's approach is not the solution that those on the frontlines of the nature and human rights crisis would have devised. TNFD does not challenge business' right to profit off harms to biodiversity or acknowledge the vast inequalities in access or control of land, water and forests as key to the biodiversity and extinction crisis. It does not identify that fundamental to shifting outcomes for biodiversity is requiring respect for nature's own right to exist and to thrive. It does not identify that impoverished wages or below-poverty prices to farmers, failure to respect the wishes of local people to protect nature and the undermining or ignoring of existing laws by business is fundamental to many of the most egregious environmental and human rights abuses. It ignores the structural and physical violence that often lies at the heart of this process.

The TNFD approach often stresses that the issues related to ‘data gaps’ without acknowledging that businesses who chose to operate or finance companies that operate in high-risk areas have failed to make transparency or traceability a contract requirement and that when presented with evidence of harms to people and nature they routinely fail to act on rights holder concerns. It does not acknowledge that local people are systematically denied the basic right to even know the names of the companies or financial institutions that are buying or financing operations or supply chains in their local area. It appears to suggest that the elite global companies and financial institutions that have been at the heart of the biodiversity crisis and been key architects in shaping and maintaining the status quo are the best placed to re-tool our global economy. TNFD is silent on what kind of economic system supports biodiversity which we believe can only be achieved by de-growth and economic democracy, particularly equitable sharing of natural resources. TNFD is silent on the role of justice in protecting nature, including widespread impunity for corporate environmental crime and the persistent and ongoing injustices of colonialism, intergenerational inequities and gender and racial injustice. The TNFD ignores such fundamental aspects as recommending that all businesses report on their harms to nature. All of these issues can, and should, be addressed through concrete and practical initiatives to transform our global financial system and TNFD’s proposal risks distracting from the changes we need.

Common questions from rights holders and CSOs about TNFD’s framework *How TNFD compares to key priorities often raised by groups on the frontlines of the biodiversity crisis*	
Would a company or bank…	
Face legal consequences for its environmental & human rights abuses?	No
Have to give up the profits it made from harmful activities & financing?	No
Have to provide remedy and redress to people or ecosystems harmed?	No
Disclose *where* it is operating, buying from or financing – so that people can know if a company or bank is linked to problems in their area?	No
Disclose complaints or allegations against it of serious environmental or human rights harms?	No
Report where it was linked to illegal practices?	No
Report where it was fined for illegal practices?	Yes. But only if financially material.

*Note, on the surface, TNFD can appear to address some of these issues. For example, it recommends that businesses report complaints – but only those filed specifically to the OECD complaint mechanism. It recommends that businesses disclose the ‘location’ of their operation – but without any set criteria, for example, it recommends just a ‘list’ or a ‘spatial map’ but sets no definition of what level of location, data or information this means.

Conclusion

In this submission RAN hopes to have laid out key considerations for the Environmental Audit Committee in understanding the context of the TNFD. Specifically, our key message is that it is not appropriate for a framework written solely by global corporations to form the basis of public policy. Additionally, it has sought to outline examples of *who* wrote TNFD sheds light on certain positions that TNFD takes on key issues, as well as encouraging public policy makers to look to legislative or regulatory models that would focus on meaningful consequences for businesses that harm biodiversity. This is not only critical to protect the rights of environmental defenders and of nature itself, but also to create markets that allow businesses that are truly embedded in their community and place, to thrive.