The Corporate Lobbying Alignment Project

Discussion note no.3

Preventable Surprises

Investor responses to corporate lobbying & climate policy capture by the fossil fuel sector

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Index

Summary

With Shell shedding 9,000 jobs and BP reinventing itself as a clean energy company for the second time around, the energy transition in the fossil fuel sector is gathering pace. As central banks and financial regulators add their voices to global calls for accelerated action on climate change, momentum towards the net zero emissions targets committed to in the Paris Agreement appears unstoppable. The UN Secretary General recently called for a Green Recovery from Covid-19[1] and China has set a 2060 national net zero target, setting the stage for a historically unprecedented energy system transformation. Yet lobbying by the fossil fuel sector's largest companies and their trade association proxies to roll back climate aligned policies and targets has never been fiercer. As the human and economic costs[2] of policy inaction and predatory delay become clear, investors have an opportunity and obligation to respond in a systematic way to lobbying by fossil fuel companies, trade associations and the industry's financial sector backers in the banking sector[3] who continue to thwart climate progress.

This Corporate Lobbying Alignment Project (CLAP) discussion note outlines the state of play with respect to corporate lobbying by fossil fuel sector firms. The analysis below is not exhaustive, and we welcome additional suggestions and contributions to the larger project. The note discusses opportunities for investor engagement and forceful stewardship to first address and then roll back the most egregious lobbying conduct. Investor interest in addressing negative climate lobbying is clear, with mounting shareholder resolutions and investor statements increasing year-on-year.4[4]Yet the global fossil fuel industry's pervasive influence over national climate policy in the United States,[5] Canada,[6] Australia,7[7]the UK,[8] and at the supranational level in the EU remains a challenge to progress. This investor briefing seeks to renew institutional investors' focus on this challenge to highlight opportunities for more robust engagement and forceful stewardship.

<u>Covid-19 recovery financial support has been a particular boon for the fossil fuel sector and its lobbyists.</u>[9] Since the beginning of the Covid-19 pandemic in early 2020, G20 countries have committed over US $380 billion to supporting the energy sector, with most of this money going to fossil fuel projects.[10] As discussed in previous sector analyses, the short return on investment for companies investing in aggressive lobbying at all levels of government is good, but can create company and sector-specific risks over the long-term.[11] Through the Covid-19 period, fossil fuel sector demands from public policy makers focused on rolling back existing or planned climate legislation and providing financial interventions that favour fossil fuel production over other sectors.[12] Financial support includes boosting existing subsidies and channelling quantitative easing programmes to the sector.[13]

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1 'Invest COVID-19 Stimulus Funds in Green Growth, Secretary-General Tells Clean Energy Summit, Stressing Renewables Offer Three Times More Jobs than Fossil Fuel Industry' (09.07.2020): https://www.un.org/press/en/2020/sgsm20168.doc.htm

2 CFTC (2020) 'Managing Climate Risk in the U.S. Financial System:' https://cftc.gov/PressRoom/PressReleases/8234-20

3 RAN 'Banking on climate change - fossil fuel finance report 2020:' https://www.ran.org/bankingonclimatechange2020/

4 Ceres (2020) 'Blueprint for responsible policy engagement on climate change:' https://www.ceres.org/sites/default/files/reports/2020-07/RPE%20Report%20FINAL%20July%2015.pdf

5 'US Covid-19 bailouts gave bonuses to fossil fuel CEOs while workers and planet suffered:' (21.09.2020): https://www.globalwitness.org/en/blog/covid-19-bailouts-and-bonuses-for-fossil-fuel-ceos/; Influence Map (2020) 'The COVID-19 Crisis and Climate Lobbying:' https://influencemap.org/report/The-Coronavirus-Crisis-and-Climate- Lobbying-23249d39450ff19b441090a6a50174eb

6 'Half of Bank of Canada's corporate bond buying program to target financial and energy companies' (19.05.2020): https://www.theglobeandmail.com/business/article-half-of-bank-of-canadas-corporate-bond-buying-program-to-target/

7 Prime Minister of Australia 'Gas-fired recovery' (15.09.2020): https://www.pm.gov.au/media/gas-fired-recovery; 'Australia doubles down on fossil fuels, firing up critics' (16.09.2020): https://phys.org/news/2020-09-australia-fossil- fuels-critics.html

8 'UK has biggest fossil fuel subsidies in the EU, finds commission' (23.01.2019): https://www.theguardian.com/environment/2019/jan/23/uk-has-biggest-fossil-fuel-subsidies-in-the-eu-finds- commission

9 'Over 5,600 fossil fuel companies have taken at least $3bn in US Covid-19 aid' (07.07.2020): https://www.theguardian.com/environment/2020/jul/07/fossil-fuel-industry-coronavirus-aid-us-analysis?

10 'G20 Energy Policy Tracker:' https://www.energypolicytracker.org/region/g20/

11 'CLAP: transport sector discussion note launch' (16.07.2020): https://preventablesurprises.com/archive/clap- transport-sector-discussion-note-launch-august-online-roundtable/

12 'Fossil Fuel Lobbyists Are Dominating Climate Policy Battles During COVID-19' (09.07.2020): https://influencemap.org/report/Fossil-Fuel-Lobbyists-Are-Dominating-Climate-Policy-Battles-During-COVID-19- a78b11aa1be42aef5d7078d09457603b; see their lobbying tracker here: https://recovery.influencemap.org/lobbying

13 'How the fossil fuel industry used COVID-19 to derail the EU Green Deal' (05.10.2020): https://www.eubusiness.com/Members/foeeurope/covid-green-deal; 'The Fed's Coronavirus Spending On Fossil Fuel Could Dig A $19 Billion Money Pit' (23.06.2020): https://www.huffingtonpost.co.uk/entry/federal-reserve-coronavirus- oil-fossil-fuel_n_5ef0d000c5b694977f2a8219?

In Europe, the fossil fuel industry has spent around €250m lobbying the EU Institutions over the past decade.[14] In North America, this figure is even higher. The effectiveness of fossil fuel company and trade association lobbying over the decades leading up to the Covid-19 crisis is well documented.[15] The European Union, which currently has the strongest climate change policy in the world, for example, is focused on emissions trading, Carbon Capture and Storage (CCS) and hydrogen fuel at the expense of ambitious renewable energy and energy efficiency measures, and the rapid phase out of fossil fuel subsidies. The European gas industry and their global peers have long supported emissions trading through the International Emissions Trading Association and other bodies because it helps them to out-compete coal.[16] In North America, the fossil fuel lobby has managed to take over key elements of the federal fiscal and environmental policy regulatory regimes in the United States, Canada, and Mexico. In Canada and Australia,[17] smaller jurisdictions with powerful fossil fuel interests, the sector's lobbying reach extends into all aspects of federal and provincial and state-level policy making respectively.[18]

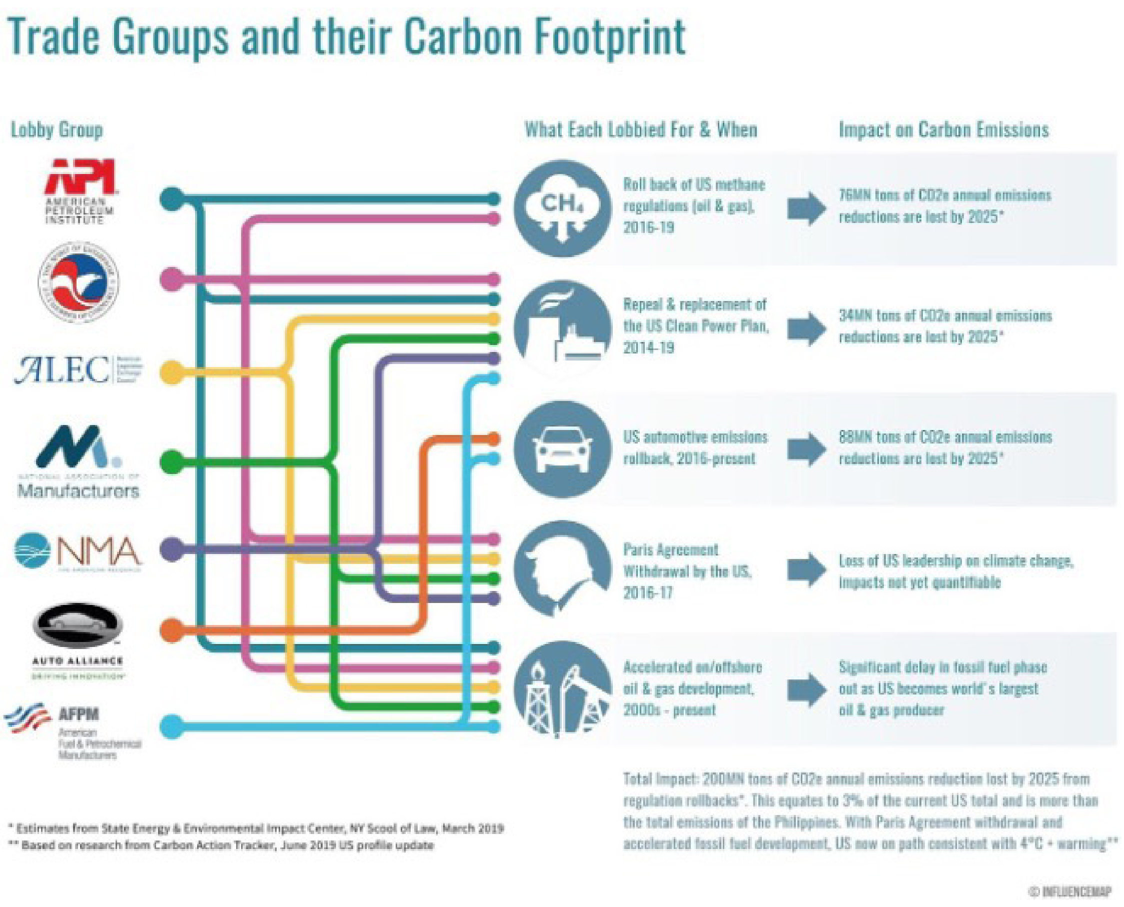
The extent and impact of lobbying success is apparent at all levels of climate policy implementation.
Shell and other oil majors successfully undermined the EU 2030 renewable energy targets in 2014,[19] when the EU decided that a 27 per cent target for renewables in the energy mix would not be binding on individual member states. And despite having an emissions profile as bad or worse than other fossil fuels,[20] gas is at the heart of the EU's 2050 climate long-term strategy,[21] and its role as a "bridge fuel" is part of the official government climate change narrative in Canada and other G20 jurisdictions.[22]Given the global pervasiveness of fossil fuel sector lobbying, investors should consider the analogy with a once dominating tobacco sector. Just as the World Health Organisation adopted restrictions for the tobacco lobby,[23] and national jurisdictions around the world placed restrictions on the most damaging lobbying and public policy influence of the tobacco sector, fossil fuels could be next.[24] Investors have an essential role to play in bringing about these changes.

Litigation risk is mounting for the Super Majors and their peers. The power of the fossil fuel lobbying machine is creating new legal risks for investors in the sector. US states and municipalities are drawing lessons from litigation against tobacco companies that culminated in settlements guaranteeing $206bn in payments to 46 US states over the first 25 years.[25] At the same time as responding to civil litigation from governments around the world,[26] fossil energy companies are facing separate accusations of deceiving investors over climate risks from investors, including a number of state attorney generals.[27]

14 *'Gas and oil spent €250m lobbying EU' (24.10.2019): https://euobserver.com/environment/146378*
15 *'The climate denial machine: how the fossil fuel ind industry blocks climate action' (05.09.2019): https://www.climaterealityproject.org/blog/climate-denial-machine-how-fossil-fuel-industry-blocks-climate-action*
16 *'Natural gas lobby charts course for fuel in carbon-constrained world' (02.09.2020): https://www.washingtonexaminer.com/policy/energy/natural-gas-lobby-charts-course-for-fuel-in-carbon-constrained- world; 'Trading carbon credits from nature sparks fiery debate at U.N. talks' (05.12.2019): https://www.reuters.com/article/us-climate-change-accord-carbontrading-idUSKBN1Y92TB*
17 *Influence Map (2020) 'Australian Industry Associations and their Carbon Policy Footprint:' https://influencemap.org/report/Australian-Industry-Groups-And-their-Carbon-Policy-Footprint- c0f1578c92f9c6782614da1b5a5ce94f*
18 *https://www.policyalternatives.ca/publications/reports/big-oil%E2%80%99s-political-reach*
19 *'Shell lobbied to undermine EU renewables targets, documents reveal' (07.04.2015): https://www.theguardian.com/environment/2015/apr/27/shell-lobbied-to-undermine-eu-renewables-targets- documents-reveal*
20 *Howarth, R. (2014) 'A bridge to nowhere: methane emissions and the greenhouse gas footprint of natural gas:' https://onlinelibrary.wiley.com/doi/full/10.1002/ese3.35*
21 *https://ec.europa.eu/clima/policies/strategies/2050_en*
22 *'Made in Canada' LNG: helping to reduce worldwide pollution' (03.06.2019): https://www.jwnenergy.com/article/2019/6/3/made-canada-natural-gas-helping-reduce-worldwide-p/. Other initiatives include the LNG Narrative Group, an organization formed by the Canadian Society for Unconventional Resources (CSUR), Resource Works, the Canadian Global Affairs Institute (CGAI) in 2019 to promote expanded fossil fuel extraction and the "bridge fuel" narrative.*
23 *World Health Organisation's 2003 Framework Convention on Tobacco Control and guidelines: https://www.who.int/fctc/text_download/en/*
24 *WHO 'Global Strategy to Accelerate Tobacco Control 2019-2025:' https://www.who.int/fctc/implementation/global- strategy-to-accelerate-tobacco-control/en/*
25 *See details of payouts in the 1998 Master Settlement Agreement : https://www.tobaccofreekids.org/assets/factsheets/0365.pdf. To date, states have received around $168 billion in compensation payments.*
26 *http://climatecasechart.com/*
27 *http://climatecasechart.com/case-category/securities-and-financial-regulation/*

This litigation includes a prominent lawsuit by the state of New York against ExxonMobil, alleging that it misled investors, alongside international claims.[28] Although the New York state attorney general's lawsuit was dismissed, it is indicative of the direction of travel and of mounting legal risks to key actors in a sector, which continues to delay climate action.[29] Some activist investors are even considering pursuing the providers of capital to the fossil fuel sector in the courts.[30] Litigation may not crystalise into immediate financial losses in the sector, but points to secular decline in the most distressed industry segments and should raise red flags for investors.

FIGURE 1: Sample of the most influential US trade groups and the focus of their climate lobbying. Fossil fuel companies can use trade groups to lobby against climate policy at all levels of government.



Source: InfluenceMap: https://influencemap.org/report/Trade-Groups-and-their-Carbon-Footprints- f48157cf8df3526078541070f067f6e6

Lobbying to block climate action ramps up heading into COP26

NGO InfluenceMap's recent analysis shows how two of the most powerful trade associations advocating for deregulation on climate change and energy, the US Chamber of Commerce and the National Association of Manufacturers, successfully lobbied for the United States' withdrawal from the Paris Climate Agreement. The American Petroleum Institute, the American Fuel & Petrochemical Manufacturers and the Alliance of Automobile Manufacturers have also been effective in blocking climate policy progress, including winning regulatory rollbacks on methane emissions and

28 'People of the State of New York v. Exxon Mobil Corp.': climatecasechart.com/case/people-v-exxon-mobil- corporation/; and the neighbours in New Jersey: 'Hoboken sues Big Oil companies for climate damages, bringing total number of lawsuits to 20' (02.09.2020): https://www.washingtonexaminer.com/policy/energy/hoboken-sues-big- oil-companies-for-climate-damages-bringing-total-number-of-lawsuits-to-20

29 'Climate change litigation: A new class of action' (13.11.2018): https://www.whitecase.com/publications/insight/climate-change-litigation-new-class-action

30 'Billionaire Chris Hohn threatens to sue coal-financing banks' (01.03.2020): https://www.ft.com/content/a7376670- 5ba3-11ea-8033-fa40a0d65a98 automotive fuel economy standards in 2018-2019. These climate policy rollbacks in the US from 2016 onward are expected to release more than 200 million

metric tons of additional GHG emissions each year across the fossil fuel sector,[31] putting the US on a path to increase average global temperature by 4°C. Similar efforts in Canada, Australia, and the EU by fossil fuel companies risk derailing the prospect of meaningful progress at COP26, when countries are supposed to submit enhanced Nationally Determined Contributions to reflect the "ratchet mechanism" contained in the Paris Agreement.[32]

Context for investor action: policy influence & lobbying by fossil fuel companies

In the United States, the damaging impact of the fossil fuel sector lobbying on public policy has been recognised in presidential candidate Joe Biden's explicit exclusion of fossil fuel officials and lobbyists from his campaign.[33] President Trump's administration is believed to have rolled back more than 100 environmental rules since March.[34] Republicans have repeatedly rejected calls for the US to create a Green Deal and to embed it into the nation's Covid-19 recovery package, as has been the case in the EU. Koch Industries is one example of corporate lobbyists who wield pervasive influence on public policy, extending up to the current Supreme Court appointment process.[35]

Astro-turfing

Astro-turfing - obscuring the financial supporters of a policy message or organization to make it appear as though it originates from and is supported by grassroots participants - is a common tactic. The US-based Consumer Energy Alliance lobby group presents itself as the "voice of the energy consumer," but is actually run by the Republican-linked consultancy HBW Resources.[36] The group was party to a lawsuit seeking to overturn Oregon's clean fuel program, which aims to significantly reduce greenhouse gas emissions from transport fuels.[37] The use of 'grassroots' citizen groups funded by trade associations to agitate against climate policy is similarly well established in Canada.[38]

Advocating false solutions

Fossil fuel companies and their trade associations put forward solutions that allow fossil fuel companies to continue to expand production without implementing a business transition. These solutions do not fundamentally address climate change or the emissions reductions targets agreed to in the Paris Agreement.

31 'America's coal fleet is essential to its recovery' (10.07.2020): https://www.realclearenergy.org/articles/2020/07/10/americas_coal_fleet_is_essential_to_its_recovery_498729.html

32 'Timeline - how countries plan to raise the ambition of their climate pledges' (19.01.2016): https://www.carbonbrief.org/timeline-the-paris-agreements-ratchet-mechanism

33 Presidential transition teams for Democrat Barack Obama in 2008, Democrat Hillary Clinton in 2016 and Trump in 2016 had similar bans on people who lobbied in the preceding 12 months. The ban on lobbying following the transition period was 12 months for Obama and Clinton and six months for Trump. See 'Biden transition: no place for lobbyists, fossil fuel execs' (01.10.2020): https://www.eenews.net/eedaily/2020/10/01/stories/1063715157; See 'Biden-Harris Transition Team Ethics Plan:' https://www.eenews.net/assets/2020/10/01/document_daily_01.pdf

34 'Trump will roll back more environmental regulations if reelected, says EPA chief' (03.09.2020): https://www.cnbc.com/2020/09/03/epa-chief-trump-will-roll-back-more-environmental-rules-if-re-elected.html

35 'Koch's web of influence' (06.04.2011): https://publicintegrity.org/politics/kochs-web-of-influence/; 'Charles Koch's Big Bet on Barrett' (12.10.2020): https://www.nytimes.com/2020/10/12/opinion/charles-koch-amy-coney-barrett.html; DPCC (2020) 'Captured courts:' https://www.democrats.senate.gov/imo/media/doc/Courts%20Report%20-%20FINAL.pdf

36 'Pro-offshore oil group chaired by LePage is run by energy lobbyists' (28.10.2018); https://www.pressherald.com/2018/10/28/pro-offshore-oil-group-chaired-by-lepage-is-run-by-energy-lobbyists/

37 'BP and Shell back anti-climate lobby groups despite pledges' (30.09.2020): https://www.resilience.org/stories/2020-09-30/revealed-bp-and-shell-back-anti-climate-lobby-groups-despite-pledges/

38 'Grassroots' Canada Action Carries Deep Ties to Conservative Party, Oil and Gas Industry' (22.07.205): https://thenarwhal.ca/grassroots-canada-action-carries-deep-ties-conservative-party-oil-gas-industry/; 'Big Oil's Political Reach: Mapping fossil fuel lobbying from Harper to Trudeau' (05.11.2019): https://www.corporatemapping.ca/lobbying/

In many instances, proposed solutions can be a deliberate distraction from real action, locking the sector into capital planning and building infrastructure for a fossil-fuelled future, rather than one fuelled by renewables.[39]

False or unproven solutions advocated by fossil fuel sector incumbents to distract from more immediate actions they should be taking on climate change include:

Carbon capture and storage (CCS)

Advocacy for widespread deployment of CCS would mean that fossil fuels continue to be used in electricity generation and industrial processes, but instead of the carbon dioxide being released into the atmosphere, it would be captured and stored underground or underwater. Practical problems[40] associated with CCS include high costs - the technology would cost far more to implement than simply switching to renewable energy. It is also unproven and dangerous technology[41] that defers the phase out of fossil fuels with promises that are always a decade away.[42]

Carbon capture, utilisation and storage (CCUS)

CCUS refers to the process of capturing carbon dioxide to be recycled for further use. It primarily supports oil extraction and the fertiliser industry, and often sees the release of captured CO2 back into the atmosphere after it is used. It also facilitates Enhanced Oil Recovery, where CO2 is pumped into depleted wells in order to extract more oil. Policy focus on these technologies seeks to enable continued investment in fossil fuel fired power plants and associated infrastructure.[43] Lobbyists suggest that in the future we will be able to safely and cost effectively bury CO2 emissions at scale. Hydrogen, renewable gas, low-carbon gas, and decarbonised gas are also promoted as alternatives to energy and transport system decarbonisation.[44] Green and blue hydrogen refer to a non- fossil gas produced from renewable electricity via electrolysis in a power-to-plant - in order for green hydrogen to be a clean fuel for North America and Europe would need to be made from excess renewable electricity.

Smokescreens

Smoke screens are coordinated attempts by fossil fuel industry stakeholders to divert discussion away from the initial issue at hand as well as funding research and organisations to advance private agendas. These practices circumvent public and regulatory scrutiny and continue to evolve.[45] Examples of the use of smoke screens include the global fossil fuel sector arguing in favour of gas, particularly renewable gas[46] and hydrogen as replacement fuels as discussed above,[47] instead of full electrification of transport, power and heating systems by 2050.

Directly blocking legislative action on the implementation of stricter emissions targets in all transport sector segments is another common approach at the state level in the US, and in North America and Europe at the national and regional level.[48] In the United States, the American Fuel and Petrochemical Manufacturers, a trade group for gasoline makers,

39 'Decline and Fall: The Size & Vulnerability of the Fossil Fuel System' (04.06.2020): https://carbontracker.org/reports/decline-and-fall/

40 Jacobson, M. (2019) 'The health and climate impacts of carbon capture and direct air capture:' https://pubs.rsc.org/en/Content/ArticleLanding/2019/EE/C9EE02709B#!divAbstract

41 https://www.hse.gov.uk/carboncapture/assets/docs/major-hazard-potential-carbon-dioxide.pdf

42 'Exxon Touts Carbon Capture as a Climate Fix, but Uses It to Maximize Profit and Keep Oil Flowing – follow the money for the true story' (27.09.2020): https://www.oilandgas360.com/exxon-touts-carbon-capture-as-a-climate-fix- but-uses-it-to-maximize-profit-and-keep-oil-flowing/

43 IEA (2020) 'CCUS in Clean Energy Transitions:' https://www.iea.org/reports/ccus-in-clean-energy-transitions; https://ccsknowledge.com/what-is-ccs

44 'A dangerous distraction: Seven myths industry uses to sell "renewable gas"' (07.11.2018): https://corporateeurope.org/en/climate-and-energy/2018/11/part-1-dangerous-distraction-seven-myths-industry-uses- sell-renewable-gas

45 http://www.oecd.org/corruption/ethics/lobbying/

46 CEO (2018) A dangerous distraction: 'renewable' gas keeps us on the fossil fuel path:' https://corporateeurope.org/sites/default/files/attachments/pt2_renewable_gas_-_lobbying.pdf; 'The oil industry vs. the electric car' (16.09.2019): https://www.politico.com/story/2019/09/16/oil-industry-electric-car-1729429

47 Since 2017, the Hydrogen Council - an initial consortium of 18 companies in the automotive, oil and gas, industrial gas, and equipment industries - has advocated for natural gas-derived hydrogen as the focus for achieving transport sector decarbonisation targets. See: https://hydrogencouncil.com/en/.

48 Most recently during the coronavirus recovery period. See 'EU car lobby's renewed attack on cars CO2 targets - on the back of COVID-19' (25.03.2020): https://www.transportenvironment.org/press/eu-car-lobby's-renewed-attack- cars-co2-targets-back-covid-19. On the aviation sector's approach see: 'Corsia: The UN's plan to 'offset' growth in aviation emissions after 2020' (04.02.2029): https://www.carbonbrief.org/corsia-un-plan-to-offset-growth-in-aviation- emissions-after-2020 has filed comments against EV charging plans in Kansas and Missouri,[49] and has opposed Colorado's new zero-emission vehicle mandate as part of a "Freedom to Drive" coalition of auto dealers and oil groups.[50] These examples are indicative of the range of practices in the sector across all jurisdictions.[51]

Forceful stewardship can shift corporate conduct

As a result of investor pressure for better alignment between companies' stated climate commitment and trade associations undermining the same targets, companies like BP have left groups like the American Fuel & Petrochemical Manufacturers (AFPM) refining lobby group.[52] Shell and Total have also not renewed their memberships of the AFPM, and Total has left the Canadian Association of Petroleum Producers (CAPP).[53] Norwegian oil producer Equinor recently left the American lobby group, the Independent Petroleum Association of America (IPAA).[54] While this trend continues to grow, lobbying is not yet mentioned in industry reporting guidelines.[55] Investor organisations including the International Corporate Governance Network[56] and the UN-backed Principles for Responsible Investment could help to raise the profile of corporate lobbying as a risk multiplier in the fossil fuel sector and beyond.

Investors need to engage at the top with corporate boards and general counsels to confirm lobbying and climate policy alignment. Investors should enquire with corporate general counsel to ensure that both direct lobbying and indirect lobbying via industry groups and trade associations is aligned with climate science and addresses the systemic risks posed by climate change. By running a company climate policy in parallel with deceptive or oppositional trade association campaigns that seek to undermine progress on climate change, fossil fuel companies could be amplifying litigation risks this decade. The world's leading fossil fuel companies continue to rely on lobbying to control policy and legal outcomes in their favour. For example, Shell and BP are lobbying for a new US carbon tax bill that would also include a liability waiver for fossil fuel products sold in the past.[57] Investors do not have the capacity to address all of these instances of problematic lobbying, but can use stewardship tools to address the most aggressive lobbying conduct by companies and their trade associations. Where trade associations are actively lobbying against climate policies committed to by their member companies, investors should ask members to end their membership.

Investors have not yet taken a strong public position on the need for a systematic wind-down of the fossil fuel sector, so there is an opportunity to do so heading into the 2021 proxy season.[58] Investors should communicate a clear and unequivocal public position on the sector's secular decline pathway in line with climate targets and request the publication of clear business transition plans across the sector. A push for business transition plans aligned with climate targets would protect investors from the risk of a volatile collapse in the sector. Forceful stewardship actions that investors could undertake this year include:

49 *'AFPM Helps Protect Ratepayers from EV Surcharges:' https://www.afpm.org/newsroom/news/afpm-helps-protect-ratepayers-ev-surcharges*

50 *http://freedomtodrive.org/community-supporters/*

51 *Influence Map (2019) 'How the oil majors have spent $1Bn since Paris on narrative capture and lobbying on climate:' https://influencemap.org/report/How-Big-Oil-Continues-to-Oppose-the-Paris-Agreement- 38212275958aa21196dae3b76220bddc*

52 *'BP to leave three trade associations after detailed review of climate policies' (26.02.2020): https://www.bp.com/en/global/corporate/news-and-insights/press-releases/bp-to-leave-three-trade-associations-after-detailed-review-of-climate-policies.html*

53 *'Total writes off $9.3B in oilsands assets, cancels Canadian oil lobby membership' (29.07.2020): https://www.cbc.ca/news/canada/calgary/suncor-total-fort-hills-conocophillips-tim-mcmillan-1.5668095*

54 *'Equinor quits oil-lobbying group IPAA due to its lack of climate-change policy' (01.04.2020): https://electrek.co/2020/04/01/equinor-quits-oil-lobby-group-ipaa-lack-of-climate-change-policy/*

55 *https://wedocs.unep.org/bitstream/handle/20.500.11822/33924/SRMS.pdf*

56 *https://www.icgn.org/policy*

57 *'Carbon Tax Plans: How They Compare and Why Oil Giants Support One of Them' (07.04.2019): https://insideclimatenews.org/news/07032019/carbon-tax-proposals-compare-baker-shultz-exxon-conocophillips-ccl- congress*

58 *'World's top three asset managers oversee $300bn fossil fuel investments' (12.10.2019): https://www.theguardian.com/environment/2019/oct/12/top-three-asset-managers-fossil-fuel-investments; 'Fossil fuel angst darkens oil sector funding outlook' (06.06.2019): https://blogs.platts.com/2019/06/06/fossil-fuel-divestment-oil- sector/*

1. Bringing sector wide shareholder resolutions demanding lobbying disclosure by all major fossil fuel companies;

2. Incorporating climate lobbying alignment questions and benchmarking metrics into existing stewardship activities;

3. Requesting board-level engagement on corporate climate lobbying alignment and request meetings with corporate counsel on this issue.

Investor action to address corporate lobbying alignment is gaining momentum

The most high profile investor work to date that addresses corporate lobbying alignment on climate policy has been led by the Church of England and peer investors through the Transition Pathways Initiative (TPI).[59] The TPI and other investor coalitions continue to raise the profile of lobbying by supporting shareholder resolutions to improve lobbying transparency. In 2019 a coalition of 200 institutional investors led by BNP Paribas, CalPERS and CalSTRS and representing more than US$6.5 trillion in assets, requested almost 50 of the largest US emitters to align their climate lobbying with the goals of the Paris Agreement. This included providing companies with a list of investor expectations for carbon-intensive industries when engaging policymakers on the topic of climate change.[60] In the 2020 proxy season, investors filed at least 38 shareholder proposals about political activities in the US, including several resolutions that specifically addressed climate lobbying. With this record of success, the 2021 proxy season provides a significant opportunity to amplify and expand shareholder resolutions across the fossil fuel sector in all major jurisdictions. The largest asset managers should be ready to support more of these resolutions, if they want to live up to their own public commitments to climate action.

The existing Investor Expectations on Corporate Climate Lobbying[61] have not yet had an identifiable impact on corporate conduct. Scaling up investor support to include larger asset managers willing to take action on these principles could have a significant positive impact on corporate conduct. The Expectations identify a number of risks to investors from excessive lobbying, including:

- Regulatory risks - delays to climate action now will likely result in the need for stronger regulatory interventions later, leading to higher costs for companies. These risks are elaborated in the UN-PRI's Inevitable Policy Response project.[62]
- Systemic risks - delayed climate action will amplify the physical risks of climate change, elevating uncertainty and volatility in investor portfolios, creating a broader systemic risk to global economic stability that will be of particular concern for long-term investors.
- Reputational and legal risks - as mentioned above, it is expected that companies will continue to face litigation blowback from consumers, investors, and other stakeholders if they continue to support trade associations that undermine climate policy.

In light of the risks identified in the Expectations document, investors should:

- Publicly support cost-effective climate policies in line with the Paris Agreement goals of keeping average global warming to well-below 2°C
- Publicly identify technical and financial shortcomings in the fossil fuel industry lobbying narrative in support of

59 https://www.chronossustainability.com/news/climate-2020-investor-influence-rory-sullivan-and-adam-matthews
60 'A Call by Investors on US Companies to Align Climate Lobbying with Paris Agreement' (01.10.2019): https://corpgov.law.harvard.edu/2019/10/01/a-call-by-investors-on-us-companies-to-align-climate-lobbying-with-paris- agreement/; 'Increasingly concerned with the climate crisis, investors focus on lobbying, governance this AGM season' (26.05.2020): https://www. responsible-investor.com/articles/increasingly-concerned-with-the-climate-crisis- investors-focuson-lobbying-governance-this-agm-season; 'A Call by Investors on US Companies to Align Climate Lobbying with Paris Agreement: https://corpgov.law.harvard.edu/2019/10/01/a-call-by-investors-on-us-companies-to- align-climate-lobbying-with-paris-agreement/
61 https://collaborate.unpri.org/group/1281/stream
62 'The Inevitable Policy Response: policy forecasts:' https://www.unpri.org/the-inevitable-policy-response-policy- forecasts/4849.article

natural gas as a "bridge" fuel,[63] carbon capture and storage,[64] and hydrogen production[65] as solutions to address climate change that enable business as usual expansion of fossil fuel production.

- Ensure alignment of public commitments on climate action with the substance of their engagements with policymakers, including those conducted on their behalf by trade associations.
- Establish robust governance and reporting procedures on climate risk and associated lobbying by the company and its trade associations, including assignment of board oversight for lobbying alignment.
- Assess misalignment between company policies on climate, policy engagement, and proxy voting policy. Following this assessment corrective action should be taken to ensure alignment in time for COP26.

FIGURE 2: The private equity stewardship advantage. Proponents of private equity investing suggest that this class of investors is more able to engage in forceful stewardship on long-term sustainability matters. Private equity investors seeking to prove this marketing narrative to be true can step up their stewardship on climate change and lobbying alignment with investee companies and PE trade associations, such as the American Investment Council (AIC), National Association of Investment Companies (NAIC), and the European Private Equity & Venture Capital Association (EVCA).

Structural advantage	Description
Control of time horizon	PE firms have a unique ability to control the time horizon of their investments. Time horizons are often 5-10 years in length, after which the PE firm will then typically sell the company to another sophisticated investor who will in turn hold on to the company for another 5-10 years, with each firm having the flexibility to exit whenever is strategically most beneficial – or sell to a strategic buyer who will hold the company indefinitely.
Ability to align incentives	PE-owned boards are representative of their shareholders by definition, whereas public boards have several structural characteristics (e.g. lower level of independence, short-term pressures, etc.) that can challenge the board's ability to look after all stakeholders' interests. Accordingly, private ownership allows for the construction of a management team that is more aligned with shareholders than might be possible in the public context. By contrast, management teams of publicly held companies often must juggle a larger set of short-term priorities and rely principally on public boards to play a similar role to a PE owner when firming up strategic goals, financial objectives, and management incentives.

Source: WEF '3 lessons public market investors can learn from private equity' (18.06.2020): https://www.weforum.org/agenda/2020/06/3-lessons-public-market-

- Publicly disclose the company's position on climate, its climate lobbying position with regards to governments in G20 jurisdictions, the lobbying of its trade associations on climate and actions taken when misalignments are discovered.

In addition to these investor actions, there are a number of asset class and industry specific stewardship opportunities, discussed below.

Investor stewardship opportunities across asset classes

Equity investors

Shareholders should bring climate lobbying concerns into their regular engagement and stewardship activities. The world's largest asset managers, who are committed to ESG aligned investment, stewardship, and product development, have an opportunity to get serious about climate change in the 2020s. This could start with support for forceful shareholder resolutions on climate lobbying disclosure targeted at the largest fossil fuel players in the 2021 proxy season.[66] These resolutions could include requirements for company lobbying to align with Paris Agreement emissions reductions targets and commit companies to leave trade associations whose lobbying undermines climate action. In addition, equity investors can ask companies who provide ESG ratings - Morningstar, Refinitiv, S&P, MSCI etc. to better incorporate lobbying metrics in their respective scoring methodologies on climate risks.

Bondholders

Bondholders have a dual opportunity to both engage with corporate issuers and with credit rating agencies by commenting on their methodologies. They can also divest their bond holdings and block access to credit markets for companies whose role in undermining climate policy is most egregious. Access to bond markets and lending for oil sands companies could be curtailed in the same manner as bank lending and bond market access for coal mining companies has been.[67] Investors in sovereign bonds can engage with sovereign issuers on energy transition and investment decisions, particularly in relation to the global expansion of coal mining.

Private equity

Private equity investors wield a significant degree of influence in unlisted fossil fuel companies they own or are invested in. The world's largest private equity firms and their investment partners are present across the fossil fuel sector, particularly in the United States.[68] Engaged private equity firms and their pension fund partners could send a clear message via their board representatives[69] to fossil fuel companies on the need for alignment with climate change targets and to limit damaging lobbying by trade associations. Private equity investors can employ their more assertive stewardship approach to push for climate policy and lobbying alignment at investee companies.

Engagement with trade associations

Investors can press companies to leave trade associations that are actively undermining climate policy. French oil major Total recently left the Canadian Association of Petroleum Producers. Super Majors Shell[70] and BP have both reviewed their membership in trade associations. Equinor, the large Norwegian oil and gas producer, recently left the US lobby group, the Independent Petroleum Association of America (IPAA).[71]

66 'BlackRock, JPMorgan climate votes at odds as new rules loom' (22.09.2020): https://www.reuters.com/article/us- climate-change-investors-idUSKCN26D0CC

67 'HSBC faces call to end all new coal power financing' (06.03.2019): https://www.ft.com/content/35ca50c2-3f54-11e9-b896-fe36ec32aece; 'Coal phase out: The investment case' (14.06.2019): https://realassets.axa- im.com/content/-/asset_publisher/x7LvZDsY05WX/content/coal-phase-out-the-investment-case/23818

68 'Fossil fuel investments - largest private equity managers' (02.2020): https://pestakeholder.org/wp-content/uploads/2020/05/PE-investments-in-fossil-fuels-021420.pdf

69 The Canada Pension Plan is an example of a large investor in private fossil fuel companies that does not have a clear climate policy and does not bring climate change issues into the boardroom at investee companies. This could change but would require leadership. See: Williams, C. (2020) 'Troubling Incrementalism': Is the Canadian Pension Plan Fund Doing Enough to Advance the Transition to a Low-carbon Economy?' https://law-ccli- 2019.sites.olt.ubc.ca/files/2020/09/CCLI_Troubling_Incrementalism_Cynthia_Williams_Sept2020.pdf

70 'Shell publish reports on industry associations, sustainability and payments to governments' (02.04.2019): https://www.shell.com/media/news-and-media-releases/2019/shell-publishes-reports-on-industry-associations- sustainability.html

71 'Equinor to quit U.S. lobby group over climate policy' (27.03.2020): https://www.reuters.com/article/us-equinor- lobbying-idUSKBN21E2KU

Extreme lobbying: the case of the Canadian Association of Petroleum Producers

In a statement released on its website this spring, the Canadian Association of Petroleum Producers (CAPP) called on the federal government to implement an immediate 100% tax deduction for all oil and gas sector capital investments. Additionally, CAPP proposed a 'Create the Path Table' to unleash fossil fuel investment and financing for associated infrastructure projects, that would include federal and provincial government ministers from various departments alongside oil and gas industry representatives.[72]

Fossil fuel industry lobbying in Canada is concentrated,[73] with five industry associations and five companies accounting for 65 percent of political advocacy activities in the oil & gas industry at the federal level. According to the Canadian Centre for Policy Alternatives, CAPP,[74] the Canadian Gas Association (CGA), the Canadian Energy Pipeline Association (CEPA), the Petroleum Services Association of Canada (PSAC) and the Mining Association of Canada (MAC) account for approximately 40 percent of all registered lobbying contacts made by the industry between 2015 and 2018.[75] Fossil fuel sector lobbying extends to the banking sector, with the Big Six chartered banks committed to pipeline financing and business as usual financing for an expansion of fossil fuel extraction.[76] In a concentrated financial system[77] where many fossil fuel companies, banks and pension funds are connected via shared board members or trustees,[78] investors have not yet stood up to address fossil fuel sector capture of provincial and federal climate policy.

72 'Freeze carbon tax, delay new climate regulations during coronavirus crisis, oil lobby asks' (17.04.2020): https://www.cbc.ca/news/canada/edmonton/carbon-tax-climate-regulation-covid-oil-lobby-letter-1.5535601; 'CAPP most active lobbying body in April, as Liberals moved forward with oil and gas aid package' (08.06.2020): https://ipolitics.ca/2020/06/08/capp-most-active-lobbying-body-in-april-as-liberals-moved-forward-with-oil-and-gas-aid- package/

73 SHARE (2020) 'Climate lobbying in the Canadian oil & gas sector: investor benchmark of oversight and disclosure:'' https://share.ca/wp-content/uploads/2020/09/SHARE_climate_lobbying_4.pdf

74 https://www.corporatemapping.ca/profiles/canadian-association-of-petroleum-producers/

75 'Canada's fossil fuel lobby influences policy and decisions for major federal government projects' (08.11.2019): https://www.policynote.ca/big-oil-lobby/. This includes major influence on the structure of Canadian electricity markets, and trade policy with the United States: 'CAPP, LNG industry lobby B.C. government for long-term discount on hydroelectricity' (24.07.2020): https://thenarwhal.ca/capp-lng-lobby-bc-government-hydroelectricity-discount/

76 'Banking on Climate Change 2020: Fossil Fuel Finance Report Card' (18.03.2020): priceofoil.org/2020/03/18/banking-on-climate-change-report-card-2020/; 'CIBC shrinks event after Whistler tries to bill oil firm for climate change' (17.12.2018): https://www.ctvnews.ca/business/cibc-shrinks-event-after-whistler-tries-to- bill-oil-firm-for-climate-change-1.4221154

77 IMF (2019) 'Canada : Financial System Stability Assessment:' https://www.imf.org/en/Publications/CR/Issues/2019/06/24/Canada-Financial-System-Stability-Assessment-47024

78 See the Royal Bank of Canada as an example: https://www.corporatemapping.ca/profiles/royal-bank-of-canada/; 'Why has UBC divested from fossil fuels but UVic has not? The high cost of industry influence' (16.07.2020): https://www.policynote.ca/divest-industry-influence/

Conclusion: investors can take simple steps to address lobbying risk

Investors across asset classes have stewardship tools to shift corporate conduct and to enhance lobbying disclosure. Industry-wide shareholder resolutions to push for lobbying disclosure and alignment are one option for the 2021 proxy season, building on existing work led by the CA100+ initiative and others.[79]

Encouraging the world's largest asset manager, BlackRock, and its mega manager peers to start supporting these resolutions in a systematic manner would be an important step this year.[80] In addition, investors concerned with policy capture can make their views on lobbying public and encourage more robust disclosure on lobbying spending by listed and unlisted fossil fuel companies.

Appendix 1 - Fossil fuel industry associations

North America

American Legislative Exchange Council (ALEC)
American Petroleum Institute (API)
International Petroleum Industry Environmental Conservation Association (IPIECA)
Downstream Fuel Association (DFA)
UK Petroleum Industry Association (UKPIA)
Canadian Association of Petroleum Producers (CAPP)
New Mexico Oil & Gas Association
Texas Independent Producers & Royalty Owners Association
Petroleum Association of Wyoming

Europe

FuelsEurope
International Association of Oil & Gas Producers (IOGP)
European Network of Transmission System Operators for Gas (ENTSO-G)

Australia
Australian Petroleum Production & Exploration Association
Business Council of Australia

79 'ShareAction voting study throws up voting anomalies among some CA100+ signatories' (04.11.2019): https://www.responsible-investor.com/articles/shareaction-voting-study-throws-up-voting-anomalies-among-some- ca100-signat
80 80 'How Big Fund Families Voted on Climate Change: 2020 Edition' (28.09.2020): https://www.morningstar.com/articles/1002749/how-big-fund-families-voted-on-climate-change-2020-edition

Appendix 2 - Top fossil fuel companies

TABLE 1: Largest oil & gas companies by market cap

Company	Country
Pharmaceutical Research & Manufacturers of America	China
Biotechnology Innovation Organization	US
Pfizer Inc	UK
Amgen Inc	US
China National Petroleum Corporation	China
Royal Dutch Shell	UK
Total SA	France
Saudi Aramco	Saudi Arabia
Lukoil	Russia
Oil and Natural Gas Corporation (ONGC)	India

TABLE 2: Largest oLargest coal companies by market cap

Company	Country
China Shenhua Energy Co Ltd	China
BHP Billiton	Australia
Coal India	India
Shaanxi Coal	China
Teck Resources Limited	Canada
China Coal Energy	China
Yancoal Australia	Australia
Whitehaven Coal	Australia
Alliance Resource Partners	US

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