Media release
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ClientEarth files climate risk lawsuit against Shell's Board with support from institutional investors

- *ClientEarth files world-first derivative action in High Court of England and Wales*
- *Claim alleges Shell Board mismanaging climate risk, breaching company law*
- *Institutional investors with over 12 million shares in the company support the claim*

LONDON – ClientEarth has today filed a world-first lawsuit against the Board of Directors of Shell plc for failing to manage the material and foreseeable risks posed to the company by climate change.

The lawsuit alleges Shell's 11 directors have breached their legal duties under the Companies Act by failing to adopt and implement an energy transition strategy that aligns with the Paris Agreement.

ClientEarth's claim filed in the High Court of England and Wales has received the unprecedented support of a group of institutional investors collectively holding more than 12 million shares in the company, and more than half a trillion US dollars (£450 billion) in total assets under management (AUM).

The group of investors includes, among others, UK pension funds Nest and London CIV, Swedish national pension fund AP3, French asset manager Sanso IS, Degroof Petercam Asset Management (DPAM) in Belgium, as well as Danske Bank Asset Management and pension funds Danica Pension and AP Pension in Denmark.

ClientEarth Senior Lawyer Paul Benson said: "Shell may be making record profits now due to the turmoil of the global energy market, but the writing is on the wall for fossil fuels long term.

"The shift to a low-carbon economy is not just inevitable, it's already happening. Yet the Board is persisting with a transition strategy that is fundamentally flawed, leaving the company seriously exposed to the risks that climate change poses to Shell's future success – despite the Board's legal duty to manage those risks.

"Long term, it is in the best interests of the company, its employees and its shareholders – as well as the planet – for Shell to reduce its emissions harder and faster than the Board is currently planning."

Significant investor support

ClientEarth, which is bringing the lawsuit in its capacity as a shareholder, notified the Board of its claim in a pre-action letter in March 2022. The legal organisation says its litigation is in the company's best interests, highlighting how Shell must prepare for a carbon constrained world if it is to remain viable as the economy inevitably shifts away from fossil fuels.

The group of investors backing ClientEarth's claim – the first derivative action against a Board of Directors over failure to properly prepare for the energy transition – say the case is also in their interests as shareholders.

Mark Fawcett, Nest's Chief Investment Officer, said: "Investors want to see action in line with the risk climate change presents and will challenge those who aren't doing enough to transition their business. We hope the whole energy industry sits up and take notice.

"2023 is a crucial year if we are to keep net zero by 2050 on track and this case can be a springboard for Shell introducing key changes. Robust short- to medium-term strategies are needed to meet the goals of the Paris Agreement, whereas the company's new oil and gas projects in development pose risks to investors in terms of carbon lock-in and stranded assets."

Flawed transition strategy

Shell's Board on the other hand maintains that its 'Energy Transition Strategy' – including its plan to be a net zero emissions business by 2050 – is consistent with the 1.5°C temperature goal of the Paris Agreement. It also claims that its plan to halve emissions from its global operations by 2030 is "industry-leading", however this covers less than 10% of its overall emissions.

Leading third-party assessments have found that the strategy is not Paris-aligned. In particular, the strategy excludes short to medium-term targets to cut the emissions from the products it sells – known as scope 3 emissions – despite these accounting for more than 90% of the company's overall emissions.

The group's net emissions are calculated to fall by just 5% by 2030, which is a far cry from the net 45% reduction in group-wide emissions by the end of this decade ordered by a Dutch Court in May 2021. ClientEarth alleges that the Board's failure to fully comply with the Dutch Court's judgment is also a breach of its legal duties. Shell has appealed the judgment.

The Board's strategy also entails continued overinvestment in new fossil fuel projects, contrary to the recommendations of the International Energy Agency.

Benson added: "The Board's 'transition' strategy clings to fossil fuels not just in the next few years, but for decades to come. Its reduction targets barely touch the sides of its total emissions. And doubling down on new oil and gas projects isn't a credible plan – it's a recipe for stranded assets.

"We say this approach fails to manage the risks posed to the company and is a breach of the Board's duties under English law."

Underinvestment in transition

Last week Shell announced it had delivered $40 billion in profit, another record-breaking year driven by higher prices for oil and gas after Russia's invasion of Ukraine triggered the biggest shock to energy markets in decades and sent prices soaring. The Board boosted dividends for another quarter and announced another share buyback programme.

"If you scratch beneath the surface, the proportion of investment currently going to renewable energy is, relatively speaking, miniscule. Although boosting dividends and buybacks might placate some investors temporarily, the Board is wasting a golden opportunity to position the company for the energy markets of the future," said Benson.

London CIV's Head of Responsible Investment Jacqueline Amy Jackson said: "Our key concern is that we do not believe the Board has adopted a reasonable or effective strategy to manage the risks associated with climate change affecting Shell. In our view, a Board of Directors of a high-emitting company has a fiduciary duty to manage climate risk, and in so doing, consider the impacts of its decisions on climate change, and to reduce its contribution to it. We consider that ClientEarth's claim is in our client funds' interests as a shareholder of Shell, and we support it."

AkademikerPension, a Danish pension fund which divested from Shell in 2019 in order to shield its investments from long-term climate risk amid concern with the company's transition plans, has also written in support of the claim. Anders Schelde, Chief Investment Officer, said: “If ClientEarth’s claim was successful and Shell’s strategy was to become Paris-aligned, the company could become an attractive investment again.”

ClientEarth, represented by London litigation firm Pallas Partners, is asking the High Court for an Order which requires the Board to adopt a strategy to manage climate risk in line with its duties under the Companies Act, and in compliance with the Dutch Court judgment. The Board has said it will defend its position robustly. It is now up to the High Court to decide whether to grant ClientEarth permission to bring the claim.

-ENDS-

Notes to editors

A full FAQ about ClientEarth’s case can be found here <LINK>, including information about certain letters ClientEarth has received from other institutional investors, including Brunel Pension Partnership Ltd and ACTIAM (part of the Cardano Group).

London-headquartered boutique litigation firm Pallas Partners is acting pro bono for ClientEarth on the claim. The firm specialises in high stakes litigation, international arbitration and investigations. The firm litigates cutting edge and complex cases, including securities litigation in the UK and Europe. Pallas launched in February 2022.

About ClientEarth

ClientEarth is a non-profit organisation that uses the law to create systemic change that protects the Earth for – and with – its inhabitants. We are tackling climate change, protecting nature and stopping pollution, with partners and citizens around the globe. We hold industry and governments to account, and defend everyone’s right to a healthy world. From our offices in Europe, Asia and the USA we shape, implement and enforce the law, to build a future for our planet in which people and nature can thrive together.

About Nest

Nest was set up by the government to ensure every UK employer could offer a workplace pension to their employees. Since then, it has grown to become the largest workplace pension scheme in the country with more than 10 million members. One in three of the UK working population currently have a retirement fund with Nest. The pension scheme currently manages more than £26bn on behalf of its members.

About London CIV

London CIV was established in 2015 by London Local Authorities and manages London Local Government Pension Scheme (‘LGPS’) assets. The London Boroughs and City of London who are the 32 shareholders, are also its clients. Its combined client accounts represent just under £50 billion AUM.

About AP3

Third Swedish National Pension Fund (AP3) is an investor tasked with contributing to the stability of the Swedish income pension system on behalf of current and future pensioners. The Fund’s capital is invested to obtain high returns over time. Its mission includes promoting sustainable development through responsible ownership and investment. Current assets under management are €43 billion.

About Sanso IS

Sanso IS is a French asset management company with €1 billion in assets under management, that positions itself as a provider of investment solutions and a leading player in socially responsible investment.

About DPAM

DPAM is an independent active asset management firm and manages investment funds as well as discretionary mandates on behalf of institutional clients and various distribution partners. DPAM is a sustainable investor and its proprietary, in-house, fundamental and quantitative analyst teams, form the foundation of the firm's asset management activities. DPAM has approximately €42 billion AUM.

About Danske Bank Asset Management and Danica Pension

Danske Bank Asset Management, part of Danske Bank Group, is an international asset manager and one of the biggest asset managers in the Nordics. Danica Pension is a wholly-owned subsidiary of the Danske Bank Group and one of the largest pension funds in the Nordics. Combined, they have €235 billion in AUM.

About AP Pension

AP Pension is a Danish independent pension company. It specialises in occupational pensions and its customer portfolio comprises some of Denmark's large and medium-sized companies. AP Pension is 100% customer-owned with $146 million AUM.

About AkademikerPension

AkademikerPension is a Danish pension fund owned by more than 150,000 members, who are mainly employed in the public sector, at academic institutions and upper secondary schools. AkademikerPension has €18 billion under management and actively uses its influence to push for positive change in companies it is invested in.