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From fiduciary duties to management standards

**From fiduciary duties to management standards: Rethinking the corporation for  
sustainability**

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## **Abstract**

As companies are increasingly expected to address ecological impacts and support green transitions, a key question arises: can standards be developed to assess whether management decisions align with ecological transitions? How can such standards be defined, and under what conditions can they be effective? This chapter examines how corporate law shapes the role of managers and what is expected of them. We argue that as long as managers are legally required to pursue the interests of the corporation, management decisions that obstruct ecological transitions will remain almost impossible to challenge in court. We observe that reforms such as increasing stakeholder participation or mandating non-financial reporting do not fundamentally revisit how corporate leaders are expected to manage activities. However, proposals, building for instance on corporate purpose or fiduciary duties are emerging to redefine the criteria for assessing managerial decisions. To capture these diverse efforts, we propose the concept of the management standard. A management standard delineates the criteria that distinguish legitimate sustainable management decisions from misconduct. It provides a basis for accountability and establishes a governance mechanism that is fundamentally different from, yet complementary to, the sharing of voting rights. We identify both the legal and cognitive conditions under which management standards can effectively hold managers accountable for facilitating transitions, enabling us to critically evaluate the various emerging proposals. Drawing on concrete empirical examples, we argue that the concept of the management standard offers a novel lens to rethink the corporation for ecological transitions.

## **Keywords**

1. Sustainable corporate governance
2. Corporate law

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3. Fiduciary duties
4. Corporate purpose
5. *Société à mission*
6. Corporate sustainability due diligence

## **Introduction**

Companies are indispensable players in transitions (Acquier, 2024). They are expected to actively participate in ecological transitions by exploring and developing new solutions and business models, since their capacity for action, transformation and innovation is considerable. But they are also expected to change the way they run their activities, which are a major source of ecological imbalances. The pursuit of profit too often leads to the privatization of benefits while externalizing social and environmental costs (Luyckx et al., 2022).

In this context, traditional approaches – either public rules or corporate social responsibility (CSR) – may no longer be sufficient. On one hand, governments worldwide are taking various measures to protect the environment and combat climate change: there are already multiple laws to limit pollution, protect biodiversity, manage waste and regulate the exploitation of natural resources. Similarly, some governments impose taxes on polluting activities (such as the carbon tax) and offer tax incentives for sustainable practices, such as tax credits for renewable energy. However, while corporations must comply with these regulations, they may do so minimally, without changing the underlying rationale of their decision-making processes, which remain mainly profit-oriented. On the other hand, corporations are strongly committed to CSR. However, CSR is increasingly recognized as insufficient: corporations tend to limit their CSR efforts to ‘material’ issues, i.e. those that align with their financial rationale, while neglecting others that are essential to transitions. In other words, they continue to be managed with a focus on financial optimization rather than for the sake of protecting people and the planet (Kaplan, 2020).

How can corporations effectively change their management practices to genuinely integrate the challenges of green transitions? What would it mean to manage well for transitions? What criteria would allow us to determine whether a management decision is

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sustainable, or conversely, whether it undermines transitions? Who could define those evaluation criteria? Most importantly, who could legitimately oversee and ensure compliance with them? These questions are crucial if we expect corporations to manage their activities not only within the boundaries of legality but also in response to the pressing challenges of green transitions.

The issue of ecological transitions raises a theoretical question about the corporation and its governance. It interrogates not only the interests of different parties and their respective powers but also, more specifically, what is expected of management, and what the criteria are for evaluating whether a corporation is being managed in a way that is appropriate for green transitions.

In this chapter, we explore ways to rethink the corporation in light of transitions by examining how corporate management is constituted legally. By management (or corporate leaders) we mean both the board of directors, who are responsible for defining and monitoring strategic directions, and the executive managers. The corporation has become the dominant framework for the legal organization of business. However, it has been increasingly criticized, especially since a narrow vision of its profit-focused purpose has prevailed. Following a growing number of authors who link governance or law with management (Bennett & Claassen, 2024; Blair, 1995; Ciepley, 2019a; Grandori, 2022; Leixnering et al., 2022; Mayer, 2013; Scherer & Voegtlin, 2020; Veldman & Willmott, 2017, 2019), we connect the law and management literatures to examine the conditions required at the governance level to enable management to align with ecological transitions or ‘sustainable corporate governance’ (Thomsen, 2023).

First, we identify from the literature how the classic, archetypal form of the corporation (such as the Delaware form<sup>1</sup>) structures the managerial function and why it is likely to limit the consideration of sustainability issues. Drawing on the now extensive

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literature, we observe that the main proposed reforms do not fundamentally alter how corporate leaders (directors and managers) are assessed or the criteria for effective management. Whether the focus is on changing the processes for appointing or monitoring directors by encouraging the participation of stakeholders beyond shareholders, or on expanding reporting to include non-financial dimensions, management is still expected to serve the interests of the legal entity. The evaluation of whether management is satisfactory is delegated to those who hold voting rights, i.e. those with the ‘right to hire and fire the manager’ (Jensen & Meckling, 1976, p. 17). Therefore, any such evaluation is inherently contingent. This situation, we argue, strongly undermines the corporation’s potential to be an actor in green transitions.

In the second part of the chapter, we note that a growing number of proposals aim to revise the status of corporate directors, their duties, and what is expected of them. These proposals may involve extending fiduciary duties, defining a corporate purpose, or specifying the corporation’s interest, either at the legislative level or within individual corporations. To discuss these diverse initiatives and evaluate their significance for managing green transitions, we introduce the concept of the management standard. A management standard defines the criteria for evaluating whether management decisions are legitimate and appropriate. It thus forms the basis for accountability and establishes a governance mechanism that is fundamentally different from, yet complementary to, voting or control rights. Empirically, we examine two distinct concrete examples where the law has introduced such management standards: the duty of due diligence, and the framework of the *société à mission* in France. The duty of diligence (*vigilance* in French) seeks to induce corporations to manage the risks of harm to fundamental human rights throughout their value chains. To achieve this, it requires them (beyond certain thresholds) to establish a risk map and a risk management plan. The *société à mission* framework enables corporations to integrate social

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and environmental objectives into their corporate purpose alongside the profit objective, and it establishes a new governance body to monitor the alignment of management decisions with those objectives.

From a theoretical perspective, the concept of the management standard helps to address a gap in classical views of corporation management. The concept also allows us to discuss various proposals, including the proposal that corporations should adopt a ‘corporate purpose’, which is receiving growing attention today (George et al., 2023; Mayer, 2021). In the discussion, we identify key conditions under which a management standard can promote responsible and transition-adapted management:

1. The standard must define criteria for ‘good’ management adapted to transitions, enabling unsustainable decisions to be considered as management failures.
2. The standard must constitute a legally binding commitment; in other words, it should be embedded in law or in the corporation’s constitution, in order to have binding and opposable effects.
3. To be enforceable, the standard must be accompanied by mechanisms and competencies that enable effective evaluation, and if necessary contestation, of management decisions.

The conditions we identify provide a framework for assessing the validity of various proposals to reform the corporation. Typically, the concept of purpose aims to broaden corporate objectives to include new values or goals (e.g. employee interests, environmental protection). However, as long as the purpose is not formalized as a corporate commitment – and more importantly, as long as stakeholders are not granted the right to challenge managerial decisions that deviate from the purpose – it is unlikely to promote sustainable

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governance effectively. Our work thus opens new avenues for corporations to align management duties with the challenges of green transitions.

### **Management and corporate law: The expectations placed on corporate leaders**

What is expected of good management within the corporation? What are the criteria for evaluating or challenging a management decision? How is management expected to take sustainability issues into account within the corporation? In this section, we draw on various strands of literature – law, philosophy, political economy, and the growing body of work that critiques governance – to characterize the different dimensions that enable the evaluation of management choices. Our intention is not to provide an in-depth legal analysis, which would require us to distinguish corporate approaches according to different countries (for a comprehensive, rigorous, yet accessible review, see Sjøfjell et al., 2015), but rather to highlight in a stylized manner the dimensions identified in the literature as potential legal obstacles to the consideration of sustainability issues.

If we consider the dominant form of the company,<sup>2</sup> it is legally organized through the corporation: ‘The corporation is not constituted by entrepreneurial administration of a production process, but by establishment of the singular legal person under which the entrepreneurs operate’ (Deakin et al., 2017, p. 195). Legal personality is necessary to ensure both the continuity of corporate activities and the validity of the commitments made by the corporation. The corporation also organizes a particular internal order, a private power structure (Evan, 1990; Selznick, 1969) with ‘its own court of ultimate appeal’ (Williamson, 1991, p. 274). It is thus a kind of ‘franchise government’ (Ciepley, 2013, p. 140). Scholars describe it as a particular constitutional order (Ciepley, 2013; Grandori, 2022). The corporate charter defines the principles of cooperation that constitute the collective, which, as Grandori (2022) emphasizes, must itself respect the constitutional principles to be valid. Thus, the

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corporation constitutes a sort of republic. All shareholders have the political right to access information and participate (i.e. vote) in the general meeting. Moreover, shareholders hold freely transferable shares, and all benefit from limited liability (Djelic, 2013). Therefore, the corporation establishes a very specific fiduciary relationship between directors (and managers more broadly) and shareholders (Blair & Stout, 1999; Mahoney, 2023).

Within this corporate order – presented here in a very simplified manner – the literature allows us to identify three structuring dimensions of the managerial function (again, in the archetypal representation of the corporation, such as in Delaware – which has multiple variants, as we will see later). In this section, we present these dimensions one by one and see that they are also potential obstacles to aligning management with transitions (Table 1).

[Insert Table 1 here]

### ***A duty to manage the activity in the interests of the legal entity***

By law, directors are required to pursue the interest not of shareholders, but of the legal entity (Blair & Stout, 1999). This notion of the corporation's interest, along with its purpose or corporate objective, is relatively indeterminate and ambivalent (Sjåfjell et al., 2015). At a minimum, the corporation's interest is to survive in the long term. However, this criterion of good management also provides directors with a certain degree of discretion: it enables them to consider the interests of all stakeholders based on what they deem appropriate for the long-term interest of the corporation (Blair & Stout, 1999; Mahoney, 2023).

In practice, management decisions can be challenged only under very specific circumstances. In addition to their core duty to act in the interest of the corporation, members of the board of directors and senior managers typically owe duties of loyalty, care and skill to the corporations they manage (Sjåfjell et al., 2015; Williams, 2021): they cannot prioritize

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their own interests to the detriment of the corporation, and they must perform adequate research and analysis in order to base all significant decisions on sufficient information.

In these conditions, a director can only be sued if a shareholder can demonstrate that she prioritized her own interests or failed to implement the necessary measures for informed decision-making (Sjåfjell et al., 2015). This grants a significant amount of discretion to corporate directors, a discretion further reinforced in some countries by the so-called business judgment rule (Elhauge, 2005). This rule limits judicial interference in management decisions and assumes by default that directors – provided they do not breach their fiduciary duties – are best positioned to determine the right course of action (Blair & Stout, 1999; Williams, 2021).

To sum up, two points can be highlighted. First, the law primarily sets the interest of the corporation as the guiding principle for management, and grants significant discretion to directors in determining what they believe to be in the legal entity's interest. Second, however, by emphasizing the corporate interest, the law does not explicitly encourage directors to manage transitions: sustainability issues will only be considered if they contribute to the interest of the corporation. The question then becomes: how are we to interpret the interest of the corporation, and who can legitimately speak on the corporation's behalf?

### ***Management leeway: Framed by those in control***

This leads us to consider the second dimension of the managerial function: as the corporation is seen as a shareholder republic, the board of directors is appointed by the general meeting. Many parties are involved in the corporation, contributing their services and expertise, and bearing the risks associated with the activity; these parties include not only employees, but also regions or the environment (Battilana et al., 2022; Ferreras, 2017). However, even if the general framework of the corporation can recognize these different parties as legitimate

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rightsholders (Grandori, 2022, p. 62), in the archetypal form of the corporation it is only shareholders that hold voting rights.

While the interest of the corporation is paramount in law, in practice the discretion the law grants to directors to pursue that interest is significantly reduced by the manner in which directors are appointed, and this explains the skew towards the interests of shareholders rather than the interest of the corporation. As Sjøfjell et al. (2015) write: ‘Management incentives and shareholder pressures, bolstered by the social norm of shareholder primacy, truncate in practice much of the discretion that the law creates’ (p. 99). Scherer and Voegtlin (2020) conclude: ‘As a result, corporate innovations will primarily serve the financial interests of shareholders and only secondarily the interests of society, but only if these happen to increase corporate profits’ (p. 190).

Hence the recurring proposal to reform the corporation to include stakeholders in governance bodies. Stakeholder participation in governance bodies, whether the general meeting or the board of directors, might ensure that concerns other than shareholders’ interests are considered in strategic decisions by the board, acting as an effective ‘guardrail’ against profit-driven incentives (Smith & Besharov, 2019, p. 8). Decision-making might also benefit from a more deliberative process and the varied expertise of different parties, leading to better-informed and more appropriate decisions. However, stakeholders’ participation is not always a guarantee of adequate consideration of environmental issues. The Volkswagen scandal – which arose despite the corporation being constituted under the German co-determination regime – is often cited as an example to demonstrate that employee participation alongside shareholders is not necessarily a guarantee of management for sustainability (Ciepley, 2019a; Scherer & Voegtlin, 2020). It is rare for all relevant parties to be represented equally, especially since not all such parties are known a priori: ‘For a non-

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negligible part, both the nature of consequences and the identity of consequence bearers may be unknown and not limited to the local community' (Grandori, 2022, p. 66).

In the end, it should be noted that regardless of the stakeholders involved in the ownership or governance of the corporation, participation does not fundamentally change the status of management or the rationale behind management decisions. Directors are still required to manage activities in the corporate interest, and this interest remains relatively indeterminate in law. In practice, directors may gain discretion when the parties appointing them are diverse, but the consideration of sustainability issues may also be contingent: it will still depend on the profile of the parties holding voting rights. This also introduces a form of precariousness in the consideration of transition issues, as directors' position may change as shareholders or representatives of other parties change.

### ***From financial accounts to non-financial reporting***

A third element is the legal obligation to publish and audit the corporation's financial accounts. Historically, the auditing of accounts was a condition for the liberalization of corporations. Indeed, unlike banks that lend money, shareholders invest in corporations with no guarantee of capital repayment or potential interest. This is possible because they incur only limited risks with limited liability, but also because audited accounts help to establish trust regarding how corporate leaders manage their funds.

Today, the reporting obligations for listed corporations include reports on the financial risks posed by climate change (Williams, 2021, p. 1911). In some jurisdictions, corporations are also required to report on the impact of their activities on the environment. The European Union's (EU) 'Corporate sustainability reporting directive' requires corporations to report on all the environmental, social and governance dimensions of their activities. This encompasses not only disclosure of the financial impacts that social or

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environmental dimensions may have on the corporation (the outside-in dimension) but also the impacts of the corporation's activities on the environment (the inside-out dimension).

This requirement is based on the idea that knowledge regarding these impacts will both enable better reflexivity in management (Voegtlin et al., 2022) and allow stakeholders to hold management accountable (Mair et al., 2020). However, transparency about CO<sub>2</sub> emissions or water consumption does not necessarily mean that management is actively seeking to reduce them. Here again, the principle of audited and controlled reporting does not change what is expected of directors: they are still legally required to pursue the interest of the corporation, which is left to the discretion of the parties that hold voting rights. In this respect, there is a risk that reporting may lead to symbolic management, i.e. the decoupling of practice from policy (Kaplan, 2022; Westphal, 2023), so that directors do not actively manage for green transitions when sustainability comes into conflict with profitability objectives.

To sum up, we have considered the reform paths that were the most recurrent throughout the 20<sup>th</sup> century: the extension of participation to non-shareholder constituencies, and the expansion of accounting beyond purely financial aspects. These paths affect two attributes of management (Table 1). However, they do not alter what is expected of management. Directors are still legally expected to manage activities in the corporate interest, and in practice the corporate interest may still be determined by the parties who hold voting rights. We must now consider more recent proposals, particularly those that are especially prevalent today and emphasize the role of corporate purpose.

### **From fiduciary duties to management standards: Towards contestable management?**

Another path for reform might consist in changing the objective assigned to management or the criteria for determining whether a management decision is legitimate and acceptable. This path is of particular interest to us in relation to transitions. Although it is less theoretically

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developed than the two paths discussed above, it is the prevailing path among the reforms recently or currently being considered by governments.

In this section, we begin by providing examples of previous or proposed reforms that illustrate the variety of options in this area. Next, we propose the concept of the management standard to account for these different options conceptually. We illustrate this concept through two concrete cases: the duty of vigilance, and the *société à mission*. In the next section, we will leverage this concept to discuss the potential of these proposals with regard to the effective management of corporations in alignment with the challenges posed by ecological transitions.

### ***Revising the corporation's interest and the directors' duties: Multiple proposals***

As mentioned earlier, the notion of the corporate interest is relatively ambivalent. As institutional theorists point out, the notion takes on different hues depending on the era, just as a plant is coloured by the changing composition of the soil in which it grows (Leixnering et al., 2022). Although the notion of corporate interest was reduced to shareholder value from the 1980s onwards, many efforts have been made in academia to reopen its interpretation. For instance, Blair and Stout's (1999) analysis proposes a new interpretation of the law that promotes 'joint welfare' as the purpose of the corporation (see also Lan & Heracleous, 2010; Mahoney, 2023). In this context, it is worth noting that the corporate interest is also being redefined, with clear proposals to extend it. There are multiple such proposals and laws, which can be categorized into three groups:

1. The first group of proposals aims to specify the *definition of the corporate interest* that directors must pursue. For example, section 172 of the UK Companies Act 2006 now states that directors must act in a way that 'promotes the success of the company

for the benefit of its members as a whole'. Mayer (2022) suggests that the purpose of the corporation should be 'to produce profitable solutions not profiting from producing problems' (p. 5); to this end, he proposes a redefinition of the notion of profit. Another typical example is Sjøfjell's (2022) proposal: 'The overarching purpose of the undertaking is to create sustainable value in a manner that contributes to mitigating pressures on planetary boundaries' (p. 7).

2. The second group of proposals formulates *overarching duties for directors*, in addition to the corporate interest. For instance, one Frank Bold report suggests: 'Directors should be required to carry out ongoing human rights and environmental due diligence in relation to a company's operations (including its supply chains) and to develop a strategy for how to mitigate such impacts' (Jeffwitz, 2018, p. 23). This proposal builds on the obligation imposed on directors to consider the interests of different stakeholders, as seen historically in Austria (Leixnering et al., 2022) or in the US with constituency statutes (Orts, 1992). Today, it is seen in the due diligence obligation adopted in France in 2017 and the EU's 'Corporate sustainability due diligence directive' in 2024, as well as France's Article 1833, which requires directors to pursue the corporate interest 'while considering the social and environmental challenges of its activity' (Civil Code, art. 1833).
3. Finally, the third group of proposals invites corporations to *formulate a specific purpose*, thereby giving their own substantive content to the corporate interest, possibly with some governance mechanisms to oversee it. Here, shareholders have to vote to enshrine the purpose in their articles of association, and they can change it only under strict conditions. The purpose does not exclude profit but may indicate other social or environmental objectives. Examples include the benefit corporation

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and social purpose corporation in the US (MacCormac & Haney, 2012) and the *société à mission* in France (Segrestin et al., 2021).

### ***Management standards***

All these proposals are highly heterogeneous. Nevertheless, they share a common point: they do not seek to alter the distribution of voting rights but instead point towards new criteria for evaluating the quality of managerial decisions. To discuss them and examine their respective potentials or limitations, we propose the concept of the management standard. This new concept is required to refer to a governance mechanism that has been little theorized so far but is fundamentally different from voting rights and reporting. By management standard, we mean a principle for evaluating managerial decisions, providing criteria to determine what is expected or desirable, and conversely what constitutes mismanagement. When legally formalized and enforceable, a management standard thus provides a potential criterion for challenging or contesting a management decision in court.

The value of this concept lies in its ability to offer an alternative and complementary governance mechanism to voting rights: a management standard must be adhered to *regardless of the parties in control* (those with the power to appoint directors) and their expectations. Moreover, if the standard is not respected, parties harmed by non-compliance can challenge a managerial decision *regardless of whether they have voting rights*.

The fundamental governance mechanism activated by a management standard relates to the notion of accountability, in the sense that management must be able to explain how its decisions comply with the standard. However, this mechanism has hitherto been overlooked in corporate governance research. First, as previously noted, corporate law has historically been relatively indeterminate regarding the criteria for evaluating management decisions. The law has deliberately avoided defining specific management expectations in order to prevent

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judicial interference in managerial discretion. Moreover, as we saw above, in traditional corporate law, shareholders are the only ones entitled to challenge (lawful) managerial decisions – and even then, only on the very narrow basis of fiduciary duties. Fiduciary duties (duty of care, duty of loyalty) are typically management standards. However, the notion of a management standard generalizes fiduciary duties in two ways. On one hand, a management standard can specify what is expected of management, beyond or independently of shareholder demands: it can incorporate much broader sustainability principles that must be respected. On the other hand, it opens the possibility for various stakeholders affected by those principles – and not just shareholders – to challenge managerial decisions.

Second, by making managerial decisions legally contestable by various parties, the management standard also differs from traditional CSR approaches. These approaches often seek to broaden the purpose that leaders must pursue by incorporating the interests of various stakeholders or the environment. The notion of purpose is increasingly being used in the strategic field as a lever for stakeholder engagement and innovation (Gulati, 2022; Henderson, 2021). However, it does not provide non-shareholder parties with grounds to take legal action to contest a decision. In contrast, a management standard opens the possibility of making leaders truly accountable, including legally. Management standards can be established either at the legislative level as applying to all corporations, or as individually defined by a specific corporation. In the latter case, their legal force stems from the fact that a standard constitutes a binding commitment for the corporation – for instance, where the standard is included in the corporation's articles of association.

Finally, and most relevantly for this chapter, the value of the concept of the management standard lies in its ability to facilitate discussion of the various proposals mentioned above. In the following sections, we will examine the necessary conditions for a management standard to effectively hold management accountable. This will allow us to

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assess whether, and to what extent, the different proposals or legal frameworks discussed meet these conditions.

***Two examples: Duty of vigilance and sociétés à mission***

In this section, we present two examples of management standards recently introduced in France. The conception of the corporate interest in French legislation has traditionally been framed more broadly than the shareholders' interest, and several mechanisms already exist to encourage employees' voice and participation, particularly in large corporations.

Nevertheless, France has introduced two complementary mechanisms that are of interest to us here because they illustrate two different management standards: one is mandatory for all large corporations, while the other is voluntary.

The first example is the duty of vigilance (i.e. due diligence obligation), which passed into French law in 2017. The duty of vigilance has since been extended at the European level, but we focus on the French case here because it has a longer history. Indeed, France was a pioneer as the first country to enact a law on the duty of vigilance (Law no. 2017-399, 27 March 2017). In 2013, the Rana Plaza disaster in Bangladesh revealed the limitations of CSR approaches that were voluntary and largely instrumental. It also showed that multinational corporations could largely escape their social and environmental obligations by limiting the scope of their legal responsibilities: they were not legally liable for their subcontractors' management practices. Typically, a supplier's failure to comply with safety procedures could not be laid at the door of the corporation that placed the order.

The duty of vigilance introduces a very original principle of responsibility. It does not impose any contractual or negligence liability on the corporation that places the order. Instead, the law establishes what we consider to be a typical management standard: the corporation must manage the risks of human rights violations induced throughout its value

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chain by its activities. This obligation focuses on the establishment and implementation of a risk management plan, which must be of high quality (Box 1).

### Box 1. Duty of vigilance: Excerpts from Law no. 2017-399

Art. L. 225-102-4.-I

Every corporation ... establishes and effectively implements *a risk management plan* [emphasis added]. ...

The plan includes reasonable vigilance measures aimed at identifying risks and preventing serious harm to human rights and fundamental freedoms, the health and safety of individuals, as well as the environment, resulting from the activities of the corporation and those of the corporations it controls within the meaning of II of Article L. 233-16, directly or indirectly, as well as the activities of subcontractors or suppliers with whom a commercial relationship is established, when these activities are linked to this relationship. ...

It includes the following measures: (1) *risk-mapping for their identification, analysis and prioritization*; (2) *regular assessment procedures* of the situation of subsidiaries, subcontractors or suppliers with whom a commercial relationship is established, in light of the risk-mapping; (3) *adapted actions to mitigate risks or prevent serious harm*; (4) *a mechanism for alerting and collecting reports* concerning the existence or realization of risks, established in consultation with representative trade union organizations in said corporation; (5) a monitoring system for the measures implemented and an evaluation of their effectiveness [all emphases added]. The vigilance plan and the report of its effective implementation are made public and included in the report mentioned in Article L. 225-102.

This duty has several distinctive features that should be emphasized. First, without denying the sovereignty of the corporation's governing bodies, this law defines the conditions under which the corporation's management is legitimate. Second, the duty is legally binding. If not respected, it may lead to legal action in court. Again, it is worth highlighting the basis of management's responsibility here: management is not held accountable for what occurs

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with its suppliers. It cannot be held liable for the actions of third parties, as this would be unconstitutional. Instead, the duty of vigilance establishes a responsibility tied to the quality of management. Responsible management is required to assess the risks stemming from its own strategy, and where such risks are knowable, it cannot engage in operations that are likely to infringe fundamental rights. Thus, there is a fault in law in cases where the plan is not established, or where it underestimates or ignores knowable risks. Management must be able to develop a risk management plan by leveraging all available state-of-the-art knowledge.

Third, the vigilance plan and the report on its effective implementation are to be made public. Further, risk management plans can be effectively contested: the first article of this law states that any person with a legitimate interest in taking action may formally require a corporation to comply with its obligations under the duty of vigilance. In addition to the parties potentially affected by the violation of the fundamental rights in question (or the organizations defending them), any entity with a legitimate interest – such as local authorities or non-governmental organizations (NGOs) that can demonstrate their connection to the issues addressed in the vigilance plan – may take legal action. If the corporation fails to comply within a three-month period, the court can order it to fulfil its obligations on penalty of fines. ‘The duty of vigilance thus introduces new “judges” – NGOs, consumers, local authorities, unions, or even competitors – alongside state judges, before whom corporations will now be held accountable for measures previously considered voluntary’ (Daoud & Sfoggia, 2019, p. 95). If the plan is not relevant, it can be litigated. The monitoring is not internal to the corporation only: local authorities or external NGOs can challenge a vigilance plan if it is deemed insufficient or inadequate. Danone, Total and EDF are already facing such legal action. Indeed, in January 2024, the Paris court created a special chamber to handle disputes related to the duty of vigilance.

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The second example is the *société à mission* in France. Any company can adopt *société à mission* status in addition to its initial legal form. The status was introduced into French corporate law in 2019 (Segrestin & Levillain, 2023). Unlike in the US, corporate directors in France are not at risk of being sued for misconduct if their decisions do not align with the interests of shareholders. Rather, the introduction of this new legal option for corporations had other motivations, stemming largely from research on the contemporary corporation (Segrestin et al., 2021).<sup>3</sup> It reflected the idea that the activities of a corporation – particularly a corporation capable of innovation – could play a critical role and serve a collective interest in green transitions. However, the existing legal framework, especially as regards the *société anonyme* (public limited corporation), neither protected nor secured the social and environmental purposes of business activities. The legal challenge, therefore, was to restore the potentially broader purposes of corporate activities beyond mere profit-making in commercial enterprises, and to make those purposes enforceable. By doing so, the new law sought to reconcile entrepreneurial freedom with corporate accountability for the futures such activities help to shape.

The resulting legal framework is optional and highly flexible. Any company (*société anonyme*, cooperative etc.) can adopt the status of a *société à mission* provided it meets two conditions:

1. It defines a purpose (*raison d'être*) with explicit social and environmental goals in its articles of association.
2. It introduces a mission committee, which is a governance body distinct from the board of directors. The mission committee is responsible for assessing compliance with the purpose and goals, and therefore for ensuring that management decisions are consistent with the commitments. It must include at least one employee and present

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an annual report to the general meeting. The law further stipulates: ‘This committee carries out any verifications it deems necessary and is provided with all documents required to monitor the execution of the purpose’ (Commercial Code, Art. L210-10). Additionally, an external audit is required every two years.

Tables 2 and 3 provide two examples: Danone (Table 2), and MAIF, an engaged mutual insurance company (Table 3).

[Insert Tables 2 & 3]

The legal framework of the *société à mission* differs significantly from that of the duty of vigilance, as it remains subject to voluntary adoption and is therefore optional.

However, it is worth pausing to examine the critical dimensions of this framework.

First, the mission refers to the purpose (*raison d’être*) and the social and environmental objectives the corporation must pursue in managing its future activities. The purpose is freely defined and approved by the shareholders’ meeting. Shareholders thus retain control of the purpose of the corporation. Moreover, the law provides no specific guidelines for drafting the mission, emphasizing that entrepreneurial freedom must be preserved and that what constitutes collective interest cannot be predetermined. Except in certain sectors where the state may encourage the adoption of *société à mission* status, such legal flexibility can be valuable: the purpose must include social and/or environmental objectives that are not reducible to profit, but it leaves it to the corporation to define its own purpose. However, this flexibility also has some limitations: it is potentially likely that only the most proactive and responsible corporations will adopt the status. There is also no guarantee that the purpose will effectively address the sustainability challenges posed by corporate activities.

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Second, unlike the mission statements or corporate purposes without legal commitment that are often used by corporate strategists (Gulati, 2022; Henderson, 2021), in a *société à mission* the purpose is legally binding. It binds not only the directors or shareholders at the time the purpose is defined, but also the legal entity itself, including future shareholders. For instance, when the board of directors dismissed Emmanuel Faber, the CEO and sustainability champion at Danone, the purpose remained in place and continued to bind the subsequent management team. Shareholders could not withdraw the purpose without a new vote at the general meeting. Indeed, the members of Danone's mission committee, particularly its chair, Pascal Lamy, strongly and publicly called on the directors and new management team to reaffirm their commitment to the mission. Furthermore, once inscribed into the corporation's constitution, the purpose becomes enforceable, and non-compliance can result in legal action not only by shareholders, but also by the stakeholders targeted by the purpose. This sets the *société à mission* apart from US benefit corporations. In the latter, legislative provisions in several states prevent stakeholders from suing the corporation if directors fail to adequately consider the 'general public benefit'. Legal actions in such cases are restricted to shareholders or directors. In contrast, under French law, stakeholders harmed by a failure to respect the purpose can take legal action if they believe the corporation has not fulfilled its commitments to them.

Finally, the question arises as to whether the purpose is easily and effectively controllable and contestable. Take the case of MAIF, for instance: on what grounds could one challenge the claim that the strategy effectively supports solidarity (referenced in MAIF's third objective)? To assess the congruence between management decisions and the corporation's stated objectives, it is necessary to access internal decision-making processes – a requirement that is challenging for stakeholders, the state or even external auditors. To address this challenge, the law introduced an interesting ad hoc oversight mechanism to

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oversee and assess the strategy: the mission committee, a new internal body, distinct from the board, which is tasked with monitoring compliance with the corporation's commitments (Box 1). Legally, it is endowed with extensive investigative powers: it can access all internal documents, audit members of the corporation, and request additional expert evaluations. First empirical observations indicate that mission committees, which are typically largely composed of scholars and external experts (Acker, 2024), are able to question and challenge management decisions. Committee members evaluate both corporate impacts and management decisions in relation to the constitutional purpose. They frequently urge the corporation to correct its course or intensify its efforts. For example, at MAIF, the mission committee questioned the directors' interpretation of the commitment to contribute to a solidarity-based society. Confronted with the challenges of climate change, it argued that solidarity could not simply involve efforts to diversify human resources but also needed to address the risk of uninsurability facing entire populations. The committee requested data on policyholders at risk of exclusion, and it demanded that the directors present a plan to combat this risk of demutualization.

Thus, the governance framework of *sociétés à mission* establishes new conditions for the assessment of the quality of management decisions. The mission committee produces an annual report on the coherence between management practices and the corporation's commitments, while an external audit is conducted every two years. In our view, the mission committee is an innovative mechanism for ensuring the competent and well-informed evaluation of management decisions in light of the purpose. However, for it to function effectively, it must bring together the right areas of expertise, and its members must have the capacity to conduct the necessary investigations. The composition of the committee, which is determined by the corporation, is therefore one of the key conditions for its success.

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### **Discussion: Conditions for effective transition management standards**

From a theoretical perspective, our analysis highlights a significant legal gap regarding the status of corporate directors. As we have noted, corporate law requires directors to manage activities in the interest of the corporation, but it does not specify the nature of that interest. Historically, corporations were established with a clear purpose, which allowed the state to authorize the creation of corporations for specific purposes of collective interest and enabled shareholders to define the scope of directors' actions. Over time, the substantive nature of this purpose was gradually removed (Ciepley, 2019b; Greenfield, 2001; Millon, 1990). By refraining from providing criteria for the evaluation of management decisions, corporate law leaves it to those with voting rights, whether shareholders or not, to determine the corporate interest that management must pursue. We argue that to strengthen management's accountability in the context of transitions, it is crucial to reconsider the status of corporate directors and managers – particularly the criteria that distinguish sustainable management from mismanagement, beyond the expectations of those holding voting rights. In this respect, all the proposals listed in the introduction to this chapter attempt, each in their own way, to lay the foundations for a management standard. However, it is now essential to discuss the conditions under which such management standards can be effective. Given the considerable heterogeneity of the proposals, which of them can genuinely promote responsible corporate behaviour in transitions?

In this section, we analyse the conditions for effective management standards in transitions, drawing on research that emphasizes the need for the allocation of rights in governance to consider the distribution of skills and knowledge necessary for management (Grandori, 2022; Scherer & Voegtlin, 2020). Specifically, we discuss three key conditions:

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1. The content of the management standard – what constitutes its substance and its relevance to transitions;
2. Its legally binding nature – ensuring that the standard has actionable legal consequences;
3. The conditions for the standard to be evaluable and controllable, and thus for management decisions to be effectively contestable.

We can then discuss the various proposals based on whether they meet these conditions.

### ***Management standards for transitions: Content and relevance***

The first question that arises, given the variety of the proposals, concerns the content of the standards. For some, standards should be defined at the state level and apply uniformly to all corporations. For others, by contrast, standards should be left to the individual discretion of corporations or groups of corporations. Several arguments can be made with regard to these differing approaches.

A management standard, in our view, must articulate the sustainable issues that management must address to align with collective transitions. However, there is no single way to achieve this. If it is desirable that corporations – especially those whose activities have significant impacts on the environment and society – be required to formulate their management standards, it may be risky to standardize management principles beyond the imperative to protect fundamental human rights. Beyond the desire to preserve entrepreneurial freedom, imposing generic management standards might prove counterproductive regarding ecological transitions. First, sustainability issues are often closely tied to the nature of the company's activity and are thus better defined at the local level. Second, we may question whether states are truly capable of defining what is desirable

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and legitimate. Finally, we cannot assume that the list of desirable futures is already established and closed. Historically, businesses' innovations have often helped to reshape what is considered in the collective interest. When it comes to transitions, it is clear that the most effective, fair and viable pathways are still partly unknown and need to be invented. This is why we argue that rather than imposing generic standards, it may be preferable to require companies to make explicit, and formally commit to, the desirable future to which they aim to contribute.

However, this does not settle the question of how such standards should be defined. Can shareholders alone define the standards for their company? At a minimum, if these standards are made public, all stakeholders will know what to expect. Nevertheless, one might argue that it would be preferable to involve the various stakeholders in the formulation and validation of the standards – while recognizing that this reintroduces the familiar challenges of stakeholder representation.

To sum up, it seems essential today for companies to explicitly define their management standards regarding sustainability. In our view, management standards could be defined at both local and legislative levels. However, for such a standard to be effective, we propose that its formulation should meet two conditions. First, a company's management standards should express how it intends to align its activities with the challenges of transitions, or even contribute to green transitions. Second, these standards should not necessarily seek to predetermine strategies; on the contrary, they may aim to encourage the exploration of new, effective and fair transition pathways.

### ***Binding and enforceable management standards***

To be effective, it is essential that the standard should carry legal consequences: in other words, non-compliance must entail the possibility of legal action in some form. It is clear that

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the formulation of a mission statement or corporate purpose (Gulati, 2022; Henderson, 2021) does not constitute an effective management standard unless it is formalized in a legal text. While such statements may mobilize stakeholders and help management to rally support around a vision for the future, they can be abandoned at any time. To be safeguarded against shareholder demands, they need to be legally formalized.

When management standards are embedded in a corporation's constitutive documents, they can be seen as constitutional devices. As Caulfield and Lynn (2024) describe it, a constitutional device is a mechanism by which the corporation – as a locus of private power – imposes constraints on its own exercise of power and authority. Once management standards are enshrined in corporate law or the articles of association, they become legally binding: they bind not only the directors but also the corporation itself. This ensures that whatever agenda shareholders might have when electing or dismissing directors or monitoring officers, these norms remain applicable to management decisions and can be used to contest any decision that does not comply with them. If the standard is embedded in the corporate constitution (articles of association), it retains its validity even if the shareholder base changes, as long as the articles are not amended – which generally requires a supermajority vote. The purpose can still be amended if a supermajority of shareholders wish to do so. However, changing a constitution is not easy, and at least the revision is made public. This approach ensures that social or environmental orientations are not strictly dependent on the shareholders' profiles or their willingness to consider those orientations.

To have legal standing, the management standard must therefore (1) be formalized and secured as a long-term commitment and (2) provide the concerned parties with the ability to challenge decisions that violate it. Clearly, not all the standards listed previously in this chapter fully meet these conditions. As noted earlier, in most states, benefit corporation laws include clauses that shield directors from lawsuits if they fail to adequately consider

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stakeholder interests. This raises questions about the legal enforceability of these mechanisms. In the same way, one might question whether simply embedding a standard in a company's bylaws is sufficient, given that a shareholder acquiring 100% of shares can remove it. In this regard, other mechanisms (such as a golden share) may be worth exploring.

Ultimately, we suggest that to make a management decision effectively contestable, on one hand a management standard must firmly commit not only the executives but also the legal entity itself. On the other hand, the management standard must grant (non-shareholder) stakeholders the right to take legal action if they are harmed by non-compliance with the standard.

### ***Competences for oversight and enforcement of management standards***

Finally, a less obvious but equally essential third dimension must be emphasized. For a management standard to be not only enforceable but also effectively enforced, it is necessary to consider not just the corporation's formal commitment, but also the mechanisms and competencies required to effectively monitor compliance with the standard. By emphasizing that directors should be conceived as 'purpose fiduciaries' of the corporation (i.e. as representing the corporation's interest), Ciepley (2019b) argues that more sustainable corporate governance might be achieved through the (re)introduction of public regulation that requires corporations to adopt more specific purpose clauses if they wish to retain their corporate privileges. In a way, the management standard reintroduces public regulation by granting parties the ability to take legal action to challenge management decisions. However, the question arises: to what extent are judges equipped to assess the quality of management decisions? More broadly, who has or can have this competence? Evaluating whether a standard is being upheld may require access to specific information or particular investigative

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capabilities. It may also necessitate specialized knowledge to determine whether management decisions align with the standard and are acceptable.

More specifically, we can identify several scenarios that make the enforcement of management standards more or less challenging in practice. If the standard requires compliance with a procedure, then it can be verified relatively easily. This is likely to involve a disclosure obligation, and possibly an audit to certify the quality of the information. If the standard requires the establishment of a transition plan, simply publishing the plan may not be sufficient. Its effectiveness depends on the appropriate expertise to qualitatively assess whether the plan is realistic and sufficiently ambitious. Similarly, one might question whether a standard that requires a redefinition of profit to include the costs of negative impacts (Mayer, 2022) or a reference to planetary boundaries (Sjåfjell, 2022) can be effectively challenged: it seems inherently difficult to assess whether a corporation is accounting for its own negative impacts (what scope? what valuation?), or whether it is contributing sufficiently to the mitigation of pressure on planetary boundaries. Finally, a third scenario is possible: a management standard can commit a corporation to pursue desirable goals, without pre-existing solutions. For example, making high-quality agricultural products more widely accessible while respecting the environment is a challenge for which current knowledge is largely insufficient. This situation, where knowledge is fragmented and insufficient, is probably very common when it comes to conducting transitions in a fair and effective manner. For this type of management standard, the evaluation will focus less on the achieved outcomes – which are inherently uncertain – than on the quality of the corporation's processes and exploratory efforts. In this case, exercising oversight is a significantly more delicate matter. It can be argued that such a standard requires very specific mechanisms to ensure compliance and make it contestable where necessary.

With regard to this final scenario, the management literature has highlighted how cognitively demanding deliberation processes can be in contexts of innovation and transition (Scherer & Voegtlin, 2020; Voegtlin et al., 2022). In such contexts, traditional control mechanisms are insufficient to ensure high-quality decisions. While economists have often advocated strong homogeneity in control, Grandori (2022) emphasizes ‘the prescriptions of organization and management theory on high-quality group decision-making: multiplicity and diversity of inputs, avoidance of early voting and early “closing”, brainstorming and expansion of alternatives, all-to-all communication and voice possibility, etc.’ (p. 70).

In our view, where a management standard does not define a strict procedure to follow but instead imposes qualitative standards that must be reinterpreted based on local contexts – and requires an evaluation of management choices against a range of possible alternatives – then state actors or external auditors may not be the best suited to this task. Similarly, while stakeholders may provide valuable perspectives on whether a standard is being respected, they are not necessarily equipped to assess the rigor of the corporation’s exploration or the relevance of its efforts to balance potentially conflicting objectives. In such cases, the effective contestability of management decisions may require an organization that is capable of building the appropriate expertise on one hand and engaging in dialogue and interaction with management on the other (Scherer & Voegtlin, 2020).

Clearly, most of the proposals listed in this chapter do not incorporate such evaluation mechanisms. However, this is precisely where the *société à mission*’s mission committee demonstrates its value. When a corporation such as MAIF or Danone commits to multiple objectives that are difficult to achieve simultaneously, remote oversight by the state or even an external auditor is unlikely to be effective in judging compliance with those commitments. Despite being appointed by the corporation itself, the mission committee offers interesting features. First, it is composed not so much of stakeholders defending their own interests as of

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experts with the competencies to evaluate the quality of management decisions relative to pre-established mission objectives. Second, it is neither an internal advisory committee for management nor an independent external auditor. Instead, it is an internal body with significant capacities for interaction with management and internal investigation. Moreover, it includes external experts and produces its own report to assess how well management is fulfilling the corporation's commitments. Additionally, as previously mentioned, a second level of oversight is provided by an external audit, which ensures that the mission committee itself is functioning correctly.

Ultimately, we argue that a management standard that is legally binding but lacks the institutional or cognitive mechanisms necessary for enforcement will not be truly enforceable. We therefore propose that to be effective, a management standard must be accompanied by a governance mechanism – whether an internal governance body or an independent external oversight system – that aligns with the nature of the standard and the state of available knowledge required to oversee it.

## **Conclusion**

Traditionally, collective interest was seen as the responsibility of the state. The state was in charge of defining the framework of the legitimate and the acceptable, and corporations could pursue their own private interests within that framework.

This division of roles is now increasingly untenable. This is not only because transnational corporations can circumvent state regulations, but also because states cannot govern all areas and lack the knowledge to legislate on what is legitimate or not – especially in fields of transition, where phenomena are complex, evolving and still poorly understood. Corporations must address the gaps in regulation (Scherer & Palazzo, 2007), but this implies changing the way the corporation is constituted in law.

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In this chapter, we have explored how management is legally constituted and what can be expected of management in relation to sustainability challenges. Legally, the corporation is constituted as a singular constitutional order where management is expected to pursue the corporation's interest, but where the evaluation of management is traditionally left to the discretion of the shareholders alone. We have shown that sharing voting rights among stakeholders is only one possible mechanism to ensure that management integrates sustainability issues. Another mechanism, which has hitherto been underconceptualized, is to hold management accountable to a management standard. This mechanism is already underway with several proposals and laws. By introducing the concept of the management standard, we have proposed that the corporation can be reimagined as an actor that integrates sustainability issues into its management rationale. A management standard refers to a principle used to evaluate managerial decisions, offering criteria to determine the conditions under which management decisions can be deemed legitimate and satisfactory. When legally formalized, a management standard can thus serve as a potential basis for challenging managerial decisions.

For a management standard to be effective, we have demonstrated that several conditions must be met: its content must be clearly defined and in line with the challenges of transitions, it must be binding, and it must be overseen. However, the ability to assess a managerial decision against a standard requires very specific skills. This explains why management standards have been underdeveloped to date. Therefore, our chapter not only highlights that corporate law has traditionally not specified the conditions for accountable management, but also identifies the key legal and cognitive elements necessary to critically evaluate the robustness and credibility of recent proposals that can be understood as management standards. Further research will be necessary to deepen this concept of the management standard, to explore whether the law already includes effective management

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standards in certain areas, and to test our proposals. We believe that this research agenda is essential if we want companies to be constituted as responsible actors that are capable of contributing credibly to transitions, and not merely as entities pursuing their own interests.

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### Table and figures

Table 1. The principles of the constitution of the classic corporation and the implications for management

Corporation	Management
Legal personhood	Fiduciary duties towards the legal entity
Shareholder republic	Board of directors appointed by the general meeting (and appointing chief executives)
Limited liability for all shareholders	Audit of accounts (statutory auditor)

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Table 2. Danone’s mission and mission committee. (Source: Danone).

Danone mission	Mission Committee’s members 2023
<p>Danone defined ‘Bringing health through food to as many people as possible’ as its purpose. The social and environmental objectives that Danone adopted as an “Entreprise à Mission” (called the “Mission”) are the following :</p> <ol style="list-style-type: none"> <li>1) Impact people’s health locally with a portfolio of healthier products, with brands encouraging better nutritional choices, and by promoting better dietary habits.</li> <li>2) Preserve and renew the planet’s resources by supporting regenerative agriculture, protecting the water cycle, and strengthening the circular economy of packaging, across its entire ecosystem in order to contribute to the fight against climate change.</li> <li>3) Entrust Danone’s people to create new futures: building on a unique social innovation heritage, give each employee the opportunity to impact the decisions of the Company, both locally and globally.</li> <li>4) Foster inclusive growth by ensuring equal opportunities within the Company, supporting the most vulnerable partners in its ecosystem, and developing everyday products accessible to as many people as possible.</li> </ol>	<ul style="list-style-type: none"> <li>• Pascal Lamy (Chairman)– Former Director-General of the WTO, Coordinator of the Jacques Delors Institutes (Paris, Berlin, Brussels)</li> <li>• Arancha González – Dean of SciencesPo Paris School of International Affairs (PSIA); Former Spanish Minister of Foreign Affairs,</li> <li>• Lise Kingo – Independent Director and Chair of the Corporate Social Responsibility (CSR) Former CEO &amp; Executive Director of the United Nations Global Compact,</li> <li>• Hiromichi Mizuno – Board Member of Principles for Responsible Investment (PRI); Advisor to the Japanese Government on green innovation and finance;</li> <li>• David Nabarro – Former Special Adviser to the United Nations Secretary-General on the 2030 Agenda for Sustainable Development and Climate Change, United Kingdom</li> <li>• Ron Oswald – Former General Secretary of the International Union of Food Workers, United Kingdom</li> <li>• Gabriela Ilian Ramos – Assistant Director-General for Social and Human Sciences at UNESCO; Former OECD Chief of Staff and Sherpa to the G20, Mexico</li> <li>• Emna Lahmer – Danone employee, France</li> </ul>

## From fiduciary duties to management standards

Table 3. MAIF's mission. (Source: MAIF).

MAIF's mission ( <i>our translation</i> )	Mission committee's members
<p>MAIF defined its raison d'être as followed:            "Convinced that only sincere attention to others and to the world can guarantee real common betterment, we at MAIF place this attention at the heart of each of our commitments and each of our actions." The objectives are:</p> <ol style="list-style-type: none"> <li>1) Place the interests of its members at the heart of its activities.</li> <li>2) Fostering, through sincere attention, the development of its internal players within a highly committed collective.</li> <li>3) Contribute to building a more solidarity-based society through its activities.</li> <li>4) Contribute to ecological transition through its activities.</li> <li>5) Promote the development of new models of companies committed to positive impacts</li> </ol>	<p>External Experts:</p> <ul style="list-style-type: none"> <li>• Nicole Notat – Chair of the Mission Committee; Founder and former President of Vigeo Eiris, a social rating agency.</li> <li>• Blanche Segrestin – Professor of Management Sciences at Mines Paris – PSL University;</li> <li>• Émeline Stievenart – Co-founder of the consulting firm Kimso; Director of Impact Tank; Specialist in social impact assessment and the Social Return on Investment (SROI) methodology.</li> <li>• Ghislaine Verrhiest-Leblanc – Director General of the French Association for the Prevention of Natural and Technological Disasters (AFPCNT); Expert in major risk prevention.</li> <li>• Marwan Mohammed – Sociologist and CNRS researcher; Lecturer at Sciences Po Paris and ESSEC; Focuses on social justice and digital issues.</li> </ul> <p>Internal Members:</p> <ul style="list-style-type: none"> <li>• Annick Valette – Vice-President of MAIF; President of the MAIF Impact fund.</li> <li>• Nicolas Boudinet – Deputy General Manager of MAIF since July 2021;</li> <li>• Sihem Ben Salah – Advisor to MAIF members at the Bordeaux delegation;</li> <li>• Sleman Osta – Designer-producer at MAIF's creative studio;</li> <li>• Laurent Pertusa – Board director</li> </ul>

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<sup>1</sup> The state of Delaware has become a benchmark for corporate law due to its unique combination of legal flexibility, judicial expertise, and business-friendly fiscal and administrative conditions.

<sup>2</sup> In this chapter, we use the term ‘company’ to refer generically to an economic organization, whether it takes the form of a partnership or a joint-stock company. By contrast, we use the term ‘corporation’ (*société anonyme* in French) in reference to the modern corporation, which has both legal personhood and limited liability for all members.

<sup>3</sup> The special government commission report that proposed the concept of the *société à mission* (Notat & Senard, 2018) drew heavily on research conducted at the Collège des Bernardins during 2009–2018 (for an overview, see Segrestin et al., 2021). The legal framework for a company committed to an extended corporate purpose was first proposed by Segrestin and Hatchuel in 2012.