Workshop three- ESG reporting and compliance

Moderator:
Leonard Ng Sidley Austin

Speakers:
Ian Conlon *Maples Group*
Oliver Heiland *Finance in Motion*
Sherri Rossoff *RockCreek*
Mikhaelle Schiappacasse *Decher*

financeinmotion

IBA Private Funds Conference 2023
Workshop: ESG Compliance & Reporting – the European perspective

Oliver Heiland | Finance in Motion

13 March 2023

Finance in Motion – pioneering impact asset management in Emerging Markets

Who we are and what we do

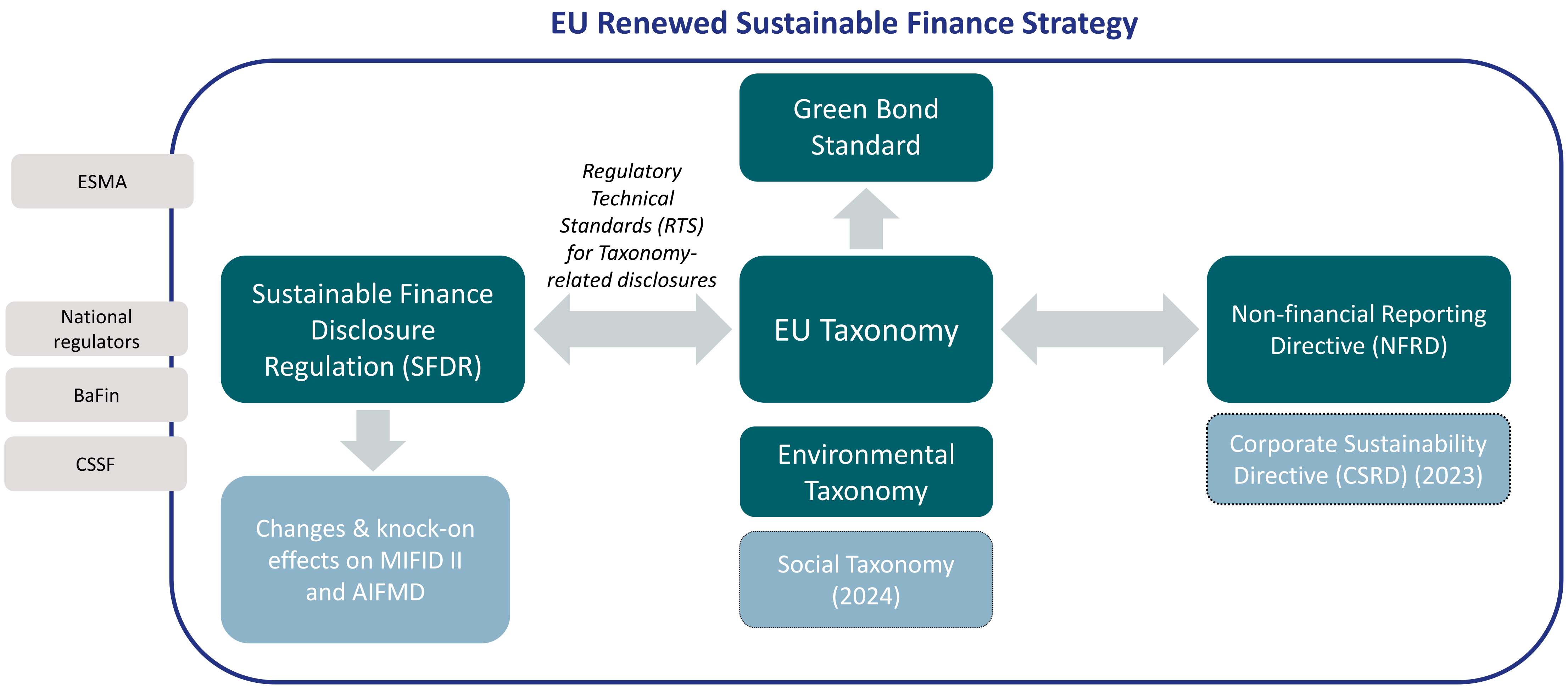
Private Market Funds		Inception	Instruments	AUA/AUM[2]	Topic
GREEN FOR GROWTH FUND		2009	Debt, Equity	EUR 714 m	Energy and resource efficiency and renewable energy
eco.business Fund	eco.business LAC	2014	Debt	USD 632 m	Conservation of natural resources
	eco.business SSA	2019	Debt	USD 45 m	Conservation of natural resources
lagreen		2021	Debt	USD 82 m	Climate action, conservation of natural resources
ArbaroFund		2018	Equity	USD 111 m	Sustainable forestry
EFSE		2005	Debt	EUR 1000 m	Employment, agriculture, housing
sanad سند	Debt Sub-Fund	2011	Debt	USD 416 m	Employment, agriculture, housing
	Equity Sub-Fund I	2012	Equity	USD 29 m	Employment, agriculture, housing
	Equity Sub-Fund II	2019	Equity	USD 33 m	Employment, agriculture, housing

- **European Asset Manager (AIFM)** with core focus on e**merging markets across private debt and private equity**
- **EUR 3.2 bn assets under management/advise**
- **18-year track record** with cumulative investments of EUR 6.4 bn.
- 14 offices globally with **Frankfurt/Main head office** and **Luxembourg fund-hub** and
- **Dedicated Impact & Sustainability capability with 20+ staff** (Impact Mgt., Measurement and subject-matter expertise)

Source: Finance in Motion | All figures as of Q1/2022; past performance is not a reliable indicator of future results |

ESG Compliance & Reporting – the European perspective (1)

Landscape of relevant EU sustainable finance regulations



Source: Internal, can be subject to change

financeinmotion

ESG Compliance & Reporting – the European perspective (2)

EU Sustainable Finance Disclosure Regulation (SFDR) - Overview

- The SFDR is designed to re-orient capital towards sustainable growth and help clients make better sustainable investing choices.
- SFDR designed to create standardised ways to guide investors to distinguish and compare between the many different sustainable investment strategies that are now available within the European Union
- SFDR requires disclosure on two levels, i.e. (1) firm level and (2) product level
- SFDR categorizes three different types of product, mandating increasing levels of disclosures for increasing degree to which sustainability is a consideration (or not).

Art. 6 SFDR	Art. 8 SFDR	Art. 9 SFDR
Default classification for products with no ESG focus (i.e. no sustainable investment objective and no embracing of investment in assets with environmental or social benefits). Comply-or-explain for incorporation of sustainability risks into investment decision making and the impact of sustainability risks on fund returns in prospectus.	**ESG-Funds: Product promote social and/or environmental characteristics**, and may invest in sustainable investments. Investee companies follow good governance practices. Product does not have sustainable investing as a core objective.	**Impact-Funds: Product** has a sustainable investment objective, i.e. **contribute to an environmental or social objective**; Investment does not significantly harm any of those objectives (**DNSH**) and Investee companies follow good governance practices.

Increasing disclosure requirements

ESG Compliance & Reporting – the European perspective (3)

Overview of disclosures on firm- and product-level

Entity level

Level 1

Article 3
Integration of sustainability risks

Article 4
Consideration of adverse sustainability impacts (PAIs)

Article 5
Integration of sustainability risks in remuneration policies

Public websites (Sustainability-related disclosures page)

Level 2: RTS

Article 4-12 PAI statement
Template Annex I

Product level

Level 1

Article 6
Integration of sustainability risks in investment decisions

Article 7
Consideration of PAIs in investment decisions

Sustainable products

Level 1

Article 8
Pre-contractual information on products with E&S characteristics

Article 9
Pre-contractual information on sustainable investments

Article 10
Website information on Article 8 and Article 9 products

Article 11
Periodical reporting for Article 8 and Article 9 products

Level 2: RTS

Article 12-17
Template Annex II

Article 18-19
Template Annex III

Article 23-49
No template

Article 50-67
Template IV-V

ESG Compliance & Reporting – the European perspective (4)

Overview of disclosures on firm- and product-level

Firm-level disclosures: financial advisors, fund managers, etc.		**Product-level disclosures**: Funds, SMAs	
Website		Website, Pre-contractual documents & periodic reports	**Taxonomy disclosures** Which environmental objective does the product pursue and share of alignment with the EU Taxonomy
		Product **objectives**, methodologies for assessment, measurement and monitoring	
Policies on how **sustainability risks in investment decisions/advice**	**Sustainability risks**	Integration of sustainability risks in investment decisions and their **impact on product's returns**	
DD policies regarding PAI in investment decisions/advice	**Principle Adverse Impacts (PAI)**	Whether and **how PAI are considered**, approach to **managing PAI**, **PAI indicators**	
How **remuneration policy** is consistent with the integration of sustainability risks	**Remuneration**		

7

ESG Compliance & Reporting – the European perspective (5)

Principal Adverse Impact (PAI)

Principal adverse impacts - impacts of investment decisions and advice that result in **negative effects on sustainability factors,** i.e. environmental, social and employee matters, respect for human rights, anti-corruption and anti-bribery matters.

Mandatory for reporting PAI indicators as per SFDR RTS:

1. GHG emissions: Scope 1; scope 2; scope 3 (from January 2023)	8. Emissions to water
2. Carbon footprint	9. Hazardous waste ratio
3. GHG intensity of investee companies	10. Violations of UN Global Compact Principles (UNGCP) and OECD Guidelines for Multinational Enterprises (MNEs)
4. Exposure to companies active in the fossil fuel sector	11. Lack of processes and compliance mechanisms to monitor compliance with UN Global Compact Principles and OECD Guidelines for Multinational Enterprises
5. Share of non-renewable energy consumption and production	12. Unadjusted gender pay gap
6. Energy consumption intensity per high impact climate sector	13. Board gender diversity
7. Activities negatively affecting biodiversity-sensitive areas	14. Exposure to controversial weapons (anti-personnel mines, cluster munitions, chemical weapons and biological weapons)

+ additional opt-in indicators on environmental and social issues (min. 2 indicators should be reported on)

ESG Compliance & Reporting – the European perspective (6)

SFDR - Timeline for SFDR and Taxonomy-related disclosures

1 January 2022

Pre-contractual disclosures:

- Qualitative disclosures on **EU Taxonomy alignment** for climate change objectives

1 January 2023

Pre-contractual disclosures:

- Statement on **PAI consideration** at product level[1]
- Quantitative disclosures on **EU Taxonomy alignment** for climate change objectives in line with RTS[2]
- **Qualitative disclosures on EU Taxonomy alignment** for 4 environmental objectives[2]

30 June 2023

Website disclosures:

- **1st detailed statement on PAI, containing PAI indicators' data** collected in the first reference period, incl. scope 1, 2 GHG emissions[1]

1 January 2024

Pre-contractual disclosures:

- Disclosure on **EU Taxonomy alignment for all objectives** in line with the RTS[2]

30 June 2024

Website disclosures:

- **2nd detailed statement on PAI containing PAI indicators data** collected in the second reference period, incl. scope 1, 2, 3 GHG emissions[1]

---

1 January 2022 – 1 January 2023:

- **1st PAI reference period**: Data gathering on PAI indicators, incl. Scope 1, 2 GHG emissions
- Periodic reporting disclosures issued from 1 January 2022 related to **sustainable investment objective** in line with SFDR Level 1 requirements

1 January 2023 – 1 January 2024:

- **2nd PAI reference period**: Data gathering on PAI indicators, incl. Scope 1, 2, 3 GHG emissions
- Periodic reporting disclosures issued from 1 January 2023 related to **sustainable investment objective** in line with RTS, incl. Taxonomy-related disclosures for climate change objectives[2]

From 1 January 2024:

- **3rd PAI reference period**: Data gathering on PAI indicators, incl. Scope 1, 2, 3 GHG emissions

[1] "Comply or explain": possibility to opt out for smaller companies under 500 employees.

[2] Apply if the published criteria cover environmental objectives pursued by the product.

ESG Compliance & Reporting – the European perspective (7)

Greenwashing in the EU: ESAs Call for evidence on better understanding greenwashing

EBA, EIOPA, ESMA requested input on definition and drivers; examples of potential practices; evidence on potential practices within and outside the scope of EU legislation; data on scale and high-risk areas

- Consultation defines **4 dimensions of greenwashing** for analysis:
  - Role of market participant (trigger, spreader or receiver of sustainability claims)
  - Topic or level of the sustainability-related claims (entity, product or data related)
  - Misleading quality of the sustainability-related claims
  - Channel of communication
- Responses made public so far point towards:
  - Lack of clarity around regulations and methodologies as one major cause of greenwashing
  - Need to strengthen transparency through a consistent enforcement of existing EU regulations' requirements
  - Challenges with existing regulation should be resolved before launching additional initiatives
  - Uniform legal definitions of both sustainability and greenwashing for financial instruments is needed
  - Regulators should distinguish between intentional and unintentional misrepresentation

Timeline

23 May 2022
EC requests input from ESAs

15 November 2022
ESAs Call for Evidence

16 January 2023
Deadline for inputs

May 2023
ESA progress report to EC

May 2024
ESA final report to EC

IBA Workshop: ESG Reporting and Compliance

Viewpoint from Europe | Direction of travel for ESG Reporting & compliance

Transformational financial market regulation

- Complex overlay of evolving regulation (SFDR, EU Taxonomy, CSRD) with staged deadlines causes uncertainty
- Compliance with sustainability-related regulations is a learning journey with high resource requirements for asset managers

Implementing and monitoring European SFDR & EU Taxonomy affects entire product life-cycle across functions (examples)

- Product development: Regulatory considerations for product development & application in new mandates; adjustment of existing funds/mandates (e.g. consideration of taxonomy-eligible activities)
- Fundraising: new investor requirements for financial products (Art. 8 vs Art. 9: taxonomy alignment); additional information requested from investors; consideration of national sustainability-related regulations in distribution
- Investment Management: adjustments to investment process & documentation (e.g. DD, investment proposal documentation, loan agreements, data collection, monitoring of investments and portfolio)

Challenges and Solutions (Triage)

- Greenwashing risk: communication and marketing material under increasing scrutiny, leading to precautionary re-qualification of funds (SFDR: Art. 9 to Art. 8; Art. 8 to Art. 6); ESG-related EU fund naming rules (ESMA consultation on guidelines for fund names using ESG or sustainability-related terms 11/2022)
- Data challenges: no one third-party service provider (at this point in time); PAI Management Frameworks to evolve over time; high manual efforts for PAI data collection from various sources (investee company, due diligence and third-party data provider). Increased reporting on investee company level will lead to better data over time.
- Parallel industry standards: ESG-related industry standards will need to be reviewed as they get updated to align with the EU SFDR and the EU Taxonomy Regulation.

IBA Workshop: ESG Reporting and Compliance

Finance in Motion – Contact details & Speaker bio

Dr. Oliver Heiland
Head Business Solutions & Partnerships
Finance in Motion GmbH
Carl-von-Noorden-Platz 5 |
60596 Frankfurt am Main, Germany
m : +49 170 331 6295 |
@: o.heiland@finance-in-motion.com
www.finance-in-motion.com

Oliver is Head Business Solutions & Partnerships at Finance in Motion, with 17 offices globally and 3.2 bn. AUM, one of the world's leading impact asset managers. Oliver serves as a member of the management board of FiM Asset Management and Branch Head of the Luxembourg branch. Oliver joined Finance in Motion in 2021 from Allianz Global Investors, where he held various senior legal & compliance management positions in real assets and private markets.

In his current role, Oliver provides leadership, strategic direction and overall management in the build-out of FiM's private market business and Luxembourg fund hub. His department's coverage responsibility includes business development of new private market business, partnerships, strategy and organizational development.

Oliver has broad subject matter expertise across Asset Management, Finance, M&A, Impact Investing and Sustainable Finance. He studied law in Mannheim, Amsterdam and Adelaide and holds a Ph.D. in public international law (The human right to water). Oliver has been a lecturer at the Institute for Law and Finance (Goethe University Frankfurt/Main) since 2009 and is Adjunct Lecturer for "Sustainable Infrastructure Investments for institutional investors" (LL.M International Finance Program). Oliver is a fully qualified attorney and started his career in 2001 with Allen & Overy.

Disclaimer

The Funds and/or Sub-Funds mentioned in this document are specialized investment funds/ limited partnerships governed by Luxembourg law and are reserved for institutional, professional or other well-informed investors as defined by Luxembourg law. The issue documents or the assets held in the Funds and/or Sub-Funds have, however, not been approved or disapproved by any authority. The information given herein does not constitute an offer or solicitation in a jurisdiction where to do so is unlawful or where the person making the offer or solicitation is not qualified to do so or where a person receiving the offer or solicitation may not lawfully do so nor does it constitute a commitment of the Fund and/or Sub-Funds to offer its shares, notes, and/or other instruments to any investor. No guarantee is given as to the completeness, timeliness, or adequacy of the information provided herein. No investment may be made except upon the basis of the current issue documents of the Funds and/or Sub-Funds.

These materials do not constitute an offer to sell or an offer to purchase any securities. Any such offer regarding the securities described herein will only be made by means of a confidential private offering memorandum.
These materials are not for distribution in the United States or to US Persons, except pursuant to available exemptions under the Securities Act of 1933 and the Securities Exchange Act of 1934. If these materials are distributed in the United States or to US Persons by Finance in Motion, such distribution will be in compliance with applicable US federal and state securities laws and regulations including without limitation SEC Rule 15a-6. Offers and sales to US Institutional Investors and US Major Institutional Investors, as these terms are defined in the SEC Rule 15a-6 and related interpretive guidance, are chaperoned by Global Alliance Securities, LLC (“GAS”), an SEC-registered broker-dealer and FINRA member (web: www.globalalliancesecurities.com) in accordance with the requirements of SEC Rule 15a-6.

Not for distribution in or into Canada, Japan or Australia or to any person or in any other jurisdiction in which such distribution would be prohibited by applicable law.

All forward-looking statements have been compiled on a best efforts basis, taking into account multiple variables which may be subject to change, including, without limitation, exchange rates, general developments in banking markets and regulations, interest rate benchmarks, and others. Actual developments could differ from the expectations expressed in forward-looking statements. Past performance is not a reliable indicator of future results. Prices of shares and the income from them may fall or rise and investors may not get back the amount originally invested. The Funds are under no obligation to update or alter their forward-looking statements whether as a result of new information, future events, or otherwise. Please note that the achievement of goals also depends on the relevant governance bodies taking decisions supporting the portfolio and on the availability of adequate funding.

Neither the Funds, Finance in Motion, any of the Technical Assistance or Development Facilities managed by Finance in Motion, nor any of its shareholders, directors, officers, employees, service providers, advisors, or agents makes any representation or warranty or gives any undertaking of any kind, express or implied, or, to the extent permitted by applicable law, assumes any liability of any kind whatsoever, as to the timeliness, adequacy, correctness, completeness or suitability for any investor of any opinions, forecasts, projections, assumptions and any other information contained in, or otherwise in relation to, this document or assumes any undertaking to supplement any such information as further information becomes available or in light of changing circumstances. The content of this information is subject to change without prior notice.

This document does not necessarily deal with every important topic or cover every aspect of the topics it deals with. The information in this document does not constitute investment, legal, tax or any other advice. It has been prepared without regard to the individual financial and other circumstances of persons who receive it.

Any views expressed in this document reflect the current views of the author(s) which do not necessarily correspond to the views of Finance in Motion nor the Funds, any of the Technical Assistance or Development Facilities managed by Finance in Motion, its shareholders and/or its service providers. Views expressed may change without notice and may differ from views set out in other documents, including other research published by them.

financeinmotion

SFDR Periodic Reporting

Key Considerations for Completing the Templates

Sustainable investment means an investment in an economic activity that contributes to an environmental or social objective, provided that the investment does not significantly harm any environmental or social objective and that the investee companies follow good governance practices.

The **EU Taxonomy** is a classification system laid down in Regulation (EU) 2020/852, establishing a list of **environmentally sustainable economic activities**. That Regulation does not lay down a list of socially sustainable economic activities. Sustainable investments with an environmental objective might be aligned with the Taxonomy or not.

Sustainability indicators measure how the environmental or social characteristics promoted by the financial product are attained.

Product name: [complete]

Legal entity identifier: [complete]

Environmental and/or social characteristics

Did this financial product have a sustainable investment objective? *[tick and fill in as relevant, the percentage figure represents the minimum commitment to sustainable investments]*

Yes	**No**
☐ It made **sustainable investments with an environmental objective:** ___%	☐ It **promoted Environmental/Social (E/S) characteristics** and while it did not have as its objective a sustainable investment, it had a proportion of ___% of sustainable investments
☐ in economic activities that qualify as environmentally sustainable under the EU Taxonomy	☐ with an environmental objective in economic activities that qualify as environmentally sustainable under the EU Taxonomy
☐ in economic activities that do not qualify as environmentally sustainable under the EU Taxonomy	☐ with an environmental objective in economic activities that do not qualify as environmentally sustainable under the EU Taxonomy
	☐ with a social objective
☐ It made **sustainable investments with a social objective:** ___%	☐ It promoted E/S characteristics, but **did not make any sustainable investments**

To what extent were the environmental and/or social characteristics promoted by this financial product met? *[list the environmental and/or social characteristics promoted by the financial product. For the financial products referred to in Article 6, first paragraph, of Regulation (EU) 2020/852, in respect of sustainable investments with environmental objectives, list the environmental objectives set out in Article 9 of that Regulation to which the sustainable investment underlying the financial product contributed. For financial products that made sustainable investments with social objectives, list the social objectives]*

- ***How did the sustainability indicators perform?***

- Article 8 and Article 9 AIFs are obligated to include the SFDR mandatory periodic report templates in their accounts published this year.
- Templates include both qualitative and quantitative disclosure obligations.
- Must include disclosure on how E / S characteristics or the sustainable objectives were met, how the sustainability indicators performed.
- Breakdown of asset allocation of investment promoting E/ S characteristics and/or sustainable investments.

SFDR – Recent Developments

Areas to watch

- Definition of "Sustainable Investments"
- ESMA consultation on fund naming conventions
- Depositary oversight function
- Regulator thematic reviews

RockCreek

Sherri Rossoff

March 2023

the global voice of
the legal profession®

financeinmotion

TABLE OF CONTENTS

I. SEC enforcement actions in the wake of SEC's Risk Alert

II. SEC Proposals: Anti Greenwashing/or Pro Green Bleaching/or Repetition of Existing Framework

III. Regulatory Actions/Ligation

IV. Department of Labor (ERISA) US Corporate Benefit Plan Assets

V. Frameworks/Reporting Examples: Reporting around World Bank Sustainable Development Goals, SDGS/ Mapping to KPIs/examples of reports

SEC enforcement actions in the wake of SEC's Risk Alert

SEC ENFORCEMENT ACTIONS IN THE WAKE OF SEC'S RISK ALERT

U.S. and Canada are considered low regulation jurisdictions

2019 Fiduciary Duty Guidance for investment advisers and FAQS

- An adviser that recommends other investment advisers to or selects other advisers for their clients may consider a variety of factors in making a recommendation or selection, including, but not limited to, factors relating to diversity, equity, and inclusion, provided that the use of such factors is consistent with a client's objectives, the scope of the relationship, and the adviser's disclosures.

2020 Sec Exam Priorities

- March 2021 SEC Creation of a Climate and ESG Task Force in the Division of Enforcement-to look at investment managers
- April 19, 2021, SEC Risk Alert- described observations from recent exams of advisors leading to the May 2022 ESG proposals

  I. Claims. ESG approaches and unsubstantiated or potentially misleading ESG claims, disclosures and marketing materials.

  II. Naming explicit strategies /stating definitions (third party or internal); explicit descriptions of ESG factors

  III. Written policies and procedures relating to evaluating, rating, scoring etc./ list of criteria/screening.

  IV. Controls. inadequate controls governing implementation and monitoring of advisers disclosed ESG practices and clients' ESG-related directives; ensure compliance by review/auditing/benchmarking the same as all other investment items.

  V. Other Disclosures.

     a. proxy voting practices inconsistent with ESG disclosures.

     b. use of third-party standards

  VI. Compliance Programs/policies; inadequate programs'

  VII. Limited Knowledge; compliance personnel (and others) with only limited knowledge of an advisers ESG practices.

SEC Proposals: Anti Greenwashing/or Pro Green Bleaching/or Repetition of Existing Framework

SEC PROPOSALS: ANTI GREENWASHING/OR PRO GREEN BLEACHING/OR REPETITION OF EXISTING FRAMEWORK

Existing obligations under the Investment Advisers Act of 1940 and the Investment Company Act of 1940 that compliance policies of the advisers that incorporate ESG factors must be reasonably designed to ensure the adviser manages the portfolios consistently with how its ESG strategy was described to investors. Further, advisers must annually review the adequacy and effectiveness of such compliance policies and procedures.

The SEC also reaffirmed that it would be materially misleading for an adviser to overstate in an advertisement the extent to which it utilizes or considers ESG factors in managing client portfolios.

May 2022 SEC proposed amendments that would require additional disclosure regarding the incorporation of ESG factors into their investment processes. Changes to form ADV; One year compliance period

SEC PROPOSALS: ANTI GREENWASHING/OR PRO GREEN BLEACHING/OR REPETITION OF EXISTING FRAMEWORK

financeinmotion

The proposed amendments would require reporting of whether a private fund adviser considers any ESG factors as part of one or more significant investment strategies or methods of analysis in the advisory services it provides to each private fund/separate accounts .

Negative ESG Screening

Defined as fund that considers one or more ESG factors alongside other, non ESG factors in investment decisions.

Disclose: how they incorporate ESG factors in the process. Explain how the adviser incorporates ESG factors when making investment recommendations; explain how the adviser. considers other, non-ESG factors alongside its consideration of particular ESG factors when providing investment advice, with those ESG factors being generally no more significant than the other factors, such that the particular ESG factors may not be determinative in deciding whether to recommend any particular investment.

ESG-Focused Strategy

Defined as funds focused on one or more ESG factors by using them as a significant or main consideration in selecting investments or in engaging with portfolio companies. Factors used can include screens for carbon emissions, board or workforce diversity and inclusion, industry specific issues, and even engagement thru proxy voting or direct engagement.

Disclose: ESG factors that are a significant or main consideration in providing advice or in the adviser's engagement strategy with the companies in which the adviser's clients invest; explain how the adviser incorporates these ESG factors when providing investment advice. Include how they voted proxies or engaged with companies on ESG issues.

ESG-Impact Strategy

Defined as Fund that are a subcategory of ESG focused funds and have a stated goal that seeks to achieve a specific ESG impact or impact that generate specific ESG related benefits.

Same as ESG focused funds plus provide an overview of the impact(s) the adviser is seeking to achieve, and how the adviser is seeking to achieve the impact(s); explain how the adviser measures progress toward the stated impact, disclosing the key performance indicators analyzed; the time horizon used to analyze progress (quantitative and qualitative terms), and the relationship between the impact

sought and financial return(s).

SEC PROPOSALS: ANTI GREENWASHING/OR PRO GREEN BLEACHING/OR REPETITION OF EXISTING FRAMEWORK

These categories loosely correlate to those under the SFDR, with "non-ESG" resembling Article 6 funds, "ESG Integrated" resembling Article 8 funds and "ESG focused" resembling Article 9 funds (including the additional impact overlay). Parallel SFDR regime is another factor in determining how to characterize a fund. SFDR is more detailed and prescriptive. more onerous than SEC proposals.

If you check one of the ESG boxes, it will allow an adviser to market the funds or strategy's ESG credentials thereby opening up the possibility of generating additional investments form investors with ESG goals. It may also coincide with how the adviser has historically held itself out to investors with respect to ESG.

By identifying fund as one that does not take ESG considerations into account, advisors will reduce additional form ADV disclosure and the related risk of misrepresentation claims. It may also improve prospects for raising and maintaining capital from ERISA plans and state plans subject to state level restrictions on ESG.

Additional disclosure would be required regarding the objective(s) the adviser is seeking to achieve and how it is seeking to achieve such objective(s) (including how it measures progress toward the stated impact, disclosing the key performance indicators analyzed, the time horizon used to analyze progress, and the relationship between the impact the registered Adviser is seeking to achieve and financial return(s)).

Not identifying as a fund that takes ESG considerations into account would eliminate the adviser's ability to make any claims around ESG in offering materials for such fund or strategy, which would negatively impact the ability to raise capital from investors with ESG objectives. Also, may be inconsistent with prior disclosures; however open to less SEC scrutiny (Green bleaching).

SEC PROPOSALS: ANTI GREENWASHING/OR PRO GREEN BLEACHING/OR REPETITION OF EXISTING FRAMEWORK

Additional disclosure would be required regarding the objective(s) the adviser is seeking to achieve and how it is seeking to achieve such objective(s) (including how it measures progress toward the stated impact, disclosing the key performance indicators analyzed, the time horizon used to analyze progress, and the relationship between the impact the registered Adviser is seeking to achieve and financial return(s)).

- Disclosure of Financial affiliations regarding ESG consultants/providers
- Voting Client Securities – describe factors when considering voting.
- Indicate whether a third-party framework is followed and name the framework.

Private Equity funds:

- Private equity funds business model gives it clear advantages over investors in public equities when it comes to implementing a sustainability agenda and meeting the proposed regulatory requirements due to:.
- Control of its portfolio companies from an ownership and governance perspective, even when it doesn't own 100 per cent of a company.
- It has one or more representatives on the board and a strong influence on who else serves.
- It has access to any information it wants about both financial and sustainability performance—whereas investors in public companies see only what the company reports.
- Owned companies operate on a longer time horizon than publicly traded companies do, further facilitating a focus on ESG

Investors will:

1. integrating ESG factors in due diligence, onboarding, holding periods, and exit strategies;
2. increasing transparency in the reporting of sustainability performance; and

Regulatory Actions/Ligation

REGULATORY ACTIONS/LIGATION

- **Regulatory Actions**
  - Asset management arm of Investment Bank - Penalty of $4million in Nov 2022
    - I. Involved adopting and implementing adequate supervisory and compliance policies concerning ESG factor disclosures
    - II. Completion of ESG questionnaire prior (not after) to the selection of the investment, employees would complete the questionnaires after the investment was selected.
    - III. Current or dated research
    - IV. Written policies and procedures ESG research; despite then adopting policies, they were not followed until Feb 2020.

Asset management arm of Bank - May 2022 $1.5m fine

- I. Whether all funds that they were investing in had undergone ESG quality reviews and whether they were given ESG scores

Litigation themes

- Involving misleading statements not consistent with what was actually done ;
- Pitfalls of Sustainability Reporting, including voluntary reporting for standard setting groups, UNPRI
  - UNPRI's comment letter to the SEC specifically takes issue with the SEC's view based upon its recent exams that there is an incorporation by signatories of the principles leading to misleading statements;

Department of Labor (ERISA) US Corporate Benefit Plan Assets

financeinmotion

DEPARTMENT OF LABOR (ERISA) US CORPORATE BENEFIT PLAN ASSETS

May 2021 Executive Order

Oct 2021- After years of uncertainty around the "tie-breaking" concept vs. Explicit ability to consider vs. No consideration:

Rules to clarify that retirement plan fiduciaries may consider climate and other ESG factors "in selecting retirement investments and exercising shareholder rights, when those factors are relevant to the risk and return analysis."

Regulation should provide greater flexibility to plan fiduciaries and investment managers to select ESG-related investments and products when they can justify doing so on the basis of the risk-return profile of such investments and products, or when they can satisfy the "tiebreaker" standard described in the plans may consider ESG factors in their investment decisions when they are expected to have an impact on investment outcomes, but plans must consider them in a prudent manner consistent with their fiduciary obligations, formally repeal the DOL's rule on Financial Factors in Selecting Plan Investments and seek to limit future regulatory actions imposing unfair regulatory burdens to discourage ESG investing by ERISA plans.

Congress has adopted a bill to rescind this final 2022 ERISA rule, which Pres. Biden plans to veto.

ANTI-ESG' INITIATIVES ADVANCE, PRIMARILY AT STATE LEVEL

More than 10 U.S. states have enacted or proposed "anti-ESG" legislation aimed at curtailing consideration of ESG factors by financial institutions and other companies.

- California is an exception: it passed a bill relating to the Public Employees' Retirement Fund (CalPERS) and the Teachers' Retirement Fund (CalSTRS), which requires the state's two public sector pension funds to report on material climate-related financial risks, on alignment with the Paris Agreement and California's climate policy goals, and on engagement activities linked to climate related financial risks.

Pushback in the Sates against net zero targets -- August 2022, Attorneys General from 19 states signed a letter claiming that these alliances appear to intentionally restrain and harm the competitiveness of energy markets.

Feb 3, 2023, Formation of a Republication Working group to focus on ESG shareholder proposals. The Group will focus on combatting "the threat to our capital markets posed by those on the far-left pushing environmental, social, and governance (ESG) proposals" by: (1) "[r]ein[ing] in the SEC's regulatory overreach," (2) [r]einforc[ing] the materiality standard as a pillar of our disclosure regime and (3) "hold[ing] to account market participants who misuse the proxy process or their outsized influence to impose ideological preferences in ways that circumvent democratic lawmaking."

SEC PROPOSED CLIMATE RULES

On March 21, 2022, proposals were released, and SEC is expected to take final action on the climate-related disclosure rule in Spring 2023; increased discussion around climate scenario analysis as a tool to manage risk for large financial institutions.

SEC proposed expansive climate-related disclosure requirements in a proposing release that would require U.S. public companies and foreign private issuers to expand the breadth, specificity and rigor of climate-related disclosures in their SEC periodic reports and registration statements.

Although the proposed rules do not impose industry-specific requirements, certain areas would have a particularly significant impact on financial institutions. In particular, the disclosure of Scope 3 greenhouse gas ("GHG") emissions (which include financed emissions) and of climate scenario analysis could be mandatory for many financial institutions under the proposed rules. Voluntary climate-related transition plans, targets and goals, which many financial institutions have adopted or set, also would need to be disclosed.

UNIVERSAL PROXY ACCESS

Renewed important of proxy advisor recommendations.

Following the SEC's adoption of the universal proxy rules, two recent proxy battles resulted in votes consistent with the ISS and Glass Lewis recommendations

Both ISS and Glass Lewis defend by saying they look at long term shareholder value

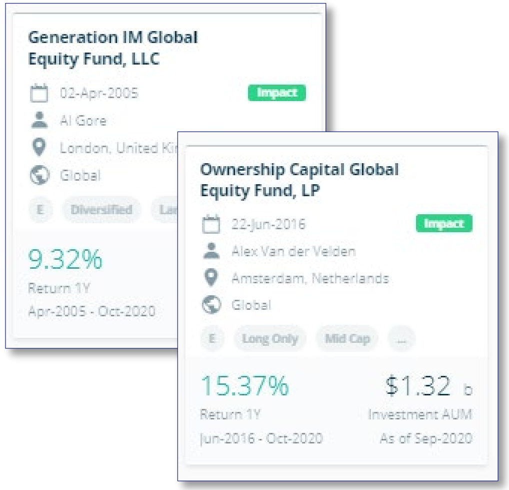
Reporting Examples: Reporting Around World Bank Sustainable Development Goals, SDGS/Mapping to KPIs

ESG CONSIDERATIONS IN SCREENING

financeinmotion

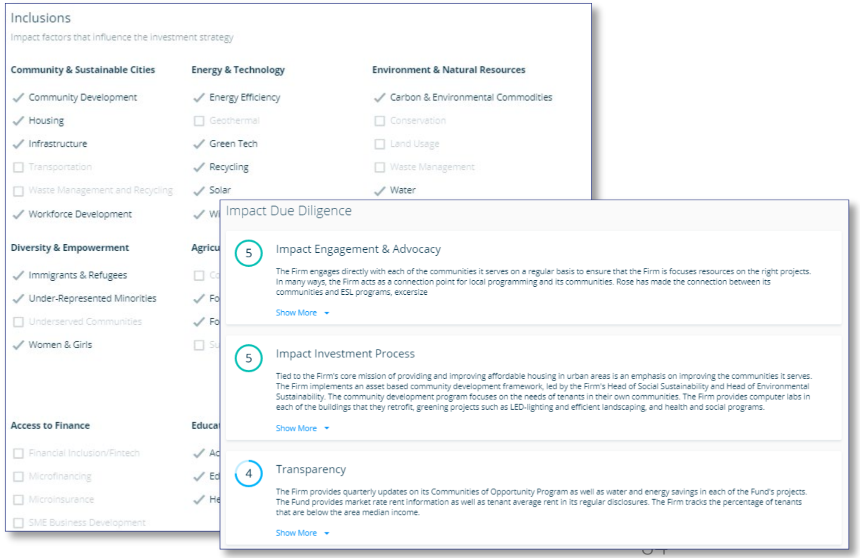
FIRM LEVEL EXAMPLES

- ESG Policies – Would the manager be willing to create and adhere to a policy?
- Social/Diversity – What are the hiring practices of the manager? Are they monitoring the diversity and increase in diversity of the team over time?
- Sustainability – How is the office culture incorporating sustainable practices?



INVESTMENT STRATEGY EXAMPLES

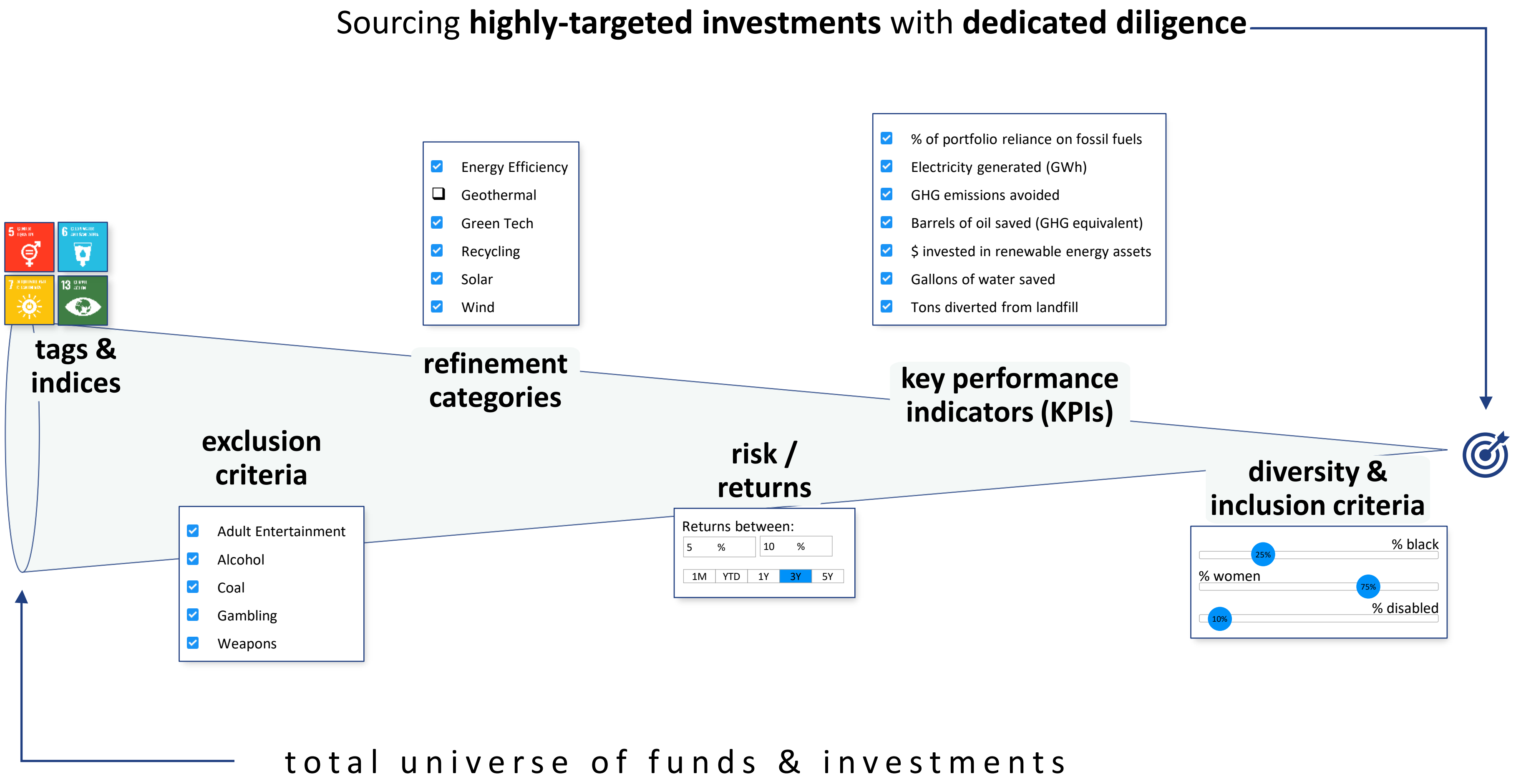
- ESG Data – What ESG data models and vendors are used?
- Governance – Is there an effort to engage portfolio company investments in encouraging better governance? What are the proxy voting policies?
- Sustainability – During research process are corporate sustainability initiatives considered? How is a corporation's sustainability factored into research and analysis?



CASE STUDY

financeinmotion

Endowment seeking a **sustainable**, **inclusive** investment strategy



DISCRETE INVESTMENT OPPORTUNITIES

OVERVIEW

- Classifications & status
- Financial performance
- Portfolio / positions
- Peer statistics
- Management team
- Investment strategy
- Risk management
- Operations, IT, security
- Governance / ownership
- Compliance & regulatory

SUSTAINABILITY

- Impact investment philosophy
- Investment selection criteria
- Metrics & measurement tracking
- Impact industry affiliations
- Impact advocacy / engagement
- Exclusions (tobacco)
- Taxonomy / tags (SDGs)
- Refinement categories (solar)
- Portfolio weighting (% solar)
- Scenario analysis (carbon tax)
- Qualitative research & insight
- Analyst / expert recommendations

INCLUSION

- Detailed diversity statistics
- Diversity in portfolio / investments
- Process for inclusive investing
- Peer-group benchmarking
- HR policies and procedures
- Hiring & outreach efforts
- Employee sensitivity training
- Affiliations & advocacy

TECHNOLOGY MAPS INVESTMENTS TO UN SDG's

financeinmotion

Mapping client portfolios to UN SDG Framework

1. SUSTAINABLE ENERGY & CLIMATE ACTION

- ✓ Affordable & Clean Energy
- ✓ Climate Action

2. FINANCIAL SAFETY & INCLUSION

- ✓ No Poverty
- ✓ Quality Education
- ✓ Reduced Inequalities

3. AFFORDABLE HOUSING

- ✓ Industry, Innovation, and Infrastructure
- ✓ Sustainable Cities & Communities

4. HEALTH & WELLBEING

- ✓ Good Health & Wellbeing
- ✓ Clean Water & Sanitation

5. SOCIAL JUSTICE

- ✓ Gender Equality
- ✓ Decent Work and Economic Growth
- ✓ Peace, Justice, and Strong Institutions

6. AGRICULTURE & FOOD SUSTAINABILITY

- ✓ Zero Hunger
- ✓ Responsible Consumption & Production

TOTAL PORTFOLIO SUSTAINABILITY STRATEGY

financeinmotion

RockCreek overlaying client roadmap with the specific factors for a mission-aligned approach to sustainable investing

VISION
+
MISSION
+
VALUES

Understanding needs, mission, priorities, liquidity constraints, and investment objectives of the client

Re-evaluating investment market assumptions - impact outcomes, expected returns, expected risks and considerations

Factor in different liquidity considerations for the client

Integrate highest alpha + impact opportunities across active strategies aligned with our client

Combination of investment judgement/experience and quantitative analysis

While RockCreek views impact integration as an element of its research, its investment decisions are evaluated individually and not dictated by impact-related objectives absent specific client direction. There is no guarantee that RockCreek will implement and make investments that create positive impact (including as specific to a client) while enhancing investment value and achieving financial returns or identify all relevant impact-related factors. As such, no guarantee that a customized portfolio will invest in same or similar impact investments or achieve same or similar characteristics described herein. See important Disclosures & Risk Considerations.

APPROACH

financeinmotion

Alignment

Negative ESG Screening

Follows a do-no-harm approach to align portfolio with ESG objectives

Avoids potentially objectionable exposures

Typically implemented through traditional investments, i.e., passive public equity and fixed income strategies

Integration

Positive ESG Screening & Intentional ESG Investing

A proactive approach to incorporating ESG factors into the investment process

Implemented by investments in companies or funds to add value through return enhancement and/or risk management

Typically implemented through active investment strategies in public markets

Impact Investing

Thematic Impact Investing

Intended to achieve direct impact related to environmental, social and governance issues

Seeks to deliver significant impact with sustained alpha over longer periods of time

Typically implemented through investments in private market strategies

financeinmotion

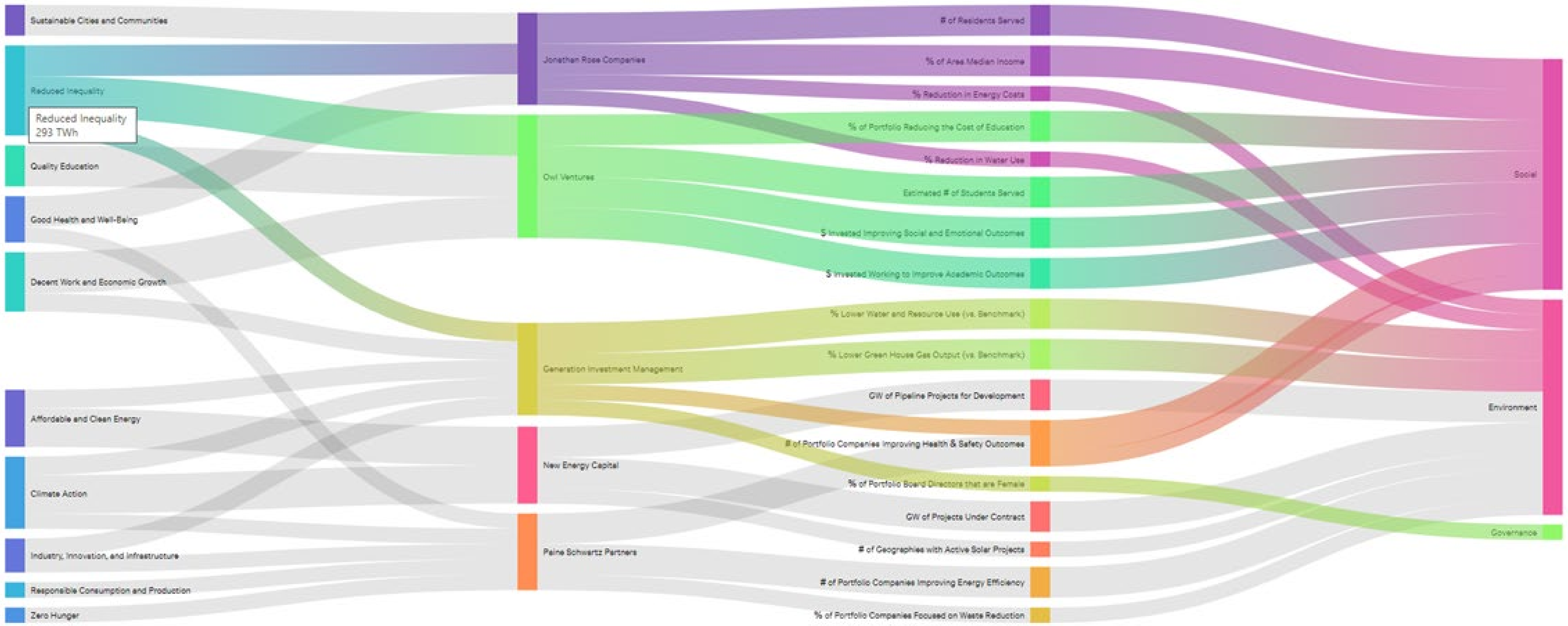
CUSTOMIZED IMPACT REPORTING

Collaborate with Clients to develop an impact framework

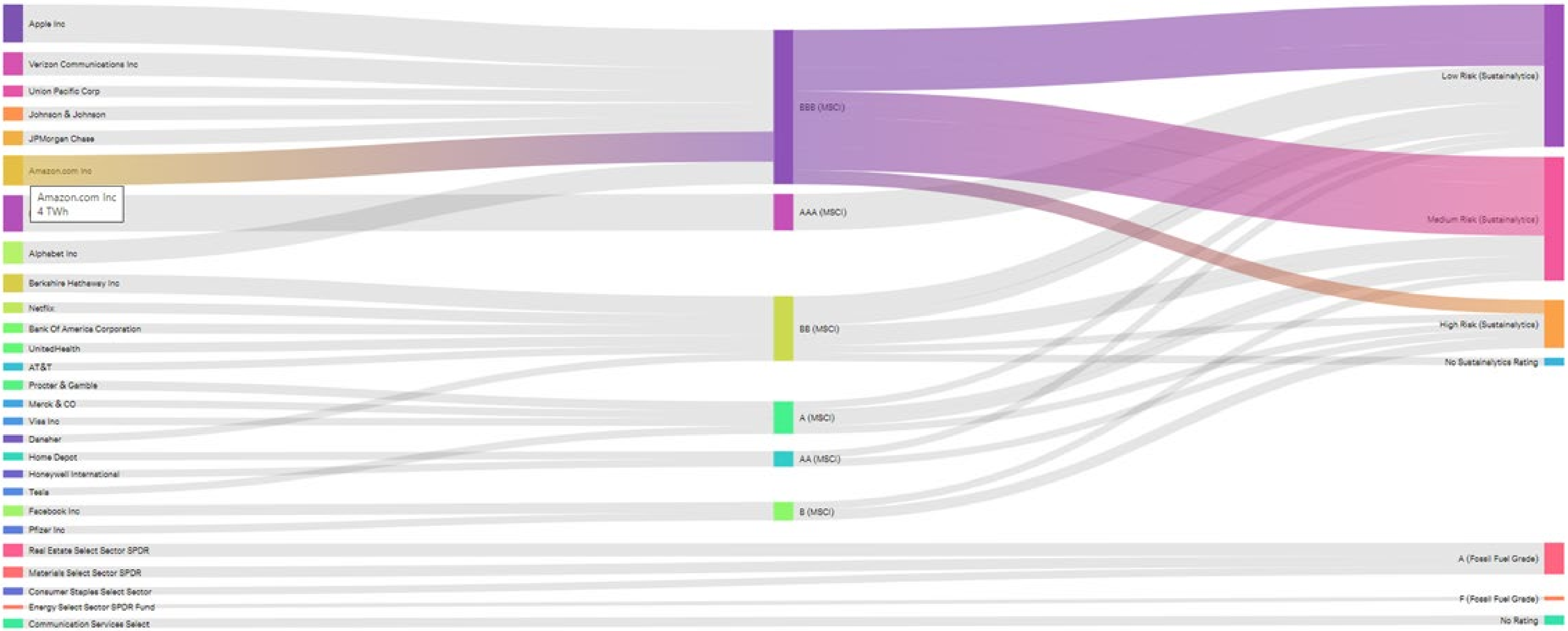
- ✓ Impact Approach & Methodology
- ✓ Portfolio Alignment with Chosen Impact Framework (SDGs, GIIN, IMP, etc.)
- ✓ Underlying Investment Outcomes and Performance Metrics
  - Number of Jobs Created
  - Number of Affordable Housing Units Developed
  - $ invested
  - $ invested in Minority & Women-Owned Firms
  - Metrics Tons of CO2 Emissions
- ✓ Underlying Investment Case Studies

The above are illustrative of the firm's impact report and may not reflect actual impact analysis.

KPI MAPPING AND MONITORING



ROCKCREEK IMPACTFUND – ESG RATINGS MSCI SUSTAINALYTICS



NOTE ON CERTAIN FRAMEWORKS- ASSET MANAGER FOCUSED

UNPRI – According to UNPRI, it is the only global ESG reporting framework for asset owners and investment managers at entity level and asset class level. Designed to hold its signatory base to account on implementing the Six Principles; it also serves to educate and engage signatories on their path toward implementation.

Task Force on Climate Related Financial Disclosures TCFD – Reporting expected to focus on the assessment and management of climate related risks and opportunities.

In addition, state insurance regulators have recently adopted a TCFD-aligned standard of reporting on climate-related risks for insurance companies

the NAIC Climate Risk Disclosure Survey.

Net Zero Asset Owner Alliance- Signatories have to report TCFD disclosures and a climate action plan, while asset owners disclose their emission reduction targets and their progress.

The Net Zero Asset Managers Initiative. Requires signatories to publish TCFD-recommended disclosures, including an annual climate action plan, consistent with the UN Race to Zero criteria and with the other commitments signatories make. Signatories to the Net-Zero Asset Owners Alliance commit to disclose their intermediate emission reduction targets and to report annually on their progress towards them, including on investment portfolios’ emission profile and emission reductions.

CFA Global ESG Disclosure Standards for Investment Products -- Broad range standards that are product level. The CFA Institute’s Global ESG Disclosure Standards for Investment Products are primarily aimed at investment managers. The voluntary standards provide a framework for ESG reporting at product level. The reporting requirements include (but are not limited to) the processes to identify financially material ESG information, specific ESG objectives and targets, and the ESG characteristics of the investment product.

GRESB benchmarks for the ESG performance of real estate and infrastructure funds, assets and companies are based on annual voluntary reporting by funds, property companies, real estate investment trusts and developers

The US stewardship framework for institutional investors applies to asset owners.

Sherri Rossoff, Managing Director
Sherri.Rossoff@therockcreekgroup.com
(202) 331-3425

Sherri Rossoff is a Managing Director and Chief Compliance Officer at RockCreek, focusing on firm management, and legal matters. Prior to this, she was senior counsel at the World Bank in the legal finance group, where she concentrated in the areas of pension investments and asset management, focusing on alternative investments. She has acted as counsel to the World Bank's Pension Finance Committee and provided technical assistance to various central banks globally on governance and investment management best practices.

Sherri serves on the Global Board of Directors of 100 Women in Finance; she has served as Chair of the Markets Advisory Council of the Council of Institutional Investors. She began her career as an associate at Cleary Gottlieb Steen and Hamilton in New York. Sherri earned her law degree from New York University School of Law and her B.A. in Economics and Political Science, summa cum laude, from Queens College, where she was elected to Phi Beta Kappa.

Sherri is an active supporter of 9/11 Health Watch, a group dedicated to ensuring quality medical care and compensation for injured and ill 9/11 responders and survivors. She actively supports a variety of not-for-profit groups focused on community inclusion, including VisArts, whose mission is to transform individuals and communities through the visual arts; and the Spirit Club Foundation, whose mission is to offer a universal design for fitness that empowers people of all abilities to exercise successfully in a socially integrated setting.