Divestment & Sustainable Investment Forum

Aligning your Investment Portfolio with Institutional Mission, Values, and Sustainability Goals

May 7-8, 2015 | Denver, Colorado

Panel Presentation: Keith Johnson, Reinhart Boerner Van Deuren s.c.
Uniform Prudent Management of Institutional Funds Act (UPMIFA)

- Exercise Care/Prudence
  - Same care as similar person under similar circumstances
  - Diversify - Unless purposes of fund better served otherwise
  - Consider economic conditions and charitable purposes
- Investigate and verify facts relevant to fund management
- Incur only reasonable costs
- Maintain loyalty and obedience to mission and purpose
  - Avoid misuse of funds, self-dealing and misconduct
  - Balance current and future needs
Legislative Intent of UPMIFA

- Investment strategies must be appropriate for the fund and charity
- Managers must consider charitable purposes of the institution

"UPMIFA requires a charity and those who manage and invest its funds to . . . consider the charitable purposes of the institution and the purposes of the institutional fund for which decisions are being made. These factors are specific to charitable organizations." [Prefatory Note and Comment to UPMIFA s. 3]
Fiduciary Duty is a Dynamic Concept

- Economic, environmental and social circumstances change
  - Climate risk; population growth; natural resource constraints; investor short-termism; pollution; Great Recession; etc.

- Investment knowledge and theories evolve
  - Stock was once an imprudent investment
  - Integration of material ESG factors growing

"There are no universally accepted and enduring theories of financial markets or prescriptions for investment that can provide clear and specific guidance to trustees and courts."

[Restatement of Trusts, 3rd, §227, Comment (f)]
Transition in Fiduciary Duty Application

UK Charities & Law Commissions Guidance - 2014

- Charity trustees are not required to maximize financial returns
  - May consider financial return and furtherance of charitable purpose
  - Total Impact approach considers social impact of grants, investments and supply chain

Sustainable Accounting Standards Board – 2014

"The purpose of sustainability accounting is to evaluate the environmental, social and governance performance of companies through an account of their management of various forms of non-financial capital associated with sustainability – environmental, human and social – and corporate governance issues, which they rely upon for sustained, long-term value creation." [SASB Conceptual Framework]
Harvard: Sustainability Study
--- High Sustainability Companies --- Low Sustainability Companies

Figure VI: Investment Performance

The figure shows the evolution of $1 invested in a portfolio of firms with high performance on the material sustainability issues versus competitor firms with low performance on material sustainability issues. Materiality of sustainability issues is industry-specific and it is defined by the Sustainability Accounting Standards Board. Source: Mo Khan, George Serafeim and Aaron Yoon. Corporate Sustainability: First Evidence on Materiality. HBS working paper, 2014.
"We believe that the fiduciary responsibilities of all philanthropic institutions mean that we have both a duty of obedience to our specific mission, and a duty of obedience to a larger public purpose. As a practical matter, we are obligated to examine our portfolio on an ongoing basis to identify holdings that may unintentionally do harm to our missions or to the broader shared interests of society."