Sustainable Investing and the Responsible Fiduciary

November 10, 2015

Intentional Endowments Network
Portland, Oregon
IRS Approves Mission-Integrated Investment

IRS confirms that tax rules are consistent with standards under state laws for nonprofit entities.

"[Foundation] managers may consider all relevant facts and circumstances, including the relationship between a particular investment and the foundation’s charitable purposes. Foundation managers are not required to select only investments that offer the highest rates of return."

*IRS Notice 2015-62*
Regulators Endorse ESG Consideration

Department of Labor advises that material ESG factors are proper elements of investment analysis

"Fiduciaries need not treat commercially reasonable investments as inherently suspect or in need of special scrutiny merely because they take into consideration environmental, social, or other such factors." ERISA Interpretive Bulletin 2015-01; October 26, 2015
State Law Primary Fiduciary Duties

- Exercise care and forward-looking prudence
  - Same level of diligence and care as peers
  - Diversify - Unless purposes of fund are better served otherwise
  - Consider general economic conditions
- Investigate and verify facts relevant to fund management
- Maintain loyalty to fulfilling the fund's and organization's goals
  - Avoid misuse of assets, self-dealing and misconduct
  - Exercise impartiality by balancing current and future needs
- Maintain obedience to mission in both program and investment activities

[Uniform Prudent Investor Act, Uniform Prudent Management of Institutional Funds Act, Restatement of Trusts, Third]