

C/M/S/

Law . Tax

ESG snapshot: Responsible Investment for asset managers



Sustainable Finance
and Responsible Investment



Responsible Investment has, in a few short years, moved from being an outlier in the asset management world to an issue of global importance which is front and centre of political, legal and market priorities.

Although the rise to prominence has been market led, regulation is catching up. This incredible focus on Responsible Investment and the integration of Environmental, Social and Governance (ESG) factors brings both risks and opportunities for asset managers.

This document is intended to give an overview of the key issues, current trends, and aspects to consider when implementing your Responsible Investment strategies.

What is meant by Responsible Investment?

Responsible Investment is an investment strategy that integrates ESG factors into investment analysis and decisions. It recognises that ESG factors can have an impact on the financial value of an investment - that long-term prosperity requires a move away from short-term profit as the only definition of value.

Increasingly, it also recognises the importance the financial markets, and our investments, can have on making positive change in the world – be that in the fight against climate change, the improvement of equality standards or taking a stand against poor governance. This requires action not only at a fund level, but also at a firm level.

In a nutshell, Responsible Investment can be interpreted as investment that creates long-term social, environmental and economic (sustainable) value; investment that combines financial and non-financial value creation, or investment that correctly prices social, environmental and economic risk.

What are some Responsible Investment techniques?

One of the main challenges – and opportunities – for asset managers is that there is no standard strategy in this area. We summarise below a number of the approaches taken by asset managers in the Responsible Investment field. It is crucial to bear in mind that Responsible Investment is not limited to climate change issues, nor does it mean only investing in “green” assets. Equally, financial returns remain the focus. Just some ways in which the industry uses Responsible Investment techniques are:

| | |
|---|--|
|  ESG integration | Systematically including ESG considerations in the investment decision making process – which may or may not lead to different investment decisions but may lead to an impact on risk profile. |
|  Screening | Applying a filter to the available universe of investments to exclude assets which do not meet the investment manager’s set criteria for ESG (eg, tobacco, arms, gambling). |
|  Focussed ESG products | Managing portfolios with the active intention of seeking a specific ESG outcome (eg investing only in assets which make a positive contribution to society). As well as the various investment techniques, it is more and more common for fund managers to take active ownership of their investment portfolios. |
|  Engagement | Identifying and discussing ESG issues with companies in order to improve their positions (eg on labour standards). More and more, asset managers are collaborating on active engagement in order to present a bigger voice. |
|  Voting | Using the shareholder benefit of being able to vote on resolutions as a way of actively expressing views on ESG factors, or proposing ESG related resolutions. Proxy voting is become an important tool for asset managers in demonstrating their ESG views publicly. |

What are ESG factors?

Responsible Investment is a very subjective topic and although much of the focus has been on climate change and other environmental issues, there is an enormous range of topics that are relevant. It is useful to refer to the UN Sustainable Development Goals for an overview as these are often referenced as the standard for global improvement in all ESG areas.

However, ESG factors can cover:

Environmental

- Greenhouse gas (GHG) emissions
- Biodiversity loss
- Pollution and contamination
- Carbon regulation exposure
- Renewable energy



Social

- Labour practices
- Community displacement
- Human rights
- Health and safety
- Financial inclusion



Governance

- Corruption and bribery
- Reputation
- Management effectiveness
- Board diversity



Timeline of key international regulatory developments



What should you be considering and how can we help?

ESG issues are some of the most important drivers of change in the world today. The correct implementation of Responsible Investment strategy is essential from a reputational perspective as well as being crucial for the continued success of fund houses within the sector. To ensure that you are on top of both regulatory change while keeping up with market expectations, you will need to focus on:

Structuring your project:



By supporting innovation and sustainable investment strategies to grow, we support you from the launching phase to help define the most appropriate structure (from traditional investment vehicles, guarantee funds, to PPP - blended finance structures) up to the fund raising, and beyond. We can also assist you to obtain relevant quality labelling in the jurisdiction of choice: Environment, Microfinance, ESG, Climate Finance, Green Bond, Green Stock Exchange.

Implementing your strategy:



We firmly believe that the successful implementation of an ESG strategy must be led from the top. Ensuring that ESG is built into your board reporting and governance structure is key. We can assist with the integration of ESG factors into your investment processes by analysing your current systems. We can further assist with the set up of your fund management, as well as risk management policies and procedures, in light of applicable key regulatory requirements.

Ensuring appropriate disclosures:



A major risk attached to Responsible Investment disclosures to date has been green-washing. It is key that your collateral is verifiable and clear. Your investment strategies, including active ownership, and the impact of these must be clearly demonstrated and supported by evidence. We can assist with reviewing your current disclosures to ensure appropriateness and fitness for the upcoming regulations and helping you to draft the information you will be required to make public.

We have a number of Responsible Investment experts within our funds and investment management teams, who have been helping clients on many Responsible Investment and ESG related matters. If you would like to discuss any of these issues, we have an experienced group of partners who would be happy to advise how a robust Responsible Investment strategy could help future-proof your business.

Your contacts



Laura Houët

Partner, UK
T +44 207 367 3582
E laura.houet@cms-cmno.com



Aurelien Hollard

Partner, Luxembourg
T +35226275355
E Aurelien.Hollard@cms-dblux.com



Victoria Henry

Partner, UK
T +44 20 7524 6040
E victoria.henry@cms-cmno.com



Hugo Coetzee

Partner, UK
T +44 20 7367 3395
E hugo.coetzee@cms-cmno.com



Paul Sheridan

Partner, UK
T +44 20 7367 2186
E paul.sheridan@cms-cmno.com

CMS locations

The Americas

Bogotá
Lima
Mexico City
Rio de Janeiro
Santiago de Chile

Europe

| | | | |
|-------------|------------|------------|------------|
| Aberdeen | Edinburgh | Lyon | Sarajevo |
| Amsterdam | Frankfurt | Madrid | Seville |
| Antwerp | Funchal | Manchester | Sheffield |
| Barcelona | Geneva | Milan | Skopje |
| Belgrade | Glasgow | Monaco | Sofia |
| Berlin | Hamburg | Moscow | Strasbourg |
| Bratislava | Istanbul | Munich | Stuttgart |
| Bristol | Kyiv | Paris | Tirana |
| Brussels | Leipzig | Podgorica | Utrecht |
| Bucharest | Lisbon | Poznan | Vienna |
| Budapest | Ljubljana | Prague | Warsaw |
| Cologne | London | Reading | Zagreb |
| Duesseldorf | Luxembourg | Rome | Zurich |



Africa

Algiers
Casablanca
Johannesburg
Luanda
Mombasa
Nairobi

Middle East

Dubai
Muscat
Riyadh

Asia-Pacific

Beijing
Hong Kong
Shanghai
Singapore





Law . Tax

Your free online legal information service.

A subscription service for legal articles
on a variety of topics delivered by email.

cms-lawnow.com

.....
CMS Cameron McKenna Nabarro Olswang LLP
Cannon Place
78 Cannon Street
London EC4N 6AF

T +44 (0)20 7367 3000

F +44 (0)20 7367 2000

The information held in this publication is for general purposes and guidance only and does not purport to constitute legal or professional advice.

CMS Cameron McKenna Nabarro Olswang LLP is a limited liability partnership registered in England and Wales with registration number OC310335. It is a body corporate which uses the word "partner" to refer to a member, or an employee or consultant with equivalent standing and qualifications. It is authorised and regulated by the Solicitors Regulation Authority of England and Wales with SRA number 423370 and by the Law Society of Scotland with registered number 47313. It is able to provide international legal services to clients utilising, where appropriate, the services of its associated international offices. The associated international offices of CMS Cameron McKenna Nabarro Olswang LLP are separate and distinct from it. A list of members and their professional qualifications is open to inspection at the registered office, Cannon Place, 78 Cannon Street, London EC4N 6AF. Members are either solicitors or registered foreign lawyers. VAT registration number: 974 899 925. Further information about the firm can be found at cms.law

© CMS Cameron McKenna Nabarro Olswang LLP

CMS Cameron McKenna Nabarro Olswang LLP is a member of CMS Legal Services EEIG (CMS EEIG), a European Economic Interest Grouping that coordinates an organisation of independent law firms. CMS EEIG provides no client services. Such services are solely provided by CMS EEIG's member firms in their respective jurisdictions. CMS EEIG and each of its member firms are separate and legally distinct entities, and no such entity has any authority to bind any other. CMS EEIG and each member firm are liable only for their own acts or omissions and not those of each other. The brand name "CMS" and the term "firm" are used to refer to some or all of the member firms or their offices. Further information can be found at cms.law