



Finance-Focused Strategies:

**Moving forward tech
accountability**

**Summary Report and
Recommendations**

Whistle Stop Capital

Whistle Stop Capital

Whistle Stop Capital, LLC (Whistle Stop) was founded in 2017 by Meredith Benton. It is a consultancy focused on helping investors assess, and address, environmental, social and governance (ESG) topics. Whistle Stop works with its clients to: identify the key areas of exposure and opportunity within investment portfolios, to build and implement engagement strategies that encourage improved corporate practices, and to incorporate appropriate metrics and benchmarks that track the positive changes catalyzed.

Whistle Stop provides services to field builders, foundations, individuals, investment advisors, endowments, and newly forming investment funds. Its allies include academic institutions, activist organizations, public pension funds, religious orders, corporate leaders, and innovators.

The lead authors of this report were Meredith Benton **and** Tim Brennan supported by the broader Whistle Stop team. Team members and their bios are available at: whistlestop.capital/team. This research was funded by the NetGain Partnership, a philanthropic collaboration seeking to advance the public interest in the digital age.

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Key Takeaways

Significant opportunities exist to utilize investor influence to encourage technology companies to take greater accountability for their societal impacts. However, the necessary infrastructure is missing. Tools that have proven successful in past investor engagements must be developed and tailored in new ways. These efforts will be more effective if the broader environmental, social and corporate governance (ESG) investment ecosystem is also strengthened. Foundations are able to play a unique and catalytic role in providing capital and leadership, as grantors and as investors themselves.

Investors can, and should, be motivated to press companies for change that benefits society at the same time that it enhances the long-term value of investment portfolios. Investors want the actions of the companies whose stock they own to align with their long-term interests including strong ESG practices. Civil society organizations and investors do have common cause, but they do not always have venues to identify, communicate, and collaborate around those shared priorities.

Given the complexity of the tech sector's impacts on society, conduits to formalize communication with civil society experts are essential. Opportunities exist to unite and amplify existing efforts by investors, activists, legislators, tech employees, and other stakeholders. Existing organizations skilled in facilitation and coordination of investor engagements should be looked to to assist in developing and implementing these efforts.

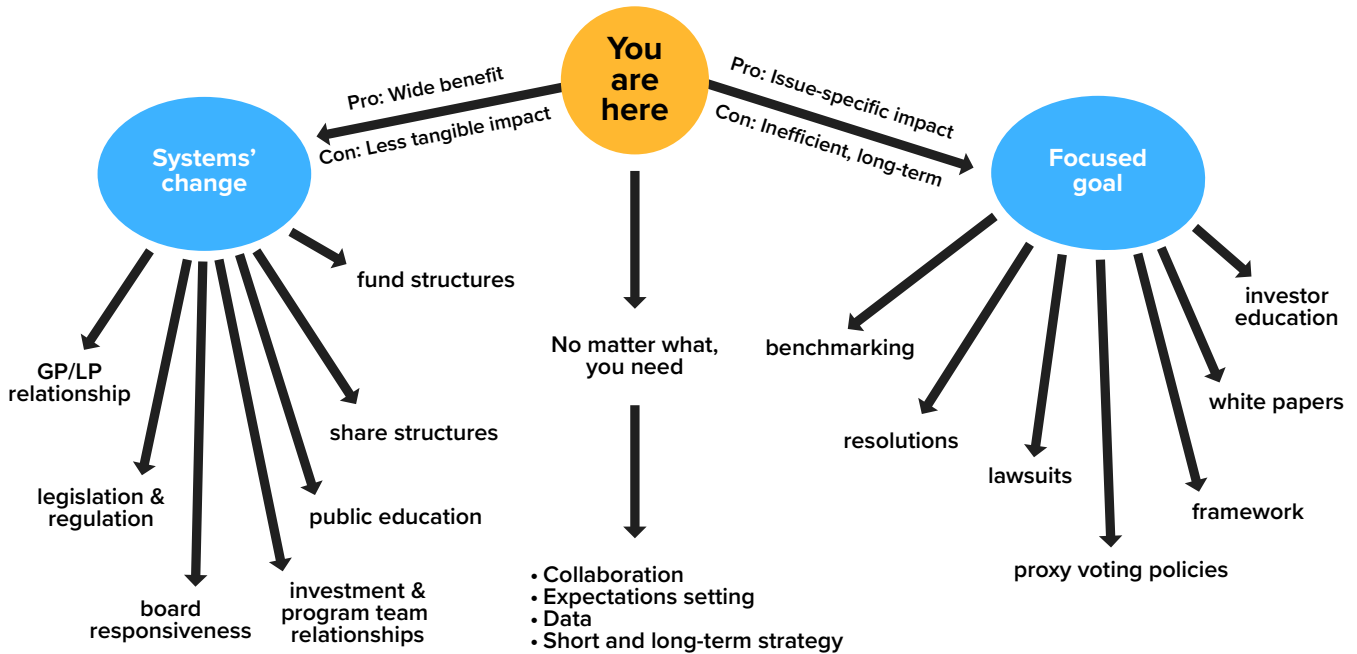
Particularly with regard to rising social issues, such as tech accountability, investors may not be well informed about how they can affect earnings and present serious risks. Helping them understand the risks and opportunities associated with a social topic area increases the potential to enlist them in efforts to change company practices. However, deploying finance-focused strategies in support of greater technology accountability first requires a clearer definition of the goals sought. What changes are desired, and at which companies?

Once this is known, the supporting data infrastructure can be developed. A key aspect of this effort relies on the creation of a standardized set of quantifiable expectations that allows companies to be compared to their peers. The establishment of standards aids in clarifying communications, explaining to companies the actions sought, and tracking improvements over time. Infrastructure is also needed to identify, collect, and analyze the most pertinent data sets, as well as improve the quality of the data which is accessible to all stakeholders.

The success of these efforts will rely on how much power investors have, alongside the strength of their relationships to companies, as they ask for the legitimate and actionable changes. By strengthening the broader ESG ecosystem, foundations also increase the effectiveness of any tech-focused investor efforts. Broader ecosystem challenges include the structural inequities present in share class structures, the responsiveness of public board members and the best ways to influence private companies.

The ESG industry is also under siege by legislators and other organizations threatened by previous successes in pushing forward climate and other sustainability goals. Support is needed in pushing

back against this, in strengthening the case for investor engagement, and in setting and conveying ESG expectations to financial intermediaries, such as investment consultants and fund managers. Foundations are able to contribute to these efforts as funders, but also as asset owners themselves. Foundations, in deciding how they will be involved, will need to determine their own organizational preferences: do they want to work exclusively on tech accountability issues or are they also interested in driving more systems-wide changes?



Identifying goals, collecting strong data, simplifying complex messages, and building collaboration efforts can be challenging. However, the benefit to society of these efforts can be enormous; investors have a great deal of power in influencing companies' behavior and, armed with the necessary information and techniques, can be persuasive enough to create real and lasting change.

Introduction

There is no invisible hand of the market; there are only my hands and your hands.

– Emmanuel Faber, Chair, International Sustainability Standards Board

At the core of this report is the idea that investors can be motivated to press companies for change that benefits society and enhances long-term value of investment portfolios. However, it is important to understand that most investors are not activists. Their goal is to enhance investment returns, not to drive social change. The key question is: How can civil society organizations working for social change make common cause with investors and so take advantage of the influence they have over corporate boards and management?

Fortunately, there are good examples of how such collaboration can work successfully. The companion report, *Landscape Report on Shareholder Engagement and Activism Strategies*, explores in detail several shareholder campaigns addressing social harms caused by corporate action, most notably climate change. From that analysis, we have drawn many lessons about how investor power can be harnessed for positive social change. Our challenge is to apply these lessons to a strategy for the tech sector – focused on improving corporate accountability and company behavior.

Investors are not social activists, nor, however, are the interests of these two groups at odds. *The Principles for Responsible Investment* (PRI), an initiative of the United Nations, has attracted more than 3,500 investor signatories from around the globe, with US\$ 120 trillion in assets under management. These Principles say, in part, “We have a duty to act in the best long-term interests of our beneficiaries,” as well as “We also recognise that applying these Principles may better align investors with broader objectives of society.” This is where the overlap exists.

The key factor that distinguishes investors from activists is that investors’ primary interests align with the companies whose stock they own. They want these companies to succeed. This is how they make money for themselves, for their clients, and fund participants. Activists and civil society organizations, however, are primarily concerned with benefits and harms to the broader society and are therefore often highly critical of companies. For activists to find common cause with investors, they must be able to frame their concerns in a way that enhances the ability of investors to evaluate company valuation over the long term.

Investors generally do not presume that they know how to run their investee companies better than the board and management. What they want is to make sure that companies are paying attention to potential threats and opportunities. This is why so many shareholder resolutions ask company boards to issue reports showing oversight of a topic. If a company agrees to issue a report on an issue – for example, human rights abuses in foreign factories – they must conduct research and go on the public record about their findings and views.

Corporate managers must manage demands and requests from a wide range of stakeholders.

Investors can often play a key role by indicating which issue areas and approaches have the greatest urgency and legitimacy. Through direct engagement, shareholder resolutions, and other tools, they are saying, “Pay attention to this. We are concerned that you are missing important risks and opportunities.”

By conducting research and issuing reports, civil society organizations often play a critical role in forcing corporate accountability and checking corporate reporting. For example, EDF, with significant financial support from foundations, measured fugitive methane emissions from natural gas fields using aerial measurements. The results were at odds with what companies were reporting to the EPA, and, as a result, investors pressed companies for better analysis and measurement. The data provided fuel for investors’ engagement.

When investors are fully informed about the risks that social issues hold for their portfolio companies, there is greater potential to enlist them in efforts to change company practices for the better. In the tech sector, a full understanding of those risks is just emerging. The NetGain Partnership and the broader funding community could play a major role in helping investors understand the risks and make tech accountability issues more central in their concerns.

Until recently, investors have considered tech companies drivers of value in their portfolios, often turning a blind eye to the social harms they create. Now, the stocks of those companies are under severe pressure and public criticism is mounting. That provides an opportunity for social activist groups and aligned investors to focus the attention of the broader investment community on the fail-ings of tech companies around human rights, misinformation, privacy, and much more. All of those issues are threats to the long-term value of the sector.

Working with investors is not easy. It involves building trusted relationships over time, understanding investors’ goals, and speaking, in their language, to the priorities and personalities of each investment style. A successful investor initiative requires synthesizing information and sentiment to build a singular message that investors can understand and convey to companies with clarity and consistency. The process involves identifying what changes are sought, collecting strong data, simplifying of complex messages, and enacting extensive coordination and collaboration. While the work can be challenging, the benefit to society of these efforts can be enormous; investors have a great deal of power in influencing companies’ behavior and, armed with the necessary information and techniques, can be persuasive enough to create real and lasting change.

Below we describe strategies for engaging investors in the effort to push tech companies towards improvement in transparency and better management of social risks.

When do companies decide to change?

When companies consider which stakeholders to respond to, broadly speaking, they consider six key factors:

- **Power:** Does this stakeholder have the ability to escalate its request through force (such as regulation or physically blocking a development)?
- **Relationship:** Is the request being made by stakeholders with whom the company wants to have a positive long-term relationship?

- **Peers:** What are their peer companies doing? Most companies have a pack mentality. They want to be seen as slightly ahead but not too far away from their peers. They do not want to be seen as lagging competitors.
- **Urgency:** Do they need to respond to it now?
- **Legitimacy:** Is the request a reasonable one that ties into the well-being of the company?
- **Actionable:** Is there a rational and cost-effective action that can be taken?

When none of these components trigger action, sometimes a sixth factor will: Annoyance. That is, if the action requested of the company is considered benign by management and is easier to implement than to push back against, they may agree to the change requested. The power of using annoyance to bring about long-term change should not be underestimated. If it wasn't an effective tactic, supermarkets wouldn't put candy in the check-out aisle.

When do investors decide to care?

Generally speaking, in order to drive investor interest and corporate action, a long-term risk has to be lifted up above short-term returns and complacency. The issue has to be deemed important enough to address and the sought-for solution, or change, needs to be clear and accessible. External stakeholders have to be able to understand if a company has taken the requested actions, even if they don't have extensive expertise on the issue area.

The investors who prioritize fiduciary duty – and thus the financial returns to beneficiaries – over other concerns, need to have a values-free reason to include attention to tech accountability in portfolio construction. The data must show alignment with company value creation – through increased revenue, reduced costs, or risk reduction. Financial returns are not the only possible driver of investor interest, however: asset managers will act if they believe they can acquire new clients through attention to environmental, social or governance (ESG) issues. ESG clients help them increase their assets under management, are “stickier” clients in downturns, and are often willing to pay higher fees. For public pension funds, politics often come into play, and an expectation of voters' support or regulatory responses will drive their actions.

The recommendations and strategies detailed in this report build from six previous research reports that indicate significant opportunity exists to deploy investor-focused strategies that increase technology companies' accountability to society.

The reports crafted by Open MIC and Whistle Stop Capital in support of this project are:

- *Landscape Report on Shareholder Engagement and Activism Strategies:* This report reviewed previously successful investor actions in order to determine which tools could be deployed to increase tech accountability.
- *Shareholder Engagement in Tech:* This report reviewed existing shareholder engagement efforts specifically focused on tech accountability.
- *Bridging the Digital Rights Data Gap:* This report assessed the current data set accessible to investors interested in digital rights data.
- *Private Capital in Tech:* This report looked at the ways in which private equity financing structures and cultures impact tech accountability practices.

- *AI Investment Standards*: This report considered how current expectations of AI development misalign with long-term accountability to society.
- *Tech Accountability Framework Creation*: This report detailed the development of a tech accountability benchmarking framework. The report details how to develop a framework on additional tech accountability topic areas while using privacy concerns as an illustrative topic.

In order to apply financed-focused strategies effectively, to encourage technology accountability, a number of challenges need to be overcome. We can strengthen this work by engaging with challenges that are specific to tech accountability and broader actions that increase the effectiveness of all investor engagement work. These efforts are intertwined. Successful work in tech accountability will support the strength of the broader ESG ecosystem, and that will enable the tech-specific work to be more successful.

The following report will discuss recommendations for addressing key challenges specific to tech accountability work and within the broader ESG investment ecosystem. It also recommends next steps for consideration by the NetGain Partnership.

Challenges and Opportunities

		Identified Challenges	Identified Opportunities
Tech Accountability Specific	Collaboration	Lack of clear shared tech accountability goals Lack of collaboration infrastructure Insufficient coordination among tech investors	Unite and amplify existing efforts Collaborate with existing facilitating organizations
	Data	Lack of decision-useful data standards Poor data quality Inconsistent data reporting expectations Data adoption delays	Centralizing and sharing knowledge Data quality improvement Framework creation

Broader Ecosystem

	Identified Challenges	Identified Opportunities
Power Dynamics	<ul style="list-style-type: none"> Share class structures Product structures Anti-“woke” ESG movement Board responsiveness 	<ul style="list-style-type: none"> Proxy power Share class sunseting Influence on private companies
Professionalization	<ul style="list-style-type: none"> “Greenwashed” products Meaningful data from investment managers Insufficient resources 	<ul style="list-style-type: none"> Support of legislation Research into the portfolio benefits of shareholder engagement Manager expectations - setting

Collaboration challenges

Challenge: Lack of clear shared tech accountability goals

Shared goals across funders and civil society organizations are essential for any successful social movement. There is clarity needed on the changes that civil society is seeking from companies and which specific companies (or types of companies) are being targeted.

Clarity needed: Civil society requests for investors

To engage investors, there first needs to be a clear definition of the goals sought by civil society organizations. What changes are wanted at which companies? Is the intention to change overall tech culture and governance systems to more broadly integrate an ethos of tech accountability, or is the focus on specific issues of concern (for instance, bias amplification in AI)?

When speaking with civil society organizations, we expected to find goals for behavioral changes at tech companies related to their societal impact. For example, with climate change, environmentalists widely share the goal of reducing corporate greenhouse gas emissions. However, within tech accountability activism, quantitative expectations and conversations were limited. While consistent themes emerged, (algorithmic fairness, bias and discrimination, content moderation, disinformation, end user impact, freedom of expression, human rights, internet access and privacy) quantitative expectations were challenging to identify, even in direct conversation with thought leaders.

Clarity needed: Which companies we seek to change

An investor engagement strategy must identify the policy or practice it intends to change and in what universe of companies it may catalyze this change. The questions that need to be answered include:

- Are changes sought at tech creation companies or companies that use tech products? Or, both?
- Is the focus primarily on companies operating at a certain scale?
- Is the scope of the problem global, or is the focus on companies within a specific country or region?

In addition, technology products and services often have “off label” applications that sit in conflict with loftier intended uses. That is, a tech product intended to increase public safety or encourage human connection might also aid despots in conducting human rights abuses and quashing civil society dissent.

Challenge: Insufficient coordination and communication with stakeholders

The existing collaboration infrastructure within the tech accountability movement appears to be limited. When we asked our civil society interviewees which forums or conferences coordinated activism across stakeholders, there was no clear answer: indeed, we heard that collaboration was a key tool missing from the ecosystem.

“Those working in non-tech sectors tend to have a clearer understanding of the material harms and outcomes that these technologies may produce.”¹

— Interviewee

Tech accountability needs are complex, multi-faceted, and ever-changing. Successful efforts to address tech’s role in society cannot be led by only one or two voices. For investors to do this work effectively and well, an intentional ecosystem of allied stakeholders is needed. That is: tech laborers, contract workers, legislators, human rights advocates, and investors need to have a forum where they discuss and identify next steps together.

Some of this is happening informally already, but it is piecemeal. For example, the Amazon Labor Union and Alphabet Workers Union have worked with shareholder advocacy groups and placed their own shareholder proposals to company management. When Nia Impact Capital filed a resolution at Tesla about workplace conditions, a number of current employees contacted Nia directly to share their own experiences and goals.

1 Reva Schwartz, Apostol Vassilev, Kristen K. Greene, Lori Perine, Andrew Burt and Patrick Hall, National Institute of Standards and Technology, “Towards a Standard for Identifying and Managing Bias in Artificial Intelligence” (2022), at 36.

“The investor community should engage more with civil society to get information about what a company is actually doing versus what they say they’re doing,”

— Interviewee

Barriers to collaboration include a lack of formal or informal social or professional networks among the stakeholder types. Creators of these essential networks will face a number of challenges, including the cost of facilitation: the staff time needed to identify and recruit participants, set effective agendas, build relevant content, and identify venues for connection.

Collaboration-focused efforts will also need to overcome hesitancy among stakeholders in working together. Historically, civil society organizations have been initially wary of working with investors because they do not understand their approach or the tools they use and are understandably concerned about being exploited. Foundations, too, are also often wary about participating in investor coalitions, seeking instead to develop independent initiatives. Given the complexity of tech sector impacts, conduits to formalize communication with civil society experts are essential.

Challenge: Insufficient coordination among tech investors

Coordination among investors is essential to any successful long-term finance-focused strategy. Coordination allows for broader support of key goals and amplified messaging, and helps reduce investors working at cross-purposes to one another. There is, currently, no formalized coordinating body for investors interested in tech accountability work. That means that each investor develops their own approaches and frameworks independently. These actions are not consistent, which undermines the messaging to companies and introduces variances into the work being done, compromising its quality.

Coordination also needs to go beyond country borders; the issues affecting tech are global, and tech companies source, operate and compete around the world. That means that companies within the United States, for example, are not willing to adopt social and environmental goals they believe might restrict them from competing successfully on a global stage. However, investors, like all others, tend to coordinate within their existing networks of familiar peers. Stronger international links are crucial for effectively pushing for ethical behavior in tech companies.

Company collaborations

Investor engagement done well assumes a long-term relationship with a company and its representatives. It seeks to build strong trust relationships based on honest communication, clear requests, shared goals, and meaningful information exchange. Finance-focused strategies are not only about constraining and shaming technology companies. There are upside opportunities associated with strong tech company relationships, where the innovation and data management capacities of those organizations might be deployed in service of shared ESG goals.

Collaboration opportunities

Opportunity: Unite and amplify existing efforts

To reach clarity on what topics, and with which companies, stakeholders wish to engage finance-focused strategies would be aided by formalized coordination and communication systems across stakeholders. Facilitated coalitions are also essential venues for communication and building support for shareholder resolutions, board slates, and divestment efforts.

Coalitions are essential to this work (that is why there are already so many of them). Examples, each with different strengths, include: the Interfaith Center for Corporate Responsibility (ICCR), the United Nations Principles for Responsible Investment (UN PRI), and the Council for Institutional Investors (CII), Ceres, and the International Corporate Governance Network (ICGN).

Collaboration is also needed to allow for the amplification of what is working by different types of stakeholders. For example, if investors are aware of rising relevant legislation, they are able to actively support its passage: A talking point helpful to lobbyists working to pass the “Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act” was that a majority of investors supported the Nathan Cummings Foundation’s shareholder resolution calling for Goldman Sachs’s board to review its use of mandatory arbitration. Similarly, if investors are aware of activist efforts targeting a specific company, they may be able to act as a bridge between organizations to allow for less antagonistic, more productive, conversations.

Key stakeholders and essential participants, within the investment community and civil society, need to be identified and given the opportunity to communicate and build a shared understanding to bolster their coalition. A cohesive effort towards these conversations, which should include operational funding, will help to develop and amplify the voices of investors. A skilled facilitator who is experienced with broad stakeholder outreach and knowledgeable about investor interests and logistics can help investors identify, clearly, the changes they seek in programs and practices.

Opportunity: Collaborate with existing facilitating organizations

NetGain has the opportunity to decide if it would like the collaboration program to sit within an existing coalition-builder or if it would be better as a stand-alone effort, like the 30% Coalition, which exclusively focuses on board diversity, or the Racial Justice Initiative, which exclusively focuses on racial justice. There are pros and cons to each approach. The trade-off is primarily around the ability to control the approach and narrow the scope of the organization versus having access to an existing network and organizational infrastructure.

Given the breadth of tech accountability concerns – its global scope, and the risk of duplicating or muddying efforts – it is recommended that the NetGain Partnership explore working with an existing coalition. It is also possible to build a formal collaboration between two complementary convening organizations, as ICCR and Ceres did at the start of the climate work.

Collaboration, prioritized first steps:

1. Identify key initial stakeholders and essential participants.
2. Find a consensus facilitator and pursue an intentional goal-setting process.
3. With goals defined, seek out an appropriate convening organization, one experienced in broad stakeholder outreach and also knowledgeable about investor interests and logistics. First conversations are suggested with the Interfaith Center for Corporate Responsibility (ICCR), the United Nations Principles for Responsible Investment (UN PRI), and the Council for Institutional Investors (CII). Each group has pros and cons to be considered, in light of initiative goals.
4. Provide operational funding of sufficient duration to allow for the building of brand and trust over time.

Continued funding – example of effective existing efforts:

- ICCR is currently coordinating investors seeking to engage Amazon across a range of topic areas. The “Amazon Big Tent” effort provides investors with key content on Amazon’s actions, information on what investors are doing, and media outreach coordination.

Data challenges

Access to meaningful data is essential for all finance-focused strategies. Data underpins successful deployment of company benchmarking, screening, or divestment decisions, business case development, direct engagement, shareholder resolutions, and board campaigns. Unfortunately, current data availability related to tech accountability is sparse, poorly organized, and of questionable quality.

Challenge: Lack of decision-useful data standards or frameworks

Investors cannot act on tech accountability if they have no data sets helping them to understand what the key issues are and how their investments measure up against these metrics. Investors will frame their actions with a company against their understanding of how that company has performed on the topic historically, how successful or damaging that performance was, what is attainable in the future, and what peer companies are doing. Investor engagement on an issue will be limited if a topic is viewed as too obscure or conceptual. Existing frameworks provide limited infrastructure to allow for organized data collection and review.

As Open MIC writes in its *Bridging the Digital Rights Data Gap* report, most existing standards and initiatives suffer from one or more of the following pitfalls:

Too broad: High-level guidance documents are not particularly useful in the investment context, since their recommendations are often too broad to be applied without further elaboration around practical expectations for companies.

Compliance difficult/impossible to verify: While industry standards and tools offer more structured and practical guidance, investors nevertheless lack access to the internal company information needed to accurately assess company compliance with these initiatives.

Require specialized technical knowledge: Industry standards and tools often require specialized knowledge of particular technologies, which the average investor likely lacks.

Not dynamic or timely enough: While investor guides are helpful in briefing investors on important issues in the tech sector, they are not dynamic sources of information and become obsolete as technologies evolve and new issues emerge. In addition, these guides stop short of offering timely evaluations of company risk levels, which then leaves this task to the investor.

Not comprehensive enough: Company rankings are more useful in a practical investment context because they offer timely assessments of company risks across different issues. However, the offerings in this space are currently limited, both in terms of the number of companies evaluated and the frequency of evaluation. Further, while the four sets of company rankings we identified cover a broad range of issues when combined, there are still gaps, particularly around AI.

Challenge: Poor data quality

Of those topics where data reporting expectations are relatively well defined, such as tech company human rights policies, the quality of the data available varies significantly. Unlike climate, where greenhouse gas emissions are quantified, many of the tech accountability concerns are intrinsically harder to assess. They do not lend themselves as easily to a spreadsheet.

“Big Tech companies have become fairly fluent in the expected human rights narrative; they have all the United Nations Guiding Principles on Business and Human Rights expertise and requirements on paper. Companies are savvy in understanding what they need to do to tick the boxes, but when you look at what they’re actually doing, it’s in complete conflict.”

-Interviewee

There is significant data asymmetry. The tech companies know what it is they don’t want to share publicly. As an example, in the fall of 2022, Apple publicly told its investors that its policy was to not use non-disclosure agreements to restrict employees from speaking about workplace conditions or unlawful acts. Although this was the company’s official policy, an employee soon went to the press sharing the contract the company had hoped to pay her to sign: it was still using NDAs.

Most data within ESG rating systems and on the data platforms relies on corporate reporting (voluntary or regulatory) followed by media coverage and modeled data.² This is concerning, given that companies are not always fully truthful and are rarely fully transparent. Much of the data currently in use, particularly social data, is collected through a passive process, one that accepts the information that companies are willing to provide or that media investigations uncover. This sits in contrast to investors and data providers determining what data is needed to assess best practice behavior and actively pushing companies or regulators to make this information public.

2 Berg et al., “ESG Confusion,” op.cit., p. 12

There are currently insufficient resources within civil society to make up the gap between available corporate reporting and an assessment of this data's sufficiency to drive positive change. The tailored expertise to, for instance, assess, at scale, the sufficiency of corporate human rights impact reports by region, does not currently exist.

The ESG data platforms are not pushing for higher quality or more robust and meaningful metrics. Neither are those responsible investment assets that purchase data from these platforms for "integration" into their existing product offerings. Outside of a too-small group of shareholder advocates, few entities are pushing companies for greater tech accountability data disclosure. (See notes on "greenwashing" in the broader ecosystem needs section, below.)

Even when a company is sincere, the complex and technical nature of tech products, alongside the often competitive nature of the technology, significantly reduces the ability of outside stakeholders and investors to access, and then to understand a company's products or their potential societal implications. Investors may choose to defer to third-party certifications, but these organizations, themselves, have complex motivations that do not necessarily prioritize tech company accountability.

The inaccessibility of the data, the lack of data confidence, and the complexity of the concepts can dissuade investor involvement and reduce their sense of urgency for action.

Challenge: Inconsistent data reporting expectations

Within topic areas that already have relatively high levels of investor and corporate attention, a lack of consistent expectations undermines effective efforts. For example, within AI policies, multiple companies are able to claim they are upholding the same responsible AI principles while implementing widely different practices, leading to a wide range of realized outcomes. The challenge lies in the lack of concrete plans for implementation or expectations for the reporting and transparency of program effectiveness.

Challenge: Data adoption delays

As seen in Open MIC's *Bridging the Digital Rights Data Gap* report, The ESG data platform providers (Bloomberg, MSCI, Morningstar, Refinitiv, etc.) do not currently track or assess tech accountability data at a level of utility.

After data is publicly available, it may be years before the data providers include it on their platforms. There is a tipping point needed – a sufficiency of companies with data available – before they will include the information in their systems. That means that a significant potential of a well-used benchmark must have data available before it is reasonable to expect a data platform to build out its internal infrastructure to incorporate the data. The data provider must also be assured that the information is of interest and use to its clients.

"Materiality" as a gatekeeper

The concept of “materiality“ is one touted by key organizations such as the Sustainability Accounting Standards Board (SASB - now part of the IFRS Foundation) and widely used as a legitimizing mark for investors seeking political cover for engagement on a topic area like climate change. If an issue is deemed to be “material” to financial performance, then investors, particularly public funds, are less likely to be challenged for taking on such activities.

IFRS is the gatekeeper here. Affirmation by this organization of an issue’s “materiality” broadly, or by sector – as is our focus here – will shift the extent to which institutional mainstream capital considers the research available.

Data opportunities

We do not know now the key harms and concerns associated with technology that has not yet been created. Governance, thus, often considered tangential to specific-issue activism rises in importance. Where direct data does not exist or when an issue is poorly understood, corporate governance becomes a proxy for a company’s ability to proactively address and manage societal concerns. Attention to governance practices is recommended in concert with issue-specific data sets.

Opportunity: Centralizing and sharing knowledge

While the complexity of tech accountability concepts is significant, investor coalitions can help by collecting the resources of members to develop internal expertise, focused learning and outreach. The civil society organizations we spoke with consistently indicated an eagerness for increased access to quantitative data infrastructure. A model to consider for emulation is the Investors Alliance for Human Rights (IAHR), which is an ICCR hosted initiative. The support of organizations like this one will also increase the capacity of shareholder advocates who play a key role in pushing for data disclosure.

Opportunity: Data quality improvement

Qui custodiet ipsos custodes?

-Juvenal (“Who will guard the guards themselves?”)

As noted in the *Tech Accountability Framework Creation* report, a credible third-party assessor would allow for increased confidence from all stakeholders in the quality of the data collected and provided. In alignment with this, it is important that the ecosystem of corporate watchdog organizations be supported. These steps will:

- support the development of resources investors can use to better evaluate and engage tech companies, and
- encourage accurate information from companies and increase the likelihood that inaccurate information will be identified.

Research infrastructure and depth of knowledge should be developed on the initial focus areas, once they are formalized. This should include NGO and activism-oriented organizations, academic partnerships, and the ESG data providers.

Opportunity: Framework creation

Data frameworks and infrastructure are an important aspect of any shareholder engagement campaign. It is essential that investors, and other stakeholders, have access to a system that allows the comparison and benchmarking of companies – both against their peers and relative to their own behaviors over time. A structured data set is also essential as investors seek to understand the materiality of an issue area – how corporate performance on the issue impacts long term company valuation. While investors have been able to encourage changes in corporate behavior without this link, momentum builds more quickly, and sustains, when a clear economic argument can be made against specific corporate policies and practices. In addition, clarity of goals and expectations from civil society guide corporate leaders in deciding what actions to take and in determining the sufficiency of their programs.

Data, prioritized first steps:

In the *Tech Accountability Framework Creation* report, we developed an initial framework focused on corporate governance and an illustrative topic area, privacy. To launch this framework, the following next steps are needed:

1. Socialize the framework more formally
2. Determine the scope of the framework and research the identified companies
3. Allow the companies a chance to respond
4. Publish and socialize the data
5. Bring the data back to the companies
6. Update the data on a set schedule

Framework deployment

1. Socialize the framework more formally

The stakeholder feedback incorporated into the initial framework was more informally pursued and integrated as the framework itself was developed. It is now ready for a more formal and effort-intensive stakeholder engagement process. This should only be pursued if the NetGain Partnership intends to dedicate meaningful multi-year funding in support of the launch of an industry-leading framework. Should the NetGain Partnership decide to do so, however, a formalized stakeholder review process, with formal and informal civil society involvement and public consultation periods, should be pursued.

What is needed: A formal stakeholder feedback facilitation process is most effective if it is led by a known and trusted entity for relevant civil society organizations and is trusted to be impartial to the outcome. This organization should have contacts within the investor community and with civil society organizations. If the NetGain Partnership is also pursuing the development of more formal coalitions and a dedicated convener, the facilitating organization would be appropriate for this as well.

2. Determine the scope of the framework and research the identified companies

Once the framework is finalized, a larger grouping of companies should be assessed. Which companies this will be depends in part on budget, and in part on the goals of the initiative. Generally speaking, the larger the database and the more companies researched, the more likely it is that the ESG research providers will integrate the data set into their platforms. They will not go through the trouble of building their internal infrastructure to allow for the display of the information unless a high percentage of companies have meaningful information to display.

What is needed: Consensus is needed among the NetGain Partnership members about the goals of the initiative. From that, the appropriate group of companies can be identified and researched. The research can be conducted by any reputable team with sufficient expertise and capacity, but is likely best if it is the same organization involved in Step 3.

3. Allow the companies a chance to respond

Prior to publication of the data, it is both a “nice” thing to do, and also an engagement and education tool, to allow companies a chance to review the framework and the assessment of their actions. This consultation also provides the framework with added legitimacy. This is not the same as allowing them to change the indicators or how they are judged, but, particularly in the first years, companies will be new to the expectations laid out in the framework. They may be taking a number of the actions sought but have not well communicated their programs. For example, it is our suspicion that this is the case for Yelp, a company that, in prior shareholder engagements, had been responsive and eager to be viewed as a good corporate actor.

What is needed: An organization that is able to convey to the companies what their score is, why they were scored the way they were, and the rationale for the indicators chosen. They should be comfortable working with companies and able to work collaboratively and with an educational focus

(versus one that is antagonistic or dismissive of the company's viewpoints).

4. Publish and socialize the data

It is not enough to research the companies and to place the research online on a corner of a website and expect adoption of the metrics held within. This will not sway corporate action. Steps needed to make the framework broadly adopted include:

- public expressions of the framework's importance or (even better) the intention to use the data in the framework from large asset owners or advisors
- media coverage of the findings and import of the framework
- discussion and presentation of the Framework at key industry events
- an interactive and accessible data set.

What is needed: Popularizing the framework will require a range of different skill sets. This will include an individual or organization skilled at working with the media, an organization able to pull together formal investor support (most likely the organization participant in Step 1) and an organization with technical skills related to website and database development.

5. Bring the data back to the companies

A subset of ranked companies will be willing to consider changing their programs and practices when they see the expectations laid out in the framework in association with a peer set analysis and a public indication of a sufficient amount of investor and other stakeholder pressure. They will look to the representatives of the framework for assistance in implementing changes and troubleshooting problems.

What is needed: The same organization leading in Step 3 should continue to build the relationship here.

6. Update the data on a set schedule

A single benchmarking will be insufficient to motivate corporate changes. The data will need to be updated in a way that allows companies to track an improvement of their scores, and to continue to benchmark across their peer set. Consistency in data analysis and provision also allows for a materiality analysis, linking the framework, or portions of the framework, to financial performance.

What is needed: The same organization involved in Step 2 should continue the work here.

Continued funding – example of effective existing efforts:

- Ranking Digital Rights (RDR) has an existing framework and evaluation system that ranks 14 of digital platforms on freedom of expression and privacy.
- Investor Alliance for Human Rights (IAHR) facilitates connection between institutional investors around human rights issues and also supports the success of their engagements with research and thought leadership.

- Dr. Jordan Famularo at UC Berkeley is leading research into ESG reporting on cybersecurity and data ethics.
- Although none are tech-specific, *As You Sow* has built a number of research initiatives that include tech companies and focus on acting as a corporate watchdog³.

Broader Ecosystem Needs

The actions and strategies recommended in this report assume that investor influence will remain at its current level. However, if current influence is lessened, the effectiveness of a finance-focused tech accountability strategy will be undermined. If investor influence increases, however, the effectiveness of those efforts also increases. In order to ensure that future investor engagement efforts are effective, initiatives focused on improving the broader health of the ESG investor ecosystem are needed.

Power dynamics challenges

Challenge: Share class structures

Share classes and ownership structures are the greatest barrier to successful deployment of an investor-focused tech accountability strategy. Tech and media companies have shared class structures that insulate them from shareholder influence. Often, founders and insiders will hold what appears to be a minority stake, as a percentage of equity. However, many tech companies have voting rights that allow the share class of founders and pre-IPO investors to have an outsized influence in shareholder voting. This control over shareholder votes allows management to continue to pursue passion projects, avoid accountability, and elect rubber-stamp boards.

Challenge: Investment product structures

In Confluence's study, almost 60 percent of asset owners said that they were not pursuing ESG efforts more actively because they held their assets in indexed, pooled, co-mingled or mutual funds. These shareownership structures can be financially beneficial to shareholders, allowing them to indirectly hold partial shares in a company or be more broadly diversified, at a lower operational cost, than the size of their portfolio might otherwise allow.

Unfortunately, this shareownership structure also removes their ability to file shareholder resolutions and vote proxies and reduces companies' interest in speaking with them. This diminishes not only their ability to be active in their involvement around tech accountability and other ESG issues, it also

3 *As You Sow* is a Whistle Stop client. Whistle Stop manages *As You Sow*'s workplace equity program.

removes their ability to be supportive through proxy votes or to divest shares. At the same time, these investors can have an effect by engaging with their fund managers, pressing them to support shareholder resolutions on topics of concern.

Challenge: Anti-“Woke” ESG Movement

A coordinated pushback against ESG-oriented investing has taken a kudzu-like root, led by politicians, but supported by a number of companies through the State Financial Officers Foundation. These efforts need to be actively resisted early, before damage is done at scale. Negative impacts already realized include:

- Texas and other states have placed prohibitions on public funds from working with banks and pension funds that are looking to support a move away from fossil fuels.⁴
- Florida intends to divest up to \$2 billion from Blackrock, in protest against the firm’s support of ESG investment approaches.⁵

Challenge: Board responsiveness to majority votes

According to the Sustainable Investments Institute (Si2), 2022 had 34 resolutions which received support from the majority of its shareholders. That sits in contrast to just three years ago, when fewer than 10 resolutions received majority support. That 34 resolutions passed over the 50% mark in 2022 is remarkable, in part because if a company believes a resolution will receive a high vote, it will usually work with the resolution’s proponent, offering changes in programs and policies.

Unfortunately, while 34 passing votes indicates broad investor support across a range of ESG topics, it also normalizes a passing vote. There are concerns that boards may become desensitized to high vote tallies and become less responsive to shareholder resolutions. If they do so, shareholder resolutions and proxy votes will lose much of their influence.

4 <https://www.axios.com/2022/08/25/texas-bans-blackrock-ubs-esg-backlash>

5 <https://www.bondbuyer.com/news/bye-bye-blackrock-florida-divesting-2-billion-of-assets-due-to-firms-esg-stance>

Power dynamics opportunities

Opportunity: Proxy power

Allied asset owners and their managers should be provided with guidance on how to integrate tech accountability considerations in their proxy voting policies. Asset owners with external investment managers and funds should also be asking about the proxy voting policies of these service providers, pushing them to update or create policies where necessary.

Foundations should also be able to retain the voting rights for their securities even as they delegate the buy/sell decisions to their managers. If foundations use separate accounts, where they own the actual stocks but allow the manager to do the trading, they also have greater control over the proxy voting.

A dedicated research project is needed to look into possible alternative structures or approaches for investors to be more actively involved in shareholder engagement when they are invested in commingled or pooled funds.

ICCR, PRI, and Whistle Stop have also been coordinating informally to build a response strategy to boards' dismissal of majority votes. Actions being undertaken include: reframing how vote tallies are reported to exclude insider shares, development of sample language for proxy voting guidelines related to board support withholding, tracking of board responsiveness, and raising investor awareness of this as an area of concern. These actions are laying the groundwork, as it is expected that, in the not too distant future, it will be necessary to run a board campaign urging votes against specific directors on the basis of a board's non-responsiveness.

Opportunity: Share class sunseting

Strategies still need to be developed to address share class power differentials and empower minority owners. Opportunities exist to work with civil society organizations, legislators, and investors (domestic and international) to do this.

For example, CII has been pushing for the sunseting of dual class shares, so that the share classes expire a certain number of years after the IPO. They are raising investor support and speaking to legislators noting that, over the long-term, dual-class shares have significantly lower performance than companies that are single-class.⁶ CII has submitted draft federal legislation on this issue, doing this work as a part of the Investor Coalition for Equal Votes. There is also an opportunity to press the SEC to mandate the disclosure of votes on shareholder resolutions by share class. Since these proposals are advisory in nature anyway, it is important to allow shareholders, the press, and the public to understand what outside, and independent shareholders think of an issue.

6 <https://blogs.cfainstitute.org/investor/2019/05/03/sunset-provisions-for-dual-class-share-structures/>

The largest proxy vote advisory companies have policies which generally recommend against directors unless there is a sunset provision of less than seven years from IPO. Ranking Digital Rights has also written on the need to take action here.

Sunsetting shares is not unheard of within the tech industry: Yelp, Twilio, Smartsheet, Eventbrite, and Slack all have sunset provisions of 10 years or less. Workday, Fitbit and Zoom have sunset provisions, but they can take 15 or more years to go into effect.

Quandary: Influence on private companies

As Open MIC noted in its *Private Capital in Tech* report, researchers found that startups maintain their original structures and processes post-IPO (initial public offering).⁷ This finding indicates that a significant opportunity exists to work with venture capital companies (VCs) to improve ESG infrastructure at held companies.

Limited partners (LPs), for all of their roles as builders of industry and kingmakers, tend to take a very passive, cautious role in engaging with their general partners (GPs). They are concerned that they will not be invited to future co-investment opportunities, and they are worried that they will miss out on continued investment with a hot GP that has multiple LPs interested in them. VCs, for their part, tend to be adverse to accepting external feedback or criticism of their process. Nor are they inclined towards transparent and open reporting.

Private companies, regardless of funding source, have little mandated disclosure, and there is limited opportunity for stakeholders to have influence. This is particularly dangerous when public companies are taken private, as we have seen with Twitter.

While collaboration among investors and legislators would be able to address some of the highlighted concerns, to solve these challenges, more research is needed.

Power dynamics, prioritized first steps

1. Ensure that the foundation's own proxy voting guidelines, and those of its service providers, align with its ESG goals. This should include guidance specific to tech accountability, but also expectations that support will be withheld from non-responsive or actively antagonist board members.
2. Support additional research on fund structures as well as ways to influence companies owned by venture capital and private equity funds.
3. Fund the coalition seeking to respond to the anti-ESG attacks (see below).

Continued funding – examples of effective existing efforts:

- CII has thoughtfully constructed an effort focused on trying to reduce the tenure of share class structures with unequal voting rights.
- A coalition of funders are collaborating in response to the anti-ESG attacks. This includes a coalition of organizations working on a coordinated response: *As You Sow*, Center for Media and Democracy, Ceres, Client Earth, Climate Finance Action, Climate Nexus, Climate Safe Pensions Network, Earthjustice, GSCC, ICCR, Majority Action, Sierra Club, Stop the Money Pipeline, and Sunrise Project.

⁷ Alakent et al., op.cit., p. 3

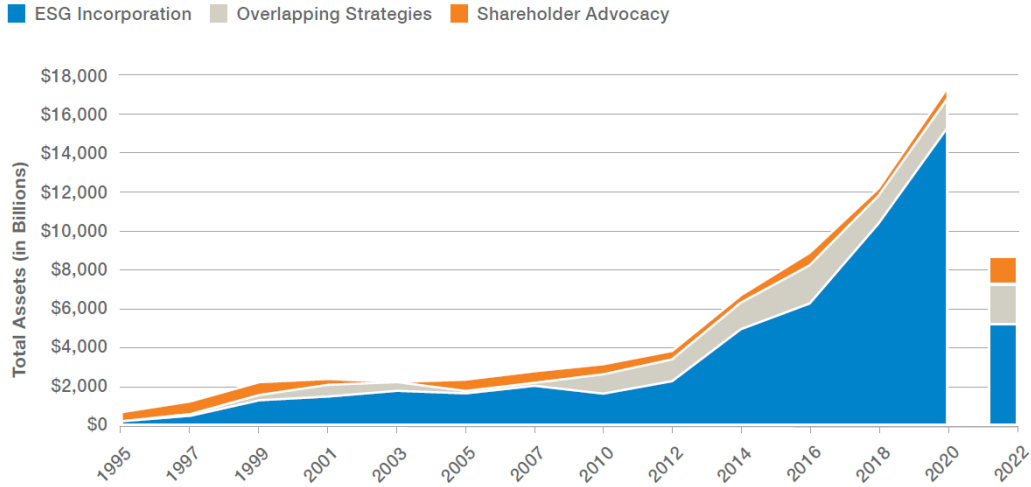
Professionalization challenges

Challenge: “Greenwashed” products

Many investment managers have dedicated staff time to developing an active program to incorporate ESG data and participating in private conversations with portfolio companies on these topics. Unfortunately, others in the financial services industry appear to be contently using ESG framing to increase assets under management, marketing and building new products to attract socially conscious investors, without making substantive changes in practice.

In response to this, in 2022, US SIF changed the methodology that it used to assess US-domiciled assets under management (AUM) using sustainable investment strategies. It had previously included all firms that stated they used ESG integration. However, when US SIF decided it would exclude investors who did not provide information on the specific ESG criteria used in their investment decision-making assets, represented fell by 51%.

Sustainable Investing in the United States 1995–2022

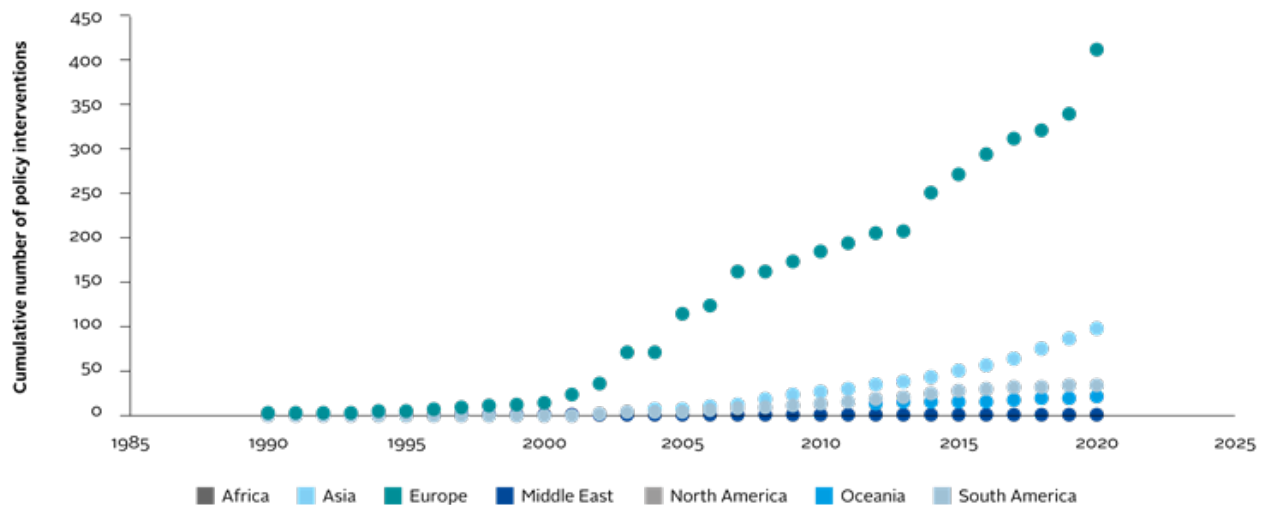


SOURCE: US SIF Foundation

The inability to differentiate marketing claims from true activity happening behind closed doors is creating confusion for investors interested in encouraging true social and environmental improvement. Capital is being allocated to ineffective products. Many potential clients find themselves overwhelmed by choice and default to their conventional asset managers. For example, in a survey of the asset owner members of Confluence Philanthropy, a coordinating body for foundations, more than half of responding foundations said that their inability to sort through marketing claims and to know which investment managers were doing meaningful work was a significant barrier in their ability to move forward with ESG investing.

Challenge: Meaningful data from investment managers

Asset allocators, consultants and advisors struggle to differentiate between investment managers with effective and meaningful ESG programs and those with clever marketing teams. Legislators have begun to respond to this morass, issuing a number of regulations addressing the industry and industry reporting requirements in some form.



Source: Principles for Responsible Investment⁸

As of March, 2022, 116 countries had regulations touching on the ESG investment industry. Within Europe, these have included the Corporate Sustainability Reporting Directive (CSRD) which applies reporting requirements to a wide range of companies based and doing business in the EU. Regulations also include the Climate Benchmarks Regulation, the Sustainable Finance Disclosure Regulation and the Taxonomy Regulation, which established a consistent set of definitions for sustainable financial products.⁹

In the U.S., the SEC has proposed rules that would establish disclosure requirements for funds and advisers that market themselves as having an ESG focus. Earlier in the year, the SEC proposed a nearly 500-page rule to codify climate risk disclosure. The comment period ended November 1st, and a final rule will likely be issued in the first half of 2023. While most of the comments were supportive, there has been strong pushback from businesses and legislators. It is expected, optimistically, that disclosure requirements for human capital management will be released after this. Outside of public funds, as Open MIC points out in the *Private Capital in Tech* report, disclosure is almost non-existent in private equity investments. That makes differentiation between investment managers, and the selection of the most effective managers, challenging for asset owners.

Challenge: Insufficient resources

Shareholder advocacy is complex work. To do it well requires experienced negotiators and skilled researchers, knowledgeable in financial analysis as well as social issues, and people who are trusted by the broader activism community. The work is about building relationships, finding internal allies, deciding when to push and when to come to an agreement.

8 <https://www.unpri.org/policy/regulation-database?adredir=1>

9 <https://www.euronext.com/en/news/esg-laws-regulation>

Engagement is not a tactic that can be undertaken by anyone with an email account and an expectation of success. How resolutions are drafted is nuanced and complex, as are the steps needed to build proxy voting support.

Just like with foundations, relative to need, not enough organizations are sufficiently staffed to do this work. Public pension funds are considered “universal owners” incentivized to manage towards broad economic health with a 100-year timeframe. With that in mind, a number of U.S. public funds, including California, Connecticut, Illinois, San Francisco, Seattle, and Washington have staff dedicated to ESG efforts. Leadership is also coming from the Northern European countries and, increasingly, from the Asian markets.

However, this remains only a subset of the larger marketplace. Capacity constraints are a real barrier. There is some indication that this is improving within the institutional space. In a recent survey of UN PRI members, taken during a December, 2022 conference panel entitled “Empowering active ownership: resourcing for stewardship functions,” nearly half of 31 respondents stated that they had 0-2 staff on their dedicated stewardship team. Only 10% had more than five staff members. However, when asked how much they expected their stewardship staff resources to increase in the next 1-2 years, of 37 respondents, one third expected there would be a significant increase, and just over half expected a slight increase. Only 17% expected the resource level to decrease or remain the same. Unfortunately, this informal survey did not answer some key questions, including which participants had a stewardship team at all.

Professionalization opportunities

Opportunity: Support of legislation

New regulations and legislation are aimed at shaping ESG investing – some supportive and some corrosive. Foundations can play an important role by encouraging supportive government action and funding organizations engaged in public policy research and advocacy. Investors might, through a collaborative network, choose to support legislation highlighted by civil society partners.

Opportunity: Research into the portfolio benefits of shareholder engagement

To encourage other investors to undertake shareholder engagement work, incentives need to exist within the fundamental performance of the investment portfolio, or true engagement work will always remain within the niche confines of what market interest will bear. Limited research has been conducted on the existing or potential portfolio implications of shareholder engagement and if and how an engagement program might be structured to create long-term portfolio outperformance.

Opportunity: Manager expectations-setting and communication

If financial services on ESG are wild, messy, and unbound, that is, partially because the service providers have been under limited scrutiny from their clients. Clients, in part because of a lack of confidence in their own ability to assess the sufficiency of an investment manager's ESG claims, often take fund managers at their word or rely on their investment consultants to conduct the necessary analysis. Foundations have a low-effort, high-impact opportunity to set their own expectations for ESG products and services, communicate these expectations to their investment teams, and ask questions about how well their expectations are being met.

Asset owners should, at minimum, ask their investment team questions about their policies, practices, and program outcomes as they relate to ESG. They should also consider encouraging, and participating, in the development and implementation of industry standards. By setting standards and raising expectations for actions and public disclosures from their own managers, they will significantly influence the quality of ESG-oriented products.

Foundations have an outsized voice and ability to create impact here, relative to other investor types (public funds, retail investors, 401k holders, etc). Foundations can establish mechanisms and push their managers for implementation in a way that other investors – those who are without the same heft or are constrained by political considerations – cannot.

Professionalization, prioritized first steps

1. Seek to increase expectations of, and transparency from, ESG investment managers and intermediaries
 - Identify existing networks where this work might be housed and/or determine if an independent facilitating organization is needed.
 - Identify key stakeholders and existing research and thought leadership.
 - Move to the steps detailed in the *Tech Accountability Framework Creation* report.
2. Ensure that internal proxy voting guidelines are explicit in their expectations that proxies in favor of tech accountability and other relevant ESG requests will be supported.
3. Fund existing effective efforts focused on professionalizing the ESG industry.

Continued funding – examples of effective existing efforts:

- *As You Sow* has built an interactive website, *Invest Your Values*, focused on empowering retail investors to understand what they hold in their retirement and mutual or indexed funds and how these holdings interact with key social and environmental areas of concern.
- The UN PRI, EuroSIF and U.S. SIF have long been involved in monitoring and supporting a positive legislative landscape. This collective policy engagement has been highly effective. Most organizations are under-resourced in their public policy work.

Limitations of financed-focused strategies

If I had a hammer, I'd hammer in the morning, I'd hammer in the evening, All over this land

— Pete Seeger and Lee Hays

To a man with a hammer, everything looks like a nail.

— Abraham Maslow

While finance-focused strategies can be very effective in catalyzing changes in corporate policies and practices, investor engagement is not always the right tool. China, for instance, is a major force in the technology industry, as a competitor and supplier to American companies and as a major market for products. However, its companies have limited incentives to engage with U.S.-based investors and U.S.-based investors have no influence over Chinese public policy.

In a heavily regulated market where the government constantly intervenes, the destinies of China's tech companies are most often left to the mercy of the party. They simply do not have the ability to set their agendas independently.

-Interviewee

Similarly, companies that are privately held and do not need access to the public markets are hard to influence through investor actions alone. There is some work that can be done with banks and the costs of capital related to debt issuance, but other activism – legislative, consumer, public protest – is more likely to influence behavior in these cases.

Proposed Priorities & Timeline of Actions

Just as we encourage companies to go beyond a quarter-by-quarter mentality, foundations must enter this work with the understanding that long-term planning is needed.

Year 1

Tech-focused:

Identify key partners, set goals for changes in corporate practice or policy, determine collaboration facilitation structure, develop the coalition, build research and data infrastructure, **prioritize efforts in-line with investment return implications**, socialize the frame-work, begin research and initial communications

ESG ecosystem:

Support response to anti-ESG, review own proxy voting guidelines, begin conversations with managers and discuss communication possibilities between investment team and program staff

Year 2-3

Tech Focused:

Launch framework(s), benchmark companies and set baselines, launch investor education efforts, begin corporate engagements, educate ESG data providers, file tester resolutions, track increases of corporate disclosure or change in practice

ESG ecosystem:

Formalize manager expectations and internal communications systems, support legislative improvements, continue support of broader collaborative networks and corporate watchdogs

Years 4-6

Tech-focused:

Review corporate data for materiality and strategy implications, assess trends and improvements in corporate behavior, refine asks, broaden corporate outreach and intensify engagements, encourage data use by data providers and other stakeholders, increase investor education and involvement expectations. Ability to launch board slates now exists, if needed and appropriate.

ESG ecosystem:

Determine next steps with non-responsive managers, support legislative improvements, continue support of broader collaborative networks and corporate watchdogs

Years 7+

Tech-focused:

Reflection and reformulation, review and refine approach, ongoing expansion of networks, broadening of efforts, best practice spotlighting, building on established trust relationships

ESG ecosystem:

Explore new approaches, look for additional ways to be supportive, continue support of broader collaborative networks and corporate watchdogs

The Unique Role of Foundations

This report looks at the ways in which finance-focused strategies might be harnessed in order to encourage a change in corporate practices. We have identified areas where foundation actions or funding might help encourage the infrastructure and actors needed. However, foundations are more than grant deployment organizations; they are also asset owners, able to lead in the development of new approaches to ESG investment and engagement.

Each NetGain partner has a different internal structure and relationship between its programmatic staff and its investment managers. The following are, therefore, not tailored suggestions, but are presented as opportunities for consideration. For each NetGain partner, the problems faced and solutions needed will be unique and the development of a tailored plan is recommended.

For more than three decades, foundations have been asked to consider how their own investments affect social and environmental wellbeing, but the shifts in foundation practices have not followed. More recently, however, foundation boards and staff leaders have been grappling with the question of how their investments can more thoroughly be integrated with their missions.

Accessing existing internal resources

Foundations can and should do more with their assets to support environmental and social goals. The main questions for each foundation should be around how much more they want to do and how they institutionalize the changes needed to do this work.

Program officers' value add

ESG integration is often presented as an action the investment committee might take in service of a foundation's programmatic efforts. However, civil society expectations materially impact tech sector companies. Program officers and their grantees have unique knowledge, which could support the work of their investment committees and chief investment officers. Their insights can then be shared with fund managers.

The ability of the program officer to be additive to the investment process holds particularly true for tech accountability efforts. It is an issue area that is quickly changing and is directly impacted by the thought leaders and organizations that program officers fund. Much of this information is material to the long-term health of the companies and provides investment managers with a competitive advantage in understanding the expectations of civil society and the marketplace of their companies.

With that in mind, take, for example, a program officer involved in supporting the development of tech accountability standards and funding the civil society organizations bringing forward public policy and placing public pressure on tech companies. The knowledge of this individual, or of their grantees, on topics such as rising legislation and its likelihood to pass, rising social expectations on tech practices, or specific companies which have fallen afoul of key activist organizations are all highly relevant insights for the team choosing which tech companies to invest in, and at what

weighting. There are few foundations, however, that currently encourage information and cross-education between program officers and investment teams.

Investment team value add

Investment teams are under pressure from a range of stakeholders to incorporate ESG metrics and activism into their investment processes more actively. Investment teams have been given the responsibility for identifying and vetting investment products with ESG characteristics. Unique to foundations, however, investor advocates might look to the investment team as an untapped in-house resource that can be used to test and improve a campaign's business case rationale, frameworks, and communications.

Opportunity: shared responsibility

Begin to ask existing and potential external asset managers to answer prioritized questions about their approach to ESG issue management, such as how tech company investment selection integrates societal impact.

Build these ESG-related questions into RFPs for new managers and into the interview process. Develop an internal statement of intention on the impact that the investment portfolio will have, outside of its financial returns.

Include ESG implications of investment portfolio decisions within board briefing packets. Conduct an internal reflection and consensus-building exercise to identify where programs and investment goals overlap and encourage collaboration structures, formal or informal, to allow for greater connection. To aid in this,

Provide educational resources and sessions to program staff that demystify the investment process. Similarly, provide educational resources and sessions to the investment management team that frame ESG topics against how they might impact investment management decisions.

Leading with the foundations' goals

BlackRock, Vanguard, and State Street may be the biggest stockholders by voting power, but they are not the asset owners. They are service providers, managing capital for asset owners. The offerings that exist now are created primarily by financial services companies seeking to find new marketing hooks.

We often hear comments about how foundations should address the power imbalance between them as funders and their grantees as dependents. We less often acknowledge that the same power dynamic exists with investment managers. Their wealth also comes from your capital.

Foundations thus have an extraordinary leverage, should they choose to wield it; grantees and asset managers both look to the same source for their incomes: the foundation.

Opportunity: Exploration of new approaches

As asset owners, foundations, particularly within their program related investment (PRI) portfolios where market rate returns are not a priority, are not required to invest only within the products and services currently widely offered by the marketplace. They, after all, have a different long-term goal – a just and sustainable society – than the investment managers who are promoting the current investment vehicle.

Transform Finance has looked into opportunities for foundations to pursue new, financially innovative products in service of social and environmental goals (unpublished). This research looked at possible additional financing structures that might be deployed in support of ESG goals. Within the approaches identified, the following creative structures provide an indication of the type of investments that NetGain Partnership members might seed or catalyze to encourage tech companies to be more accountable to society.

Financing innovation: tailored investment vehicles, examples

Vehicle or Tool	Quick Description
Long only activist	Selection of a limited number of tech companies where high ownership stakes are taken and using this ownership to obtain Board representation or other key changes in corporate policies. (The size of the pool of capital involved will impact the size of companies that might be chosen.)
Activist short	Shorting a stock where poor ESG behavior is known to exist is a clear point in time where this will impact the company. For example, an investor might have chosen to short Tesla at the time that Elon Musk took ownership of Twitter.
Small Cap focused long	Focusing security selections on small-cap and micro-cap tech companies with strong ESG practices.
Convertible bonds	A foundation offers lower interest rates (cheaper capital) to tech companies with strong ESG programs or a willingness to develop stronger programs. It exchanges the initial lower bond expectations for future equity.
Tailored forward	Investors offer an “if/then” investment that promises the purchase of a security when certain ESG criteria is met.
Exposure algorithms	Automated passive fund (low/no management fees) structured to track companies within a defined index against identified ESG criteria. As the quality of the companies’ ESG profiles rise and fall below ratings on the Tech Accountability Framework, weightings are shifted.

Supporting risk

Foundations can also support ESG-oriented investors by being willing to take on risk for them. This can range from guaranteeing a minimum return on a high-impact, risky ESG investment to agreeing to pay legal fees, should an investor lose a lawsuit against a poorly behaved company. That is what ClientEarth is doing for the Swedish public pension AP7. AP7 is suing Volkswagen, but ClientEarth will pay legal fees if they lose. As a public pension fund, AP7 was not allowed to take on this risk, although it has confidence it will win its case. Willingness to take on risk is an underexplored aspect of how foundation's might support ESG efforts.

First Steps:

This above all: to thine own self be true.

- William Shakespeare, from Hamlet

Foundations appear to fall into three main categories, relative to their approaches and needed next steps on ESG investment and tech accountability work: seedlings, trees, and forests. Like all guidance that seeks to apply broad generalized stereotypes, these categories are not intended to be a perfect fit for any one organization, but to help a foundation identify the strategy and approach that might be the best fit for moving forward.

An institution should first determine how it best embraces change before following one of the following pathways. The steps offered below are intended to help begin a conversation around what approach(es) might be pursued:

Seedling: These organizations tend to consider new ESG efforts as they become immediately relevant. They have not yet set a broader institutional strategy for ESG investments but intend to be supportive to the work of allies and peers. They do not have dedicated staff specific to ESG finance-focused strategies. For example, a “seedling” foundation may have adopted a divest/invest policy years ago and have not made any additional changes until recently, when they began to re-view the diversity of their investment managers.

Seedling first steps:

- Consider the broad menu of potential actions, those that might be taken independently or in concert, and select as many as the organization's metaphorical plot of land will allow. A seedling organization might consider implementing, if it has not done so already:
 - ▶ including ESG goals in its investment policy statement
 - ▶ putting in place a proxy voting policy and ensuring it is implemented
 - ▶ including ESG as a criteria in fund manager selection
 - ▶ reviewing fund manager ESG practices

- ▶ factor-weighting securities' selection against tech accountability criteria
 - ▶ joining one-off collaborative investor efforts such as sign-on letters
 - ▶ providing access to endowment shares for advocates to file resolutions or attend annual meetings
 - ▶ hosting webinars or offering its meeting space for convenings (an underrated high value action, dependant on the foundation's location),
 - ▶ and much more.
- Provide grant funding to the initiatives referenced in this report.

Tree: These organizations tend to carefully review and consider actions prior to making any changes in their internal practices. They want a deep understanding of why the change is needed, the best way to implement the change, and to ensure organizational agreement and consensus for the act under consideration. For example, if they modified their proxy voting guidelines to include ESG criteria, they did so by going through a process which included consensus-building on why the guidelines needed to be changed, reviewing existing best practices guidelines, tailoring these guidelines to the mission of the foundation, and building a separate strategy for roll-out and implementation of the guidelines.

Trees first steps:

- All of the actions listed above for seedling foundations.
- Select and pursue a structured engagement initiative that focuses on a relatively simple clear goal and where engagement infrastructure already exists. Let this act as a test case for the foundation to learn, firsthand, its appetite and possibility of fit.
 - ▶ For example, this might involve co-filing a resolution and listening in on a corporate engagement call that links to the foundation's mission areas.
- After confidence in a finance-focused approach is sufficient, look to be a more active participant in collaborative efforts.
- Provide grant funding to the initiatives referenced in this report.

Forest: These organizations like to participate in systems change; they review the data to have confidence in the opportunity and then look to put in place the supporting infrastructure that will enable efficient and effective initiatives. For example, they may have participated in the development of the strategies deployed that brought the finance strategies focused on climate to fruition.

Forest first steps:

- All of the actions listed above for seedling and tree foundations.
- Fund and participate in the collaborative structures needed to deploy finance-focused strategies.
- Work as a convening entity, encouraging participation from investment teams and grantees alike.
- Require that your separate account managers delegate proxy voting to the client foundation. Consider engaging a proxy voting service and developing robust proxy voting guidelines.

