Pension Fund Coalition for Inclusive Capitalism

Model ESG Language in Private Investment Fund Agreements

Introduction

The Pension Fund Coalition for Inclusive Capitalism, an initiative of the Ira M. Millstein Center for Global Markets and Corporate Ownership at Columbia Law School and the Coalition for Inclusive Capitalism, aims to bring together and empower pension funds committed to investing in sustainable businesses that will continue to provide long-term value for beneficiaries.

In service of this goal, the Pension Fund Coalition has collaborated with certain pension funds, legal advisors, and other advisors to generate the following customizable model language establishing minimum environmental, social, and governance (ESG) guidelines that can be used as a baseline for negotiations with private investment fund (PIF) managers, with a focus on closed-ended private equity style funds.

In particular, the model ESG language provided below is intended to serve as a guide for structuring ESG provisions in PIF limited partnership agreements and/or side letters. While the model language aims to provide flexibility and optionality to address a range of priorities, focus areas and investment needs, these ESG provisions are not a one-size-fits-all approach and will require tailoring by the PIF investors and fund sponsors depending on the situation and remedies available. Prior to determining your approach, the business and legal teams should consider the following:

1. The model ESG language presents a range of approaches and language from which your organization can choose (ranging from restrictive approaches to middle-of-the-road approaches) under the following headings:

    A. ESG Mandate
    B. Reporting Requirements on a Regular Basis

C. Additional Interim Reports

Each clause is designed to be inserted into a broader agreement with a PIF manager. This model ESG language is meant to apply to active asset managers in PIF investments;[1] the Pension Fund Coalition has separately developed model ESG language intended to apply to active asset managers in public equities.[2]

2. Prior to using the model ESG language, identify to what extent the ESG language will be used by investment professionals (in diligence and monitoring) or counsel (in documentation) in pursuing ESG priorities, and consider the following:

   a. What are your organization's ESG priorities, and what does ESG mean to your organization? For example, how does your organization prioritize each of social, environmental and governance issues? Which issues are higher priorities? How does your organization integrate and assess each factor uniquely and as interrelated considerations? It is important to assess your organization's broader objectives and priorities (i.e., financial returns, diversification, geographic considerations) to appropriately tailor ESG provisions, an exercise which may be aided by the use of targeted due diligence questionnaires, such as ILPA's DDQ 2.0 on ESG and Diversity, Equity and Inclusion (integrating PRI's LP PE Responsible Investment DDQ on ESG matters).

   b. How do you intend to integrate and account for ESG factors in your investments? For example, is your organization primarily driven by profitability and integrates ESG considerations in the investment research process among the factors to consider from a risk-management or value creation perspective? Is your organization's strategy intended to focus on ESG themes in a way that seeks to achieve certain ESG outcomes? Clarify with the PIF manager what their default assumption is, as their starting point may be different from yours. Your position on this question will inform your negotiation strategy and how highly to prioritize certain clauses in the model ESG language.

   c. What is your organization's mission statement as it pertains to ESG, and how do you think about achieving that mission? For example, many PIF investors seek to utilize

[1] While these contract provisions were not drafted for negotiations with fixed-income investment managers, an asset owner may consider reviewing the model contract provisions with its legal and business teams and advisors to determine which provisions, if any, may be useful in that context. In this scenario, the asset owner and its advisors would need to adjust the model provisions for the fixed-income context, keeping in mind that there are a host of debt-specific issues that the model provisions do not contemplate or take into account.

[2] For PIFs that hold public equity positions, proxy voting is an important component of a pension fund investor's public equity engagement process. Such investors should refer to the Model ESG Language for Public Equity Investments for proposed approaches (pp6–7).

ESG factors to drive value creation, support the goal of achieving superior risk-adjusted returns, and mitigate financial risks in the portfolio and system risk in the markets. PIF investors can apply different strategies towards this mission and will want to discuss with PIF managers how to best incorporate those strategies at the PIF manager level as well as into their investment decisions and monitoring and reporting relating to investments. When negotiating ESG provisions in investment contracts, you should think about and work with asset managers on clarifying both the mission and end goals, as well as how to best make investment decisions to reach those goals.

i. For example, at the portfolio company level, you may want the PIF manager to (w) systematically incorporate diligence of the financial materiality of ESG factors; (x) affirmatively invest on behalf of the PIF in ESG-aligned investments, (y) avoid or dispose of non-ESG-aligned investments, and/or (z) allow the PIF to invest in high-risk or high-potential companies through which the PIF manager may affect positive change on behalf of the PIF through engagement and value creation.

ii. At both the PIF manager and portfolio company levels, consider adopting a standardized reporting template (which may be attached as an exhibit) to assess compliance and achievement of ESG targets, and where appropriate include economic incentives based on ESG metrics. When negotiating ESG provisions in PIF agreements, the parties should consider and clarify the mission, goals, appropriate metrics, performance indicators, and monitoring and reporting to measure progress on achieving those goals, as well as how to most effectively make investment decisions to reach those goals.

d. How do you want the ESG provisions to fit within the context of the broader PIF agreements,[3] as well as the subscription or other credit lines employed by the PIF? These terms may include other key business/commercial terms, such as (a) ESG-linked performance fee structures or other manager compensation terms, (b) availability of ESG-credit lined facilities, (c) PIF manager's fiduciary obligation to maximize return on investment, (d) potential for sharing the costs of compliance with ESG requirements at the PIF and portfolio company level,[4] and (e) duration of the PIF agreements and available remedies for breach (including of ESG provisions). To what extent are ESG considerations a policy requirement as compared to optional additional terms? As ESG provisions will be among the many terms on the

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[3] As an example, FCLTGlobal's Model for Long-Term Contract Provisions provides an approach to consider ESG within broader investment agreements (available at https://www.fcltglobal.org/wp-content/uploads/Institutional-Investment-Mandates-Anchors-for-Long-term-Performance_FCLTGlobal.pdf#page=16).

[4] Costs of compliance or establishing ESG functions within the PIF manager are often charged to the PIF (and indirectly its investors), although much of such expense should arguably be deemed part of the PIF manager's overhead and therefore be covered by the Management Fee.

negotiating table, it will be helpful to consider that some PIF managers may not agree to robust ESG provisions. Additionally, many PIF investors currently do not yet have ESG provisions in their side letters or other agreements with PIF managers and requesting new provisions may require discussion around "low-bar" versus "high-bar" requests, as well as what PIF managers may require from investors to accommodate such requests (e.g., specific reporting may result in increased administrative burden and could lead to additional fees charged to the PIF while streamlined ESG obligations could result in substantial discretion for the PIF manager). As a result, it is important to assess your organization's broader objectives and priorities against those of the PIF managers so you can determine where you are willing to compromise, what is non-negotiable, and which versions of the model ESG provisions, if any, you propose.

e. What are your organization's policies and procedures as they pertain to ESG when selecting PIF managers? For example, consider whether the PIF manager has (a) signed on to best practices, such as the ILPA Diversity in Action initiative,[5] United Nations-supported Principles for Responsible Investment ("UNPRI") or Operating Principles for Impact Management (the "Impact Principles"), (b) ESG policies and procedures in place, and/or (c) systems in place to monitor progress based on ESG targets (whether focused on diversity, reducing carbon footprint or other measures)To what extent does your organizations ESG policies and procedures seek specific compliance or outcomes at the level of the PIF manager and/or at the level of the portfolio companies held by the PIF?[6]

f. What remedies are appropriate or required if the PIF manager fails to provide required reporting or otherwise comply with the ESG provisions (e.g., (a) is a default to be deemed a "material default", (b) will part of the PIF manager's carry be deferred while out of compliance, and/or (c) will investments be suspended while the PIF manager is out of compliance)?

Depending on your organization's specific circumstances and situation, the model ESG language may need to be significantly adapted or revised. When negotiating and incorporating this model ESG language into the applicable PIF agreements, you should align with PIF managers on, among other things, the definitions of ESG-related terms, implementation, and monitoring. You

[5] Additional information available at https://ilpa.org/ilpa_diversityinaction/.

[6] Securities regulators such as the SEC in the U.S. and the European Council (through the AIFMD) in Europe are increasingly focused on how asset managers disclose (and support the disclosure) of ESG strategies and performance. A PIF investor will be looking to the same as to whether the PIF manager's policies also support compliance with the LPA/side letter and covenants addressing ESG. A succinct summary of ESG disclosure rules and standards for the asset management industry, as of January 2022, is available at: https://client.clearygottlieb.com/63/2279/uploads/2022-01-18-a-snapshot-of-global-sustainability-disclosure-rules-for-asset-managers.pdf

should also consult with your legal counsel in determining how or to what extent to use the model ESG language within the context of your PIF agreements.

Finally, this model ESG language is general in nature, and should be tailored to the specific legal or business situation at hand. This introduction and the model contract language set forth in further detail below are not legal advice, and should not be considered or relied on as legal advice.

Model Language[7]

A. ESG Mandate (clauses (a) and (b))

(a) The General Partner hereby acknowledges that:

Approach 1: Investors with individualized ESG investment policies/guidelines

Investor has informed the General Partner of its desire to invest in a responsible manner that takes into account [and prioritizes] Environmental, Social and Governance ("ESG") criteria, and confirms that it is aware that Investor has endorsed a list of ESG criteria as set forth in Exhibit A attached hereto (the "ESG Policy").[8] The General Partner hereby acknowledges receipt of the ESG Policy and agrees that the General Partner will, and will ensure that its Affiliates will [consider] / [incorporate] / [comply with the guidance set forth in] the ESG Policy [into] / [in] its investment decision making processes on behalf of the Partnership. [The General Partner will, upon request of Investor on a quarterly basis, confirm that it has complied[9] with this clause for the prior quarterly period preceding such request.][10] Investor may update the ESG Policy periodically, in connection with its internal policies and procedures, and will provide the General Partner with such updates promptly, so that the General Partner shall take such updates into account in connection with any future investments. The General Partner shall promptly notify Investor in the event that the General Partner is unable to comply with the updated ESG Policy, and Investor and the General Partner shall have good faith discussions and address the areas where the General Partner is out of compliance.

[7] This language is framed for inclusion in an investor's side letter, but can also be adapted for use in a Master Side Letter or the Partnership's limited partnership agreement for the benefit of all partners, although that would mean that the "ESG Policy" is one that all LPs will be willing to apply.

[8] Consider attaching Investor's internal ESG Policy / guiding principles as an Exhibit to the Investor's side letter, if applicable. Alternatively (or if Investor has not yet established an ESG Policy for its organization), Investor may list ESG factors the Investor wants the General Partner to affirmatively consider (see Exhibit A-1 and Exhibit A-3 for example priorities) or include any specific industries or types of companies in which the Investor and/or PIF is prohibited from investing (see Exhibit A-2 for example guidelines on investment restrictions), or a combination of both.

[9] See Approach 2 re: Standardized Metrics and Reporting.

[10] Please note that the General Partner may request to include some exemptions to this requirement, which is commonly seen in PE context along the following lines: "provided, however, that the General Partner shall not be obligated to act, or refrain from acting, in any manner that the General Partner believes, [in its sole discretion][in its reasonable discretion], is either (i) inconsistent with the General Partner's other duties under the limited partnership agreement or at law, or (ii) inconsistent with its primary obligation to maximize the value of the Partnership for the benefit of all of its Partners." (However, there is no need to offer up this language in the first instance. Ultimately, Investor should decide whether they want the General Partner to make the trade-off in monetary return, or simply want the General Partner to diligence ESG and apply the findings to their return-oriented investment process.)

Approach 2: Investors preferring to rely on standardized metrics, ratings, etc. or on the General Partner to recommend standardized metrics, ratings, etc.

Investor has [committed to the application] [is a signatory to] of the [United Nations Principles of Responsible Investing ("UNPRI")] / [United Nations Guiding Principles on Business and Human Rights ("UNPBHR")] / [Task Force on Climate-related Financial Disclosures ("TCFD") guidelines] / [International Sustainability Standards Board Principles] / [The Value Reporting Foundation's Integrated Thinking Principles, Integrated Reporting Framework and/or SASB Standards] / [Global Reporting Initiative Sustainability Reporting Standards ("GRI")] / [Science-Based Targets ("SBTs")],[11] and the Investor [is committed to] / [requires] the [application of]/[compliance with] these Environmental, Social and Governance ("ESG") [criteria] / [metrics] / [standards] / [considerations] / [operations guidelines] / [disclosure frameworks] [with respect to the General Partner and investment manager] in the management of the Partnership / [with respect to potential portfolio companies of the Partnership] (the "ESG Principles").

OR:

Investor has committed to investing in companies that promote the United Nations Sustainable Development Goals ("SDGs").

OR:

Investor has committed to investing in companies consistent with ESG criteria, metrics, standards, guidelines and other considerations (including, but not limited to, operational guidelines for managers and disclosure frameworks for portfolio companies) (altogether, "ESG Investment Criteria") as recommended by the General Partner. [The General Partner and Investor shall mutually agree on a list of ESG Investment Criteria, which the General Partner shall incorporate into its investment decisions.] / [The General Partner has provided a list of ESG Investment Criteria to Investor, which Investor has approved and which the General Partner shall incorporate into its investment decisions.] Such list [is] / [will be] attached hereto as Exhibit A and may be amended from time to time by the General Partner with advance notice and consent of Investor.[12]

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[11] These are just a few examples of standardized metrics, ratings and guidelines that may be included depending on each Investor's individual preferences and priorities. As the standards are quickly evolving (and some standards changing, merging or disappearing), and as new laws and regulations (both in the U.S. and aboard) come into effect or are being contemplated and impact the state of the market, please consider those standards that are most widely accepted as appropriate for the investment strategy, geography and sector as well as language to address successor frameworks.

[12] This option may be helpful for Investors that do not already have internal ESG principles or frameworks, and/or have sufficient resources to research and evaluate third party resources, and would prefer to rely on the General Partner to initially propose appropriate ESG criteria, metrics, standards, and guidelines for Investor.

(b) The General Partner will, and will ensure any Affiliate will, in addition to complying with all applicable laws and regulations relating to sustainable investing, [consider] / [incorporate] / [comply with the guidance set forth in] the above [ESG Principles] / [ESG Investment Criteria] in its investment decision making processes, consistent with and in acknowledgement of Investor's commitment to socially responsible investing, [status as a signatory of the [UNPRI] / [Impact Principles]/[ESG Principles], [as articulated in Investor's ESG investment policies and the ESG *Guiding Principles* provided to the General Partner, attached hereto as Exhibit A.]

AND/OR:

Investor has informed the General Partner that Investor is a signatory of the [United Nations-supported Principles for Responsible Investment ("UNPRI")] / [Operating Principles for Impact Management (the "Impact Principles")] (the "ESG Principles"). The General Partner represents and warrants that it is a signatory to the ESG Principles and has a commitment to upholding the ESG Principles set forth in such principles, where consistent with applicable law and regulation and its fiduciary responsibilities under the Partnership Agreement [and Investor's side letter]. [The General Partner agrees on its own behalf and on behalf of its Investment Manager to [take into consideration] / [comply with] the matters addressed by the ESG Principles in its own operations and in the evaluation of prospective investments for the Partnership.

B. Reporting Requirements on a Regular Basis (clause (c))

(c) The General Partner shall, within [45] days after the end of each calendar year, deliver a report ("Annual Report") to Investor detailing the General Partner's investment and management activity on behalf of the Partnership and compliance with [the ESG Investment Considerations] / [the ESG Policy] / [clause [(a)] of this Agreement]. Such report shall, at minimum, include discussion of [(i) the General Partner's process of conducting research and diligence on and tracking ESG activities of portfolio companies for the Partnership, including with regard to each portfolio company's ESG governance, policies, and procedures, (ii) any stewardship activities conducted by the General Partner as part of their asset management activities for the Partnership,[13] and (iii) material developments in ESG matters at the portfolio companies in which the Partnership currently holds or has held a material position in the prior calendar year ("Material Portfolio Companies"),[14] in each case in a format generally consistent with [(and no less detailed in any material respect than)] the form reporting template attached hereto as Exhibit

[13] In the current landscape, the General Partners may push back on creating a reporting obligation for stewardship activities, and even if this clause is successfully negotiated into the applicable agreement, the response may range depending on the General Partner.
[14] Investor and the General Partner should consider having a defined term for "material portfolio companies" based on what is reasonable and practical for that particular PIF's investment time horizon and strategy, or to agree on a process for making this determination going forward.

B.[15]] [the General Partner shall promptly advise Investor in writing of any changes or planned changes to its research, diligence or tracking process involving ESG criteria.]

C. Additional Interim Reports on Material Adverse Developments[16] (clause (d))

(d) [Subject to applicable legal, regulatory and confidentiality obligations][17] In addition to the Annual Report, the General Partner shall use [reasonable best] / [commercially reasonable] efforts (i) to notify Investor in writing with respect to any material adverse developments relating to ESG matters with respect to (x) the General Partner and its Affiliates, and (y) the Partnership and its portfolio companies, as soon as practicable after becoming aware of such developments in sufficient detail for Investor to understand the additional risks to its Partnership investment involved in such an adverse development, and (ii) provide updates on any corrective action that has been taken in respect thereof.

[15] Agreeing on a specific format of the annual ESG report upfront will force the General Partner to be more thoughtful about tracking ESG performance and documenting material developments, which will help enhance the General Partner's accountability. This point may need to be negotiated in light of similar requirements from a number of partners (including those subject to the EU reporting regime and/or DFIs with long-established criteria) and stakeholders (e.g., Partnership lenders). In any event, if the reporting form is unrealistically detailed, the General Partner (and each portfolio company from which data is required) may find the obligations too burdensome and will struggle to provide helpful information.
[16] This interim reporting requirement should be carefully negotiated. In the current market climate, Investors can expect that the General Partner will volunteer information on positive ESG developments without needing to agree to do so by contract. Investors may wish to clarify what they intend to do with the information about material adverse developments (e.g., engage at the LPAC level to discuss mitigation).
[17] Managers will likely ask for these qualifiers, but it is up to Investor whether to give these in the first instance or wait until Managers affirmatively ask in the course of the negotiations.

Exhibit A-1

Examples of ESG Factors

These examples are not meant to be used wholesale in investment agreements; rather, these are meant for discussion purposes and to present possible frameworks for building ESG investment guidelines at the investor manager level and portfolio company level. Specific ESG factors and considerations should be tailored to the priorities and focus of each investor. The factors and considerations set forth in these examples are not meant to be representative of items that any given manager may accept and are not meant to be a comprehensive compendium of factors and considerations (for example, other considerations can include the ILPA Due Diligence Questionnaire 2.0, inclusive of Diversity Metrics Template as well as ESG sections on the United Nations Principles of Responsible Investing ("UNPRI") LP PE Responsible Investment Due Diligence Questionnaire.

Sample Language #1

We believe that responsible corporate behavior with respect to environmental, social and governance ("ESG") factors generally has a positive influence on long-term financial performance. As a long-term investor, we consider ESG factors in making investment decisions, with a particular emphasis on the below list of priorities. In analyzing the opportunities and risks inherent in any investment, we look to identify and mitigate ESG factors that are, or could become material to long-term financial performance. ESG opportunities and risks are monitored throughout the life of the investment.

- Prior to investment, the General Partner should perform an assessment of the ESG risks or opportunities of such investment, including due diligence of public disclosures, relevant company documents and any research materials from third party service providers, as well as direct engagement.

- We believe that active engagement by the General Partner is usually preferable to deploying additional filters for investments (beyond the investment restrictions set forth in the Partnership's limited partnership agreement and side letters), a process by which certain companies or entire industries can be precluded from consideration for investment based on ESG factors.[18] Divestment may be appropriate when exhaustive engagement has not result in satisfactory progress or risk mitigation.

- The General Partner should engage in a direct dialogue with companies to discuss concerns on ESG risks, in light of relative risk and size of holdings. All direct engagement activities

[18] If investment restrictions are to be expanded with respect to certain industries, samples are offered in Exhibit A-2.

should have a view towards the ultimate benefit to the value of our holdings. Our preference is to conduct direct engagements privately.

- [For PIFs that hold public equity positions: Proxy voting is an important component of the Investor's public equity engagement process: The General Partner is required to comply with the Voting Rights provisions set forth above with respect to any proxy voting relating to public equity positions held by the Partnership.]

We expect companies in which we invest, directly and indirectly, to not only comply with all applicable legal and regulatory regimes, but also use [reasonable best efforts / commercially reasonable efforts to] adhere to international best practices (including [UN Principles of Responsible Investing ("UNPRI")] / [UN Guiding Principles on Business and Human Rights ("UNPBHR")] / [Task Force on Climate-related Financial Disclosures ("TCFD")] / [International Sustainability Standards Board Principles]/[The Value Reporting Foundation's Integrated Thinking Principles, Integrated Reporting Framework and/or SASB Standards[19] / [Global Reporting Initiative Sustainability Reporting Standards ("GRI")] / [Science Based Targets ("SBTs")[20]) while implementing ESG policies.

Sample Language #2

As a long-term investor, we proactively address and consider ESG factors as part of our investment strategy. In particular, we focus on:[21]

- Biodiversity
- Board quality and composition
- Climate change
- Community engagement
- Conduct, culture and ethics
- Diversity, equity and inclusion
- Social justice, including but not limited to [social, economic, racial, gender, sexual orientation, gender identity, access and other forms of inequality][22]
- Executive compensation

[19] NOTE: Based on timing of publication, to be updated (along with CDSB) based on the new International Sustainability Standards Board process.
[20] These are just a few examples of standardized metrics, ratings and guidelines that may be included depending on each Investor's individual preferences and priorities, and may need to be updated in line with future developments.
[21] Investor should discuss with the General Partner how exactly Investor wants the General Partner to "focus on" any ESG factor set forth by Investor. For example, a focus on the diversity piece of diversity, equity and inclusion could relate to multiple aspects of diversity, including but not limited to gender identity, race, ethnicity, age, national origin, orientation, cultural identity and physical ability, and the target could be the board, management and/or the broader employee base. Investor should make sure General Partner is aligned on Investor's priorities and focus areas.
[22] These are examples that may be included, but Investor can tailor this list as appropriate.

- Health & safety
- Human capital management
- Natural resource efficiency
- Pollution & waste reduction
- Product safety
- Risk management, including cybersecurity and data privacy risks
- Shareholder protections and rights
- Supply chain risks
- […]

[In making decisions with regards to investments, the General Partner should perform an ESG assessment based on (but not limited to) the above factors, including due diligence of relevant company documents, public disclosures and any research materials from third party service providers, and an evaluation of the ESG risks and opportunities any potential portfolio company presents that may impact long-term value. We expect any companies considered to not only comply with all applicable legal and regulatory regimes, but also adhere to international best practices (including [UN Principles of Responsible Investing ("UNPRI")] / [UN Guiding Principles on Business and Human Rights ("UNPBHR")] / [Task Force on Climate-related Financial Disclosures ("TCFD")] / [International Sustainability Standards Board Principles] / [The Value Reporting Foundation's Integrated Thinking Principles, Integrated Reporting Framework and/or SASB Standards] / [Global Reporting Initiative Sustainability Reporting Standards ("GRI")] / [Science Based Targets ("SBTs")[23]) while implementing ESG policies.][24]

Sample Language #3[25]

Further to considering ESG factors and consistent with Investor's policies regarding diversity, equity and inclusion, the General Partner, and the Investment Manager agree to consider:

- creating a (or reviewing its existing) diversity, equity and inclusion policy with an eye toward (i) ensuring the structures and practices of the General Partner and the Investment Manager create conditions that promote full inclusion of racially and ethnically diverse groups, other underrepresented groups such as the LGBTQ+ community, and women throughout all facets of the General Partner's and the Investment Manager's organization

[23] These are just a few examples of standardized metrics, ratings and guidelines that may be included depending on each Investor's individual preferences and priorities (for example, the Investor seeks the General Partner to favor companies that follow SASB or GRI criteria in their disclosures and to negatively weigh companies that do not).
[24] Investors should specify how the investor thinks about the list of topics and how a manager should incorporate them into investment decision considerations.
[25] This language is intended as an option to include in a side letter or investment management agreement, which would be the applicable location for an LP in a PIF to request such language, to the extent the General Partner/Investment Manager do not already have this policy. Alternatively, this could be handled as a diligence matter rather than as a contractual obligation, depending on the Investor's own process and preferences.

and the portfolio company, and (ii) designing ways to measure the policy's effectiveness and impact. Such policy would also provide a framework to assess, acknowledge and remove any possible elements that would impede progress toward a fully diverse and inclusive organization;

- including as part of such diversity, equity and inclusion policy, broader hiring, nurturing and retention efforts, to increase the participation of full inclusion of racially and ethnically diverse groups, other underrepresented groups such as the LGBTQ+ community, and women throughout the General Partner's and the Investment Manager's organizational ecosystem, including (as relevant and consistent with the General Partner's and the Investment Manager's fiduciary duties to the investment funds it manages, if any), its management teams, investment staff, portfolio company boards, portfolio company management teams, consultants, advisors and professional service providers. Hiring initiatives might include, among other things, engaging in non-traditional recruitment efforts, such as including historically black colleges and universities to the roster of targeted under-graduate and graduate institutions as well as sponsoring internships and/or partnering with development programs targeting racially and ethnically diverse groups, other underrepresented groups such as the LGBTQ+ community, and women to access and cultivate an internal talent pool; and

- completing, on a voluntary basis, information regarding the foregoing when providing Investor's [quarterly/annual] reports.

Exhibit A-2

Examples of Investment Restrictions[26]

This sample language and examples of Prohibited Investments are not meant to be used wholesale in agreements; rather, these are meant for discussion purposes and to present possible frameworks for building ESG investment guidelines as required by investor policies. Some investors may have policies that will require these restrictions for the fund as a whole and therefore are gating consideration; other investors are willing to permit the fund to make investments prohibited by their policies so long as the investor has an excuse right. The language offered below is intended to address those investors that require to be excused from prohibited investments, but specific ESG guidelines, restrictions and considerations should be tailored to the priorities and focus of each investor. The guidelines, restrictions and descriptions set forth in these examples are not meant to be representative of items that any given manager may accept, and are not meant to be a comprehensive compendium of factors and considerations. For example, some investors may wish a further right to withdraw if more than a certain percentage of the fund's assets are in Prohibited Investments, whether or not they have an excuse right, since that concentration of assets in Prohibited Investments reflects a material departure from the Partnership portfolio discussed with the sponsor in advance of the investor's investment.[27]

Each of the General Partner and the Partnership acknowledges that the Investor is subject to investment policies (the "Policies") precluding its participation in any investment in (i) [___], (ii) [___], and (iii) [____]. Accordingly, as required by each of the Policies, the Investor shall be excluded from Prohibited Investments and therefore shall not have to contribute to the Partnership any capital (including expense contributions) in respect of a Prohibited Investment or any follow-on investment thereto. At the time of any capital call or distribution relating to a Prohibited Investment, the General Partner shall notify the Investor of any Prohibited Investment made (or to be made) by the Partnership from which the Investor was (or will be) excluded. The Investor shall have the right to ask questions and get additional information about any proposed investment as may be reasonably necessary for it to independently determine whether a proposed investment is a Prohibited Investment. In the event that a capital contribution in respect of a Prohibited Investment is made by the Investor in contravention of this provision, the General

[26] Investors to consider the balance of adhering to principles by not investing in certain stocks (such as these investment restrictions) versus investing in stocks to create change. Investors should consider the headline risk of investing in certain industries, as well as opportunities presented by active ownership to encourage greater engagement on best-efforts basis with companies that adhere to good disclosures or practices. Investors should also consider the advantages and disadvantages of exclusion consistent with fiduciary duty, which may involve factors such as eliminating uncompensated risk, impact on long-term value creation and relative benefits of engagement.

[27] For other investment restrictions, note that the International Finance Corporation also maintains Exclusion Lists defining the types of projects the IFC does not finance at https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/company-resources/ifcexclusionlist

Partner shall promptly refund such amount immediately upon becoming aware of such capital having been contributed in respect of a Prohibited Investment.

Example "Prohibited Investments" (broader guidelines):

- companies whose principal field of activity is the production of cluster munitions, biological weapons and chemical weapons
- companies whose principal field of activity is the production of nuclear weapons (excluding companies that are only engaged in transactions with countries that are approved by the United Nations for the purpose of holding and maintaining existing nuclear weapons)
- any company engaged in a transaction violating the Treaty on the Non-Proliferation of Nuclear Weapons
- any securities categorized as tobacco under code 302030 of the Global Industry Classification Standard
- companies operating casinos and other types of gaming/gambling operations including online gambling/gaming
- companies operating in the Adult Entertainment sector
- companies that perform animal testing
- companies that manufacture, sell, purchase or use weapons, platforms for weaponry or material parts of a weapon or platform for weaponry
- companies that derive [material] / [substantial] revenue[28] from privatized incarceration facilities

Example "Prohibited Investments" (more specific guidelines):

[For the avoidance of doubt, indirect support includes (but is not limited to), investments such as general purpose investments, where the use of proceeds is known (or should reasonably be known) and materially supports prohibited activities.]

- **Chemicals**. Companies that [directly or indirectly][29] manufacture:
  (a) Chemical weapons.

[28] Investors should consider defining the threshold of "[material revenue"] / ["substantial revenue"] to avoid ambiguity and, to the extent possible, provide a numerical threshold so that there is no guesswork involved for the General Partner and the request is easier to execute (i.e., a company that derives at least 5-10% of its revenue from owning, operating or providing services to such prisons).

[29] This optional language contemplates scenarios where one or more of the Fund's portfolio companies directly (or indirectly through subsidiaries) engages in the activity, as opposed to scenarios where the portfolio company has significant business relationships with third parties (e.g., contractors, service providers, vendors, etc.) that engage in the activity. Investor may adapt the language to cover the latter category.

(b) Chemicals prohibited in Annex A of the Stockholm Convention, an international agreement on persistent organic pollutants (POPs) which create severe health impacts, such as cancer.
(c) Chemicals which are inconsistent with Annex III of the Rotterdam Convention, an international agreement on hazardous pesticides and industrial chemicals.

- **Fossil Fuel-related Energy**. Companies that [directly or indirectly] support:
  (a) Specific operations or projects in UNESCO World Heritage Sites or wetlands listed by the Ramsar Convention on Wetlands.
  (b) New coal-fired power plants, including expansions, where individual units have a gross generating capacity of 500MW or more, and.
    (i) carbon intensity exceeds 850g CO_2/kWh; or
    (ii) the plant is in a developed country and its carbon intensity exceeds 550g CO_2/kWh. With existing technologies, this may effectively prohibit new coal-fired power plants without acceptable CCS plans or without material benefits from either combined heat and power (CHP) or biomass.

- **Forestry**. Companies that [directly or indirectly] support:
  (a) Illegal logging and the subsequent trading of related timber and forest products.
  (b) Operations in UNESCO World Heritage Sites.
  (c) Operations in wetlands listed by the Ramsar Convention on Wetlands.

  These prohibitions apply both to companies that log for commercial or development purposes and to companies that purchase, trade or process timber from these sources.

- **Mining & Metals**. Companies that [directly or indirectly] support:
  (a) Operations in UNESCO World Heritage Sites, unless those specific operations pre-dated the World Heritage Site designation.
  (b) The mining, processing and/or sale of uranium for weapons purposes.
  (c) The mining or trading of rough diamonds not certified under the Kimberley Process. This scheme provides assurance that diamonds have not been used to finance wars against legitimate governments, historically a particular problem in Africa through “conflict diamonds”.
  (d) Artisanal mining – i.e., individuals mining with simple tools, usually without any form of regulation.

[For the avoidance of doubt, indirect support includes (but is not limited to), investments such as general purpose investments, where the use of proceeds is known and materially supports prohibited activities.]