



presents

2023 Estate and Gift Tax Conference

Next-Gen Planning: What Advisors are Discussing with Gen X, Y & Z Clients

Friday, March 10, 2023
11:15 am - 12:15 am

Speakers:

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Conference Reference Materials

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Next Gen Planning:

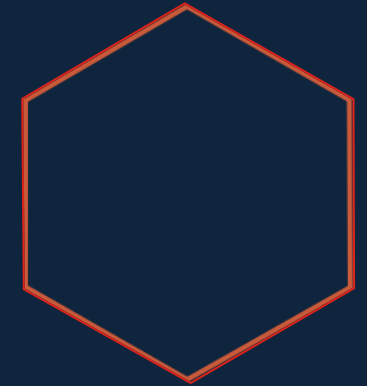
What Advisors are Discussing with Gen X, Y & Z Clients



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AGENDA

1

Generalizations and Experiences in
Planning for Next Gen Families

2

Next Gen Assets



Planning Ideas and Philosophies for Next Gen Families

Who Are These People??

- Generation X
 - Born 1965-ish to 1980
 - Children of early Baby Boomers and the Silent Generation
 - Today's age: early 40s to late 50s
 - Grew up with televisions and computers
- Millennials (Generation Y)
 - Born 1981 to 1996
 - Children of late Boomers and Gen X
 - Today's age: Late 20s to early 40s
 - Grew up with the internet
- Generation Z
 - Born 1997 to 2012-ish
 - Children of Gen X and Millennials
 - Today's age: Children to mid 20s
 - Grew up with iPhones

New Estate Planning Paradigms

- Estate Planning Goals and Techniques
- Relationship with Tax
- Family Composition
- Migratory Lifestyle

Estate Planning Goals and Techniques

- What's the point?
 - Create a Dynasty?
 - Change the World?
 - Make a Better Life for the Next Generation?
- How to Do It?
 - Put Everything in a Trust and Save Taxes?
 - Give it All to Charity?
 - Something More Creative?
- Who Gets It?
 - Kids?
 - Charity?
 - Someone else?

Relationship with Tax

- Is Paying Estate Tax the Worst Thing in the World?
- Everyone Wants to Save Income Taxes
- What's the Price of Saving Taxes?
 - Complexity
 - Reputation
 - Loss of Control
 - Lifestyle Changes

Family Composition

- The “nuclear family” is much less common
- Marriage rate in the U.S. is much lower
 - 53% of 25-54-year-olds are married (67% in 1990)*
 - Divorce remains frequent (40% of marriages end in divorce) and remarriage, particularly among men, is common, leading to blended families
- Median age for first marriage is 30.4 for men, 28.6 for women (in 1972, 23.3 for men, 20.9 for women)**
- Less likely to come from the same (or any) religion

* Source: Fry and Parker, “Rising Share of U.S. Adults Are Living Without a Spouse or Partner,” Pew Research Center (October 2021)

** Source: Bul and Miller, “The Age That Women Have Babies,” NY Times (August 4, 2018)

Migratory Lifestyle

- Where is Home?
 - Where Your House Is?
 - Where Your Kids Go to School?
 - Where You Spend Most of Your Time?
 - Where you Work?
- Do you Have to Have a Home?
 - Wealthy Homeless by Choice
 - Why Does it Matter?
- What Happens When You Leave Your Home?
 - Leaving California
 - Leaving the United States



NEXT GEN ASSETS

RESPONSIBLE INVESTING

What is Responsible Investing?

Partnering with Clients to Invest Responsibly



Families and institutions increasingly want their investments to...

- Reflect values
- Make a difference in the world
- Ensure a legacy
- Enable positive change
- Leave the world a better place for the next generation
- Address specific social or environmental issues



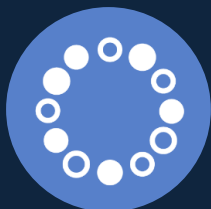
But the proliferation of terminology requires translation

- Environmental, Social and Governance (ESG)
- Socially Responsible Investing (SRI)
- Green Investing
- Mission-Related Investing (MRI)
- Impact Investing
- Double/Triple Bottom Line Investing
- Values-Based Investing
- Community Investing
- Ethical Investing

Responsible Investing

Encompasses the range of investment approaches designed to meet these goals

Responsible Investing Approaches



Screening

- Negative screening to actively eliminate investments according to specific ethical guidelines
- Positive screening to invest in companies that show leadership in social and environmental issues



Integrated ESG

- Actively incorporates ESG metrics alongside financial metrics when performing fundamental analysis of a company as a tool to better understand the full picture of the company



Thematic Investing

- Investing in companies that show leadership in a specific social or environmental theme (diversity, clean energy, water, climate change, etc.)



Impact Investing

- Positive, measurable and intended social or environmental impact alongside generating a financial return

Examples

Tobacco
Alcohol

Carbon Emissions
Supply Chain Standards
Board Diversity

Clean Energy
Women Leadership
Infrastructure Development

Clean Water
Sustainable Cities and
Communities

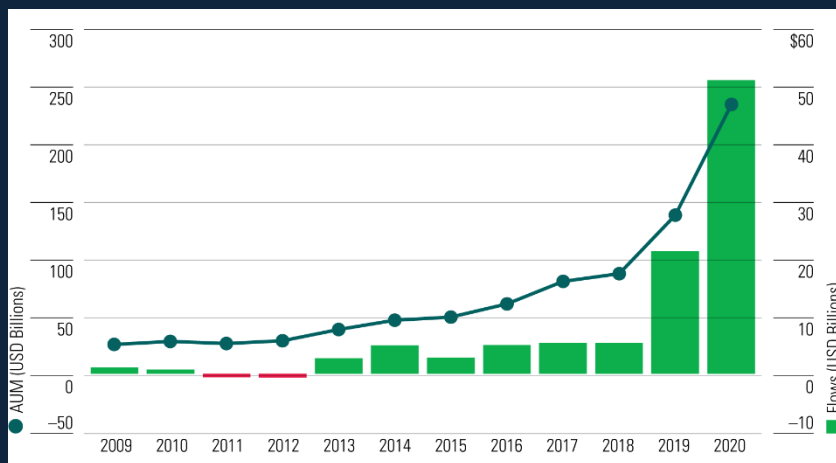
Most approaches also incorporate active ownership / shareholder engagement

Responsible Investing is not... *A Passing Fad*

\$17.1 trillion assets

invested sustainably in the U.S. at end of 2019¹

U.S. Sustainable Funds Annual Flows and Assets²



\$35.3 trillion assets

invested sustainably across the U.S., Europe, Japan, Canada and Australia & New Zealand as of January 2020³



¹ US Forum for Sustainable & Responsible Investment 2020 Report on US Sustainable and Impact Investing Trends

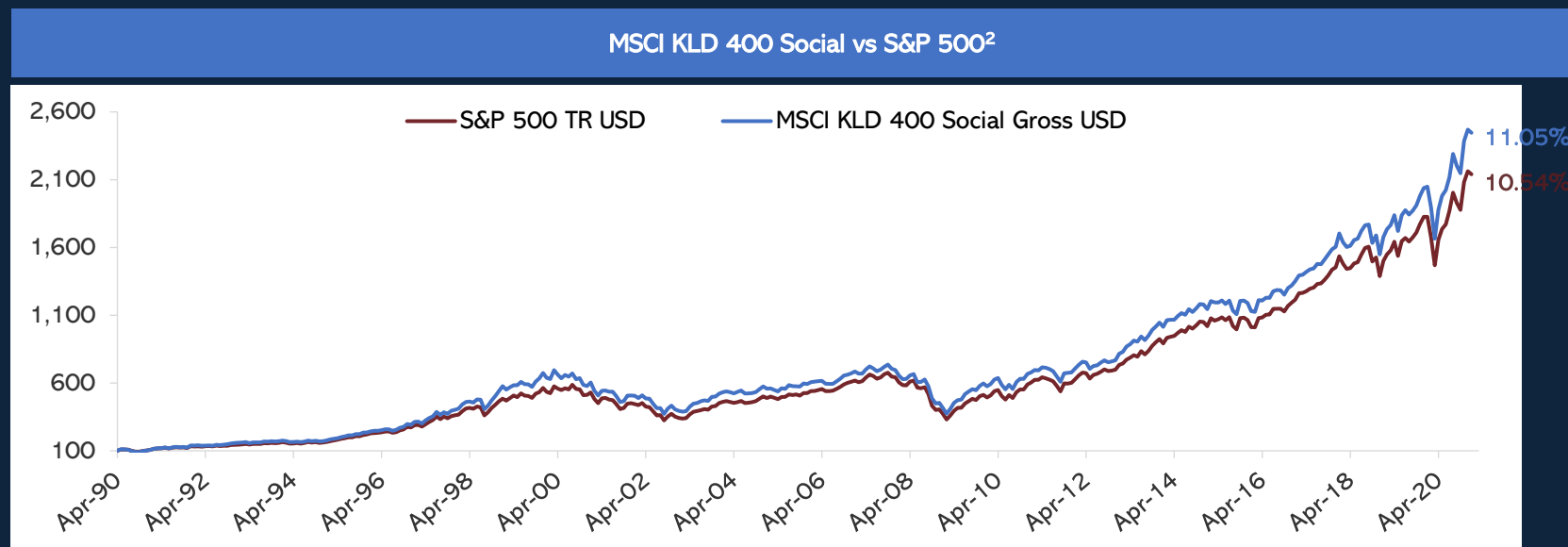
² Source: Morningstar. Data as of 12/31/20. Includes Sustainable Funds as defined in Sustainable Funds U.S. Landscape Report, Feb. 2020. Includes funds that have been liquidated; does not include funds of funds.

³ Global Sustainable Investment Alliance, Global Sustainable Investment Review 2020.

⁴ Source: Morningstar Direct, Manager Research. Data as of December 2020.

Responsible Investing does not...*Lead to Lower Performance*

- **Responsible Investing** strategies analyze investments more holistically, which may lead to the identification of better run companies or underappreciated risks
- **Academic studies** show that Responsible or ESG Investing strategies performed similarly or outperformed traditional strategies¹



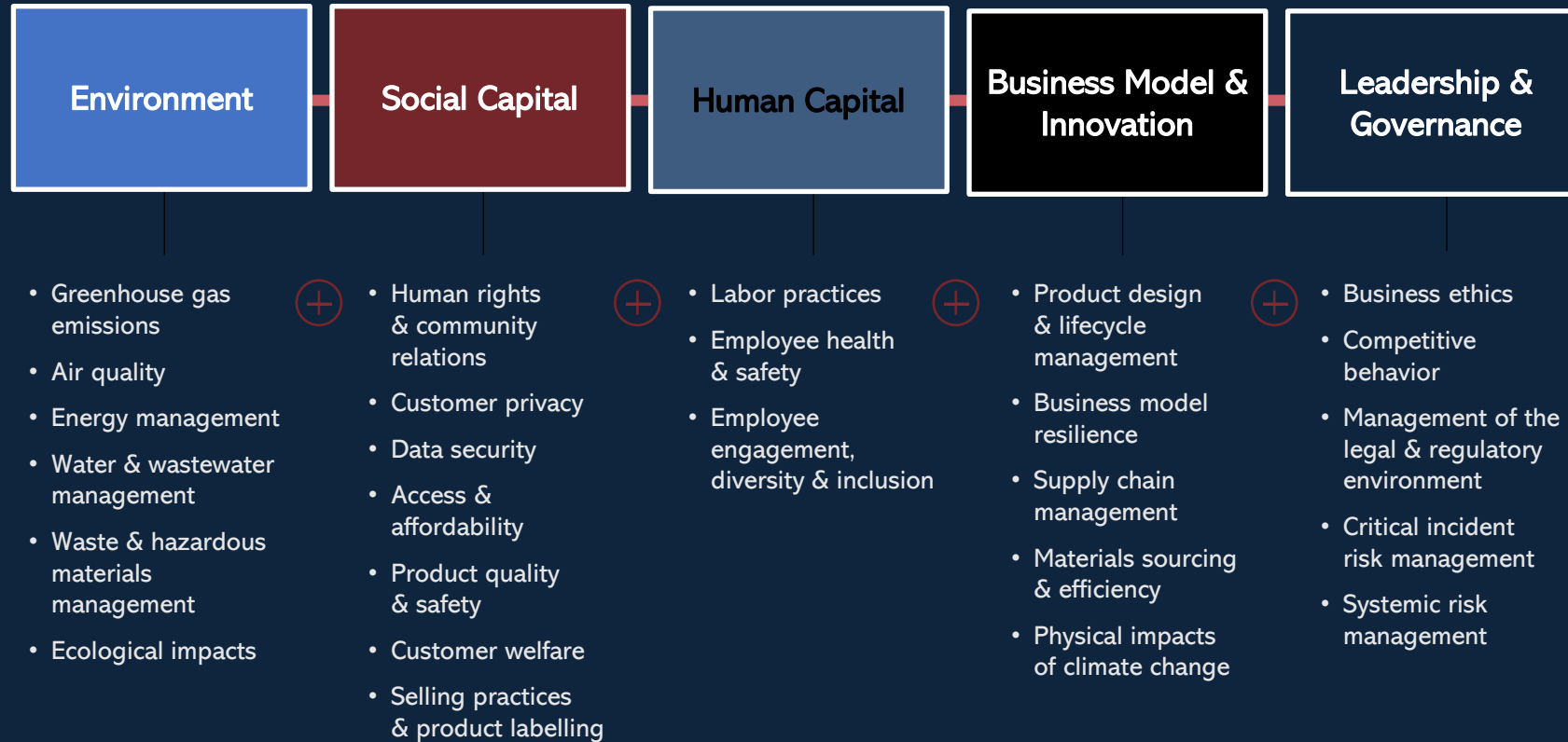
MSCI ESG Leaders Indices (10/1/07 – 2/28/21) ³					
MSCI World ESG Leaders Index	→	6.60%	MSCI World Index	→	6.60%
MSCI EAFE ESG Leaders Index	→	3.42%	MSCI EAFE Index	→	2.83%
MSCI AWCI ESG Leaders Index	→	6.89%	MSCI AWCI Index	→	6.25%

¹ NYU Stern Center for Sustainable Business, ESG and Financial Performance Report, 2020

² Annualized returns from 5/1/1990- 2/28/2021. Source: Our performance Calculator.

³ Source: www.msci.com

Universe of Considerations



Examples of Major Responsible Investing-Related Controversies

Peak-to-trough market capitalization losses of \$534 billion for large U.S. companies were reported as a result of major responsible investing-related controversies over the past six years.¹

Wells Fargo to pay \$3 billion over fake account scandal

Since the fraud became public in 2016, the bank has faced a torrent of lawsuits.

1

Facebook to Pay Symbolic Fine in Cambridge Analytica Settlement

By [Stephan Lee](#)
October 30, 2019, 10:24 AM GMT

2

Equifax to pay up to \$700m to settle data breach

© 22 July 2019



3

Volkswagen emissions scandal: mass lawsuit opens in Germany

4

United Airlines suffers near \$1bn loss in value after passenger was violently dragged off overbooked flight

Footage of the incident was shared on social media and prompted outrage globally.

[Audi Car](#) | [@AudiCar_London](#) | [@AudiCar_London](#) | [@AudiCar_London](#)

Tuesday 11 April 2017 11:44



5

Sources:

¹ <https://www.nbcnews.com/news/all/wells-fargo-pay-3-billion-over-fake-account-scandal-n1140541> February 2020;

² <https://www.bloomberg.com/news/articles/2019-10-30/facebook-to-pay-symbolic-fine-in-cambridge-analytica-settlement>;

³ <https://www.bbc.co.uk/news/technology-49070596>; ⁴ <https://www.theguardian.com/business/2019/sep/30/volkswagen-emissions-scandal-mass-lawsuit-opens-in-germany> September

2019; ⁵ <https://www.independent.co.uk/news/business/news/united-airlines-united-continental-shares-slide-drop-expect-passenger-dragged-flight-3411-overbooked-a7678051.html>

Case Study. *Responsible Investment Mandate After Sale of Private Business*



Client Background

Private family seeking responsible stewardship following a liquidity event

Goals and Issues

- **Deploy new cash** in socially responsible and sustainable manner to benefit the family and the causes it supports
- **Reposition existing investments** to align with responsible investing mandate

Our Process

- Explored the family's objectives within the responsible investment landscape to identify key goals centered around social and environmental concerns
- Leveraged internal investment and planning strategist to review responsible sustainable investing options that aligned closely with the family's mission
- Held family meetings to determine appropriate asset allocation and philanthropic intentions
- Created custom investment policy, estate and strategic philanthropy plans
- Built fixed income portfolio where the Family goals and values are an overlay to the underlying bonds
- Utilize equity strategy where engagement with the underlying company's management occurs regularly and proxies are actively voted

Client Benefits

- **Alignment of investments with goals** through the establishment of a long-term plan for current and second generations to ensure positive change
- **Longevity of the family values** through trusts and Donor Advised Fund

Crypto and Other Digital Assets

- Types of Digital Assets
 - Cryptocurrency
 - NFTs
 - DeFi
 - Other non-financially valuable assets – email accounts, etc.
- Wallets and Keys
 - Practical Considerations
- Planning
 - Transfer Mechanisms
 - Valuation
 - Taxation
- Administration
- Fiduciary Concerns

2023 Crypto Tax Updates

- CCA 202302011 (cryptocurrency that had substantially declined in value was not deductible under IRC section 165)
- CCA 202302012 (Qualified appraisal required for charitable contribution deduction under IRC section 170(a))

Estate Valuation of Cryptocurrency

Estate of Matthew T. Mellon v. Commissioner, Docket No. 18446-22

- Estate held 530 million tokens of XRP, previously known as Ripple.
- Ripple imposed contractual liquidation restrictions on the decedent.
- Estate valued the crypto at \$151 million.
- Appraisal applied a 40% discount to value the crypto. Used alternate valuation date. IRS rejected the discount and increased the value to \$242 million.
- The appraisal considered the volatility of crypto in general, the uniqueness of the XRP tokens, the unpredictability of their market, blockage and other factors. The estate claimed the appraiser failed to give sufficient weight to the risk that XRP would be found to be a security and that further securities law restrictions would apply.
- Case may provide guidance on valuation of crypto for estate tax purposes.

Fiduciary Considerations

Identify if there are digital assets

- Does the client own or mine cryptocurrency?
- Does the client own NFTs?
- Does the client intend to purchase crypto or NFTs?

Obtain accurate records of when purchased and price

Where are the assets stored?

- Public and private keys, seed phrase

Fiduciary Considerations- Prudent Investor Rule

Fiduciary investing is subject to the Prudent Investor Rule framework, which requires a trustee to consider a variety of factors in investing trust assets. Trustees are subject to a high duty of care and loyalty and are generally wary of investing in highly volatile or speculative investments that are not regulated. In particular, the Prudent Investor Rule requires trustees to consider:

- The overall investment strategy, having risk and return objectives ***reasonably suited to the Trust***
- General economic conditions, possible effects of inflation or deflation
- The expected tax consequences of investment decisions or strategies
- The role that each investment/strategy plays within the overall portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property, and real property
- The expected total return from income and the appreciation of capital
- Other resources of the beneficiaries
- Needs for liquidity, regularity of income, and preservation or appreciation of capital
- An asset's special relationship or special value, if any to the ***purposes of the trust or to one or more of the beneficiaries***
- A trustee shall make a reasonable effort to verify facts relevant to the investment and management of trust assets

Fiduciary Considerations- Crypto & NFTs as Trust Investments

- Prudent Investor Rule requires trustees to make investment decisions “in the context of the trust portfolio as a whole and as part of an overall investment strategy having risk and return objectives reasonably suited to the trust.”
- Evaluated on a case-by-case basis.
- The value of cryptocurrency and NFTs is extremely volatile.
- Trustees will be very hesitant to invest in cryptocurrency or NFTs without express direction from the Trustor, a full release by all of the beneficiaries, or authorization per a court order.

Fiduciary Considerations-AML/KYC

Anti-Money Laundering (AML)/Know Your Client (KYC) Considerations:

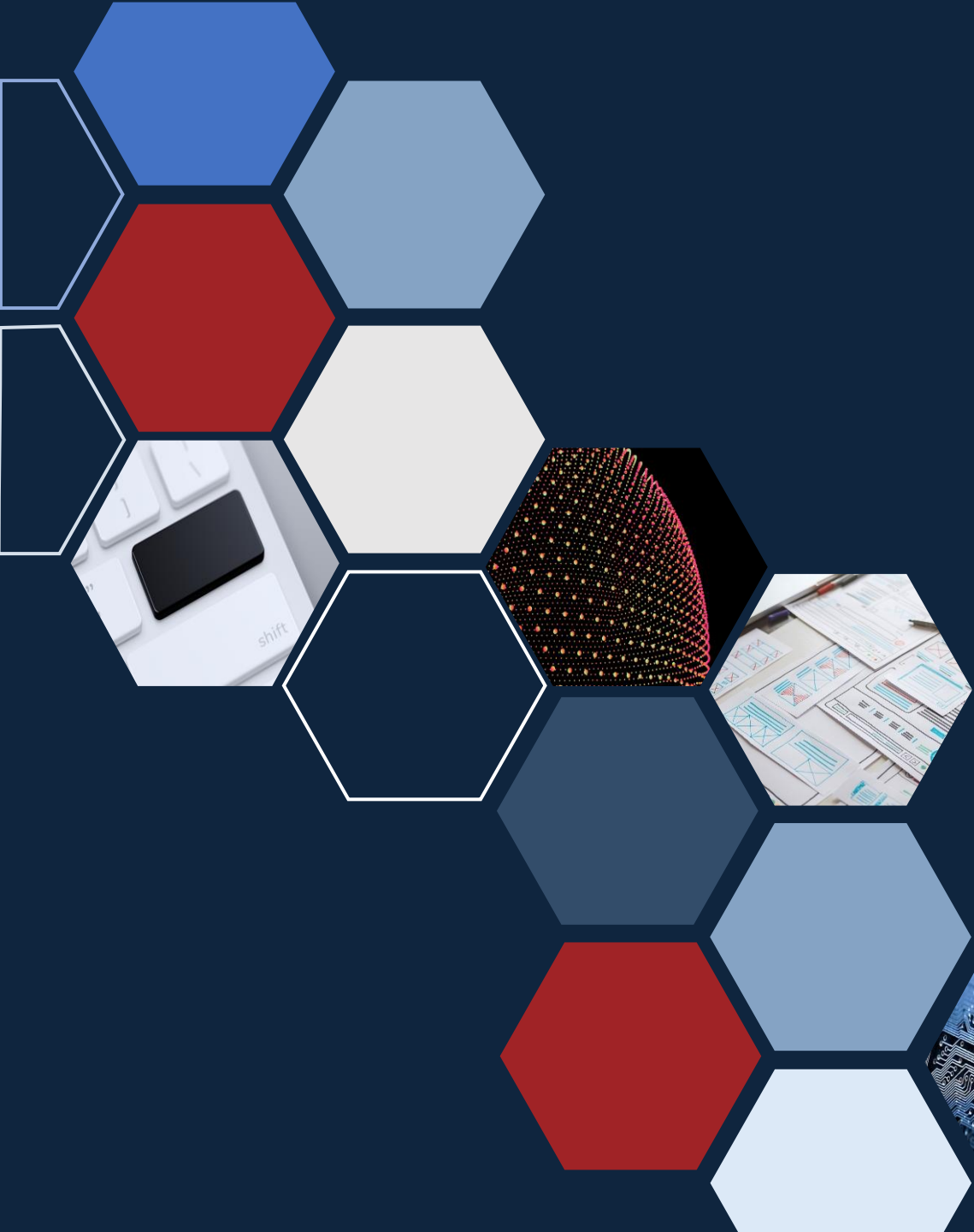
- Safety and soundness and integrity of financial system
- Ultimate source of funds –challenging to determine and trace due to decentralized network

Other Issues

- Valuing the gift
- The mechanics of transfer
 - Identifying the trustee
 - Ensuring completion of the gift - security
 - Account set-up
- A variety of issues arise from charitable donations
 - Because cryptocurrency is “property” following IRS Notice 2014-21, charitable contributions of cryptocurrency are subject to rules on donations of property
 - Substantiation rules
 - Filing of Form 8283 if a donee organization sells the asset within 3 years
 - Qualified appraisals
 - Diversification concern for trustees
 - Aggregation of contributions of “similar items of property”
 - Planning for CRATs?

A Few More Thoughts on QSBS

- Other sessions have covered a number of issues relating to QSBS, an asset often held by younger clients involved in starting businesses
- Some specific issues involving wealth transfer:
 - Some common strategies could invalidate QSBS status, as by contributing QSBS to a family partnership
 - Although a number of nonrecognition transactions, including tax-free incorporations and reorganizations, preserve QSBS status, a transfer to a partnership under section 721 does not
 - Other gifting techniques
 - Making a gift of QSBS does not invalidate its status – section 1202(h)
 - Sale to an IDGT?
 - For income tax purposes the stock has not left the ownership of the seller, and since section 1202 is an income tax provision that should determine eligibility for QSBS treatment
 - GRATs



Thank You

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