Oregon State Bar
Sustainable Future Section

Winter 2011

The Long View

Sustainability and the Discount Rate: An Economist's Perspective

By Randall Pozdena, PhD[1]

The first use of the term sustainability in the context of husbandry of the earth's resources was at a United Nations meeting in Sweden in 1972. The term was not defined formally, however, until the UN's Brundtland Commission issued a report in 1987. The Commission report defined sustainable development as "development that meets the needs of the present without compromising the ability of future generations to meet their own needs…"[2]

The notions of efficient allocation of resources and intergenerational equity were not new to economists. The UN had rediscovered concepts that economic philosophers Adam Smith and John Stuart Mill had elucidated in the 18th and 19th centuries respectively.[3] The addition of the use of the vague notion of "needs" in the sustainability definition was not an improvement, from an economist's point of view.[4] However, the popularization of the sustainability terminology invigorated an important, long-standing debate – how to properly balance the allocation of resources among present versus future generations so as to maximize society's welfare over a long time horizon.

Present Value and Discount Rates

The tool used by economists to incorporate future effects in today's decisions is a mathematical calculation called *present valuation*. As the name implies, present value calculations allow complex streams of future benefits or costs to be expressed as a single number in present day terms. A key parameter of this calculation is the rate of discount. This interest rate-like concept, in effect, determines by how much a future receipt of a dollar need be discounted to make market participants indifferent between receiving the payment in the future or today.

There is a reason that the use of the appropriate discount rate is so important to the sustainability movement. It is because use of higher discount rates biases investment and spending choices toward those that yield net benefits in the near term versus the longer term. Conversely, use of a low discount rate favors activities that may yield small benefits in the near term relative to the long term.

A simple example illustrates the sensitivity of present value calculations to different discount rates.

Let us say that one must wait 50 years for a forest planted today to mature and yield $1,000,000 in revenue. How much should the landowner invest today planting the trees? If the landowner uses a discount rate per annum of 10

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percent, the landowner can only justify spending about $8,500 planting the stand. If a discount rate of 3 percent were used instead, spending approximately $228,000 would be justified—an amount higher by almost 27 times.[5]

This example explains why the discount rate issue is so controversial in long-term, charged sustainability topics such as global warming. In 2006, the famous *Stern Review on the Economics of Climate Change* was published to guide UK climate policy. Stern had used a 1.4 percent discount rate. This resulted in a policy recommendation that 1 percent of GDP per annum be foregone for the sake of future generations' economic well-being. Stern's choice of such a low discount rate had amplified the present value of climate change costs by a factor of 4 relative to previous studies.

Eminent economists lined up as both critics and supporters of Stern's discount rate selection, while environmental organizations and policy think tanks tended to align themselves along more predictable political lines.

The Social Discount Rate Debate

A layperson must wonder why the economics profession has not advanced a definitive opinion regarding discount rate policy in sustainability settings. In this section, we present a brief summary of the in-house debate among economists.

During most of the 100+ year history of financial mathematics, a view called the "revealed preference" view has prevailed regarding choice of discount rates. The concept behind this view is that the marketplace makes present value calculations all the time, and the various interest costs of borrowed funds observed in the market reflect the rate of discount implicit in the minds of borrowers and lenders. It is hard to dispute that bond and loan rates accepted voluntarily by borrowing and lending parties reflect these private sentiments, adjusted as needed by the size, risk, and duration of borrowing arrangements.

Nobel laureate Kenneth Arrow lent some weight to the conventional view in his comprehensive treatise with Kurz in 1970.[6] However, over the years other economists advanced the notion that a special, lower "social discount rate" be used for government projects and policies that had multi-generational impacts. Ramsey, in 1928, for example, argued in favor of not discounting the future at all in public projects, saying that for government to do so was "ethically indefensible". The logic of this view comes primarily from the assertion that, because future generations do not (by definition) participate in today's financial market negotiations, their interests are underrepresented in balancing future benefits against present costs. If true, then government might wish to use a lower discount rate to advance intergenerational equity in access to resources.

Many economists view the social discount rate proposition as paternalistic and, more importantly, factually and conceptually flawed. The *factual* flaw is that this proposition is inconsistent with widely observed bequest activity, and other voluntary sacrifices of current consumption to preserve assets and resources for future generations.[7] Indeed, in 2010 alone, over $191 billion.[8] In estate bequests were filed with the IRS. Bequeathing such estates, instead of consuming them over one's lifetime, will tend to put downward pressure on observed interest rates, with the same effect on discount rate. In effect, this addresses the intergenerational equity issue not only for those involved in the bequest, but for the economy as a whole.

The *logical* flaw in the case for a lower, social discount rate is that, contrary to the presumption, a current generation, in fact, has a natural, selfish economic interest in future generations of their and others' offspring. This arises not only out of possible need for children's assistance in old age, but also the consumption benefits of having prosperous offspring and opportunities for grandchildren to prosper and live in a prosperous society. Indeed, some economists have argued that the interest in future generations is, in effect, perpetual because grandchildren will be happy only if their children have the prospect of being happy, etc. Studies of family income dynamics over multiple generations confirm that patience in consumption by the current generation is, indeed, passed along to the next generation.[9]

Practical Considerations

The theoretical debate about whether or not to use low, social discount rates has become increasingly arcane and, in this author's view, unhelpful.[10] Moreover, in practice, other phenomena and practices are ignored that bear upon the state of the world that we pass to the next generation.

First, some of the theoretical demonstrations of the need for a social discount rate assume no technological progress. But we do enjoy technological progress and it constitutes an unavoidably trans-generational bequest. Impoverishing the current generation may be counterproductive if it also retards the investment and private entrepreneurship needed to innovate.

Notes

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[2] *Our Common Future*, Report of the World Commission on Environment and Development, World Commission on Environment and Development, 1987. Published as Annex to General Assembly document A/42/427, at Section IV-1.

[3] Smith, A. (1776). *An Inquiry into the Nature and Causes of the Wealth of Nations*, at Vol. 1., and Mill J. S. (1861). *Utilitarianism* at pp.251-32.

[4] Modern economists bridle at the term "needs", preferring less vague and more readily measureable indicia of social welfare.

[5] The same large differences apply when a stream of annual values is relevant rather than a distant, one-time effect. The present value of a stream of constant payments stretching 100 years into the future, for example, is over 4 times larger the present value using a 2 percent discount rate than a 10 percent discount rate.

[6] Arrow, K., and M. Kurz (1970). *Public Investment, the Rate of Return, and Optimal Fiscal Policy*, Baltimore: Johns Hopkins University Press.

[7] Source: US Internal Revenue Services, Statistics on Income, retrieved October 2011.

[8] These statistics exclude estates that have avoided tax filing requirements or been distributed to the next generation through gifting, insurance, or other bequest strategies before death.

[9] See, for example, Zeldes, S. (1989). Consumption and Liquidity Constraints: An Empirical Investigation, *Journal of Political Economy*, 97(2), at 305-346, and Becker, G. and. C. Mulligan. (1994). Endogenous Determination of Time Preference. Gary S. University of Chicago. Revised, July 20 1994.

[10] An example is an article by Caplin and Leahy (2004) who argue that the current theory ignores *prior* generations' welfare, and if certain specific conditions hold, doing so resurrects the lower, social discount rate policy. See, Caplin A. and J. Leahy, 2004. "The Social Discount Rate," *Journal of Political Economy*, University of Chicago Press, vol. 112(6), at pages 1257-1268.

[11] See Zeldes, *op cit.*

[12] Costello, C., S. Gaines and J. Lynham (2008). "Can Catch Shares Prevent Fisheries Collapse?" *Science* 19 September 2008: 321 (5896), at pp. 1678-1681.

[13] For a more technical and comprehensive discussion of discount rates, see Arrow, K.J., et al. (1995). *Intertemporal Equity, Discounting, and Economic Efficiency*, *in* Climate Change 1995: Economic and Social Dimensions of Climate Change, Contribution of Working Group III to the Second Assessment Report of the Intergovernmental Panel on Climate Change, (J.P. Bruce & Haites E.F. eds., 1996).

Second, to the extent that adoption of very low discount rates results in material diminution of current incomes, the tables may be tilted toward more, rather than less, current consumption versus savings. Economist Stephen Zeldes has demonstrated that "patience" in consumption is positively correlated with income.[11]

Finally, the popular view of our climate and environmental problems is that these problems represent a "market failure". Market failures are viewed as soluble only by countervailing public activity. In fact, the problem may be more the case of government having failed to create the legal conditions to support a market in the first place than the failure of a functioning market.

The assignment of private rights has proven to be successful in the preservation of certain ocean fisheries via "catch share" privatization. Establishing such private property rights halts and restores beleaguered fisheries.[12] It does so by avoiding the so-called "tragedy of the commons", where lack of distinct property rights leads to joint plundering of a common resource. Such approaches avoid the issue of evaluating the benefits and costs of direct, public interventions and, hence, the issue of the appropriate discount rate.

Summary

The notion of sustainability and its aim of balancing the needs and resources across generations is not a new or special concept from an economics standpoint. Though defined more vaguely, the sustainability notion is analogous to the economist's traditional dynamic goal of allocating resources multi-generationally to the maximum benefit of society.

The choice of discount rates in the public sector context has long been a complex decision. It is an especially charged issue in the context of climate change policy, but also in many ecosystem sustainability contexts. This brief article cannot address all of the features of this debate.[13] However, it is probably fair to say that the economics profession remains divided on the issue of the use of very low, social discount rates in a sustainability setting, but is leaning against doing so.

In this economist's view, the case for the use of low, social discount rates is too weak to justify its use, particularly where material disruptions of the economy will follow. In such cases, it seems prudent to first employ methods of engaging economic self-interest to address the risk of resource plundering, since we know so little about the consequences on technological progress of massive reallocations of resources through state interventions.

A good case can be made that market rates used to settle private financial matters already incorporate intergenerational welfare considerations through the inherent, multi-generational perspective of the human family. In my view, this justifies extending the revealed-preference approach to discounting to matters in the public realm as well.

Helping Provide Solutions to Climate Change

By Nancy Reiner

Editor's Note: Pro bono legal services have traditionally been offered to indigent people and organizations focused on social service. We asked Nancy Reiner, co-founder of Green Pro Bono, Inc., for background on this new organization.

In 2009, Green Pro Bono, Inc. (www.greenprobono.org), a §501(c)3 nonprofit corporation, was founded in Boston by attorneys Nancy Reiner and Christopher Mirabelle. Its purpose: to connect interested lawyers with social entrepreneurs and nonprofits in the environmental and green technology fields. This would serve two market dynamics. The steady demand of mission-driven social entrepreneurs, who develop creative solutions to the world's environmental and energy problems, often have limited means to get from idea to product delivery. At the same time, lawyers in many practice areas, such as corporate, financial services, employment, or trademark law, would like to "give back" in this area.

Green Pro Bono operates as an all-volunteer organization, and Ms. Reiner and her colleagues (including 20 volunteers) have connected more than 25 social entrepreneurs with lawyers who have provided more than $300,000 worth of legal services over the past 12 months. Attorneys who have accepted assignments come from high profile, large law firms as well as smaller practices. "Our goal," Ms. Reiner reports, "is to give lawyers the opportunity to help create solutions to our environmental problems by connecting them with mission-driven projects."

An example of a Green Pro Bono success is EGG-energy, Inc. (www.egg-energy.com), a company started by a team of individuals from Harvard and MIT. EGG-energy's founders developed a simple solution to a complex problem in the developing world, the lack of a power grid to support use of modern technology tools (i.e., light bulbs, televisions, and computers) in low-income, sub-Saharan African households. To address this problem, EGG-energy built a reliable, portable, and rechargeable battery, which can be regularly recharged at a central village location. Villagers rent the battery, use it for their home needs (in place of carbon-emitting kerosene), and exchange it when depleted [discharged], at the central depot, for a fully charged battery. They call themselves "the Netflix of batteries", only instead of movies, they deliver power.

EGG-energy asked Green Pro Bono to find a lawyer to work pro bono on financial service matters and Green Pro

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Bono was able to connect EGG-energy with corporate law partner and board member Paul Schwartz at Goodwin Procter. As EGG-energy Co-Founder and Director Jukka Valimaki stated, "Green Pro Bono provided EGG-energy with a tremendous benefit to get quality pro bono help from a major law firm; it allows our limited funds to go toward accomplishing our objectives in Tanzania instead."

Any interested lawyer or law firm may associate with Green Pro Bono as it expands to serve communities and lawyers across the globe and in your local community.

For more information, contact Nancy Reiner:

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Nancy B. Reiner is a Managing Director at Major, Lindsey & Africa, where she focuses on in-house and law firm placements for senior-level attorneys. and placing contract attorneys at legal departments and law firms. Prior to this position, Ms. Reiner was the Executive Director of the Boston office of Counsel On Call. Nancy was also a partner at Brown Rudnick LLP in Boston for 17 years.

Report on Sustainable Future Section Annual Meeting

By Robin B. Seifried

The Section's 2011 Annual Business Meeting was held on November 4, 2011. At the meeting, Section Chair Jim Kennedy summarized the Section's activities and accomplishments over the past year. In 2011, the Section successfully increased its visibility in the Bar through its programs and reached 290 members. The Section's programs this year included an overview of potential legislation relating to sustainability, a discussion of the concept of the steady state economy, a presentation on the current state of and outlook for the nuclear power industry, and an overview of land trusts in Oregon.

In addition to its programs, the Section released four issues of The Long View, including this current issue, launched the resources section on its Web site, and developed the foundation to launch its Partners in Sustainability program. The Section also continued examining through its study groups the extent to which sustainability criteria are incorporated into requests for proposals, and how to implement the idea of protecting the environmental rights of future generations.

The Section is completing the year with a positive cash balance. The largest expense this year was the OSB support services assessment, followed by costs for programs and the Annual Award and Celebration. Next year, the Section plans to charge non-member fees to attend programs, which will cover a portion of the costs to put on the programs.

At the recommendation of the nominating committee, the Section elected the following slate of officers and executive committee members: Treasurer, Robin Seifried; Secretary, Janna Aginsky; members-at-large (two-year terms), Jennifer Gates, Diane Henkels and Barry Woods; and members-at-large (one-year terms), Dallas DeLuca and Robert Mauger. The offices of Chair (Michelle Slater) and Immediate Past Chair (Jim Kennedy) were filled automatically.

Two weeks after the Annual Business Meeting, the Section held its second annual Award and Celebration event. At the event, the Section presented its Law Office Sustainable Leadership Award to Schwabe, Williamson & Wyatt.

Robin Seifried is an attorney at Cable Huston.

Oregon's New Carbon Footprint of Consumption

By David Allaway

As states and local communities attempt to reduce greenhouse gas emissions, they typically begin with a greenhouse gas inventory – an accounting of how the community contributes to emissions. These inventories provide a baseline against which reduction goals are set, as well as an ongoing framework for measurement. Inventories also serve as the primary basis for communicating with policymakers and interested parties how the state contributes to global warming.

Over the past two decades, a relatively standard method has evolved to account for emissions at the sub-national scale. It involves quantifying emissions that physically originate within a geographic boundary, such as the state's borders. For more than a decade, the State of Oregon has used this geographic approach as the basis for official state inventories, with one important exception. Oregon was one of the first states to account for emissions associated with electricity used within the state, regardless of where generation occurs. As such, Oregon's inventory reflects emissions that can be reduced through in-state actions such as electricity conservation and renewable power requirements. However, even with the adjustment for electricity, Oregon's traditional inventory presents an incomplete picture because it omits many of the emissions associated with consumption of products and materials.

The limits of the traditional geographic approach are exemplified by the United Kingdom. Between 1992 and 2004, the UK's in-boundary emissions fell by almost 5 percent. Celebrated in most circles as a sign of the UK's success at reducing emissions in line with Kyoto Protocol obligations, the underlying story was more complex. During these years, the UK experienced a significant movement of industry to countries where, on average, production is more carbon-intensive than in the UK. The

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greenhouse gas emissions associated with producing the goods actually increased. But due to lower labor costs, the prices paid by UK consumers fell. This created a double-whammy for emissions: the carbon footprint of goods increased, even as UK consumers purchased increasing numbers of those goods. When the UK took the unprecedented step of commissioning a consumption-based greenhouse gas inventory, it discovered that emissions associated with UK consumption rose by almost 18 percent during the same time period.[1] In fact, more recent research has shown that among countries pledging emissions reductions under the Kyoto Protocol, their "counting" (domestic) emissions reductions between 1990 and 2008 were dwarfed by an increase in emissions associated with imports.[2]

Until recently, no state in the U.S. had estimated its consumption-based emissions. The Oregon Department of Environmental Quality changed that in October, with publication of an estimate of Oregon's greenhouse gas emissions. This consumption-based inventory estimates the emissions – globally distributed – resulting from consumption in Oregon. Like the conventional approach, the consumption-based inventory, by itself, also tells an incomplete story. In addition, results of the consumption-based inventory are generally less precise than the conventional inventory. But only by looking through both lenses does one fully understand how Oregon contributes to climate change – as a result of both production and consumption.

Results

DEQ's consumption-based inventory estimates emissions for calendar year 2005. Emissions may be estimated for future years as resources allow.

For 2005, global emissions associated with Oregon consumption were almost 50 percent higher than Oregon's territorial emissions. More than half of Oregon's consumption-based emissions occur in other states (31 percent) or nations (23 percent). While the direct consumption of electricity and fuels contribute to emissions (15 percent and 26 percent respectively), consumption of materials contributes more – between 35 percent and 48 percent of the total. Consumption of services (including legal services) rounds out the total with 11 percent to 24 percent.

Among materials, and setting aside the large emissions associated with product use (such as fuel-burning cars and furnaces), most emissions occur far upstream of the consumer, primarily in manufacturing. Freight contributes surprisingly little, as does disposal. Categories of materials with significant "upstream" emissions include food, construction, heavy machinery, furnishings and supplies, vehicles, electronics, clothing and medicines.

Another way to look at emissions by product category is to consider emissions intensity, normalized to volume of consumption. Oregon's study expresses intensities as emissions per dollar of consumption. This gives an indication of the emissions impacts of a given unit of spending. When Oregonians make choices about how to spend their discretionary income, the climate impact can be significant. For example, electricity had a 2005 emissions intensity of almost 7 kilograms carbon dioxide equivalents per dollar (CO2e/$); fuels are next at almost 6 kg CO2e/$. Materials, while contributing the most to emissions, have emissions intensities 10 times lower on average (about 0.55 kg CO2e/$ on average, although several types of food have intensities above 2 kg CO2e/$). Services tend to have the lowest emissions intensities (0.17 kg CO2e/$, on average), with a few notable exceptions (garbage service and air travel).

The model used to estimate these emissions is a multi-regional one, which allows for comparisons of emissions intensities between different regions. Intensities can vary widely. For example, the emissions intensity of Chinese- and Indian-made clothing is roughly five times higher than clothing made in Mexico (2.0 kg CO2e/$ vs. 0.4 kg CO2e/$). U.S. production often has lower emissions intensity than many of the countries it relies on for imports. However, these results require great care when interpreting, as the project's report makes clear. Regardless, if "local is better" from a greenhouse gas perspective, it often is not a consequence of lower freight impacts, as commonly assumed, but rather, differences in production conditions.

The consumption-based inventory sheds new light on how Oregon contributes to emissions and, by extension, opportunities to reduce those emissions. Some findings – such as the importance of buildings and transportation fuels – are consistent with the conventional inventory. Others – such as the importance of products, and potential roles for strategies such as supply chain management, producer responsibility, carbon footprinting and "sustainable consumption" – result from the particular accounting lens of consumption. In any event, Oregon now has a more complete framework by which to consider our carbon footprint and options for reducing it. We hope that other states will follow suit.

David Allaway is a senior policy analyst at the Oregon Department of Environmental Quality.

[1] *Wiedmann, T., Wood, R., Lenzen, M., Minx, J., Guan, D. and Barrett, J. (2008) Development of an Embedded Carbon Emissions Indicator – Producing a Time Series of Input-Output Tables and Embedded Carbon Dioxide Emissions for the UK by Using a MRIO Data Optimisation System, Report to the UK Department for Environment, Food and Rural Affairs by Stockholm Environment Institute at the University of York and Centre for Integrated Sustainability Analysis at the University of Sydney, June 2008. Defra, London, UK*

[2] *Peters, G., Minx, J., Weber, C., and Edenhofer, O. (2011) Growth in emissions transfers via international trade from 1990 to 2008, published April 25, 2011 in the Proceedings of the National Academy of Sciences of the United States of America.*

Project web page and reports:
http://www.deq.state.or.us/lq/consumptionbasedghg.htm

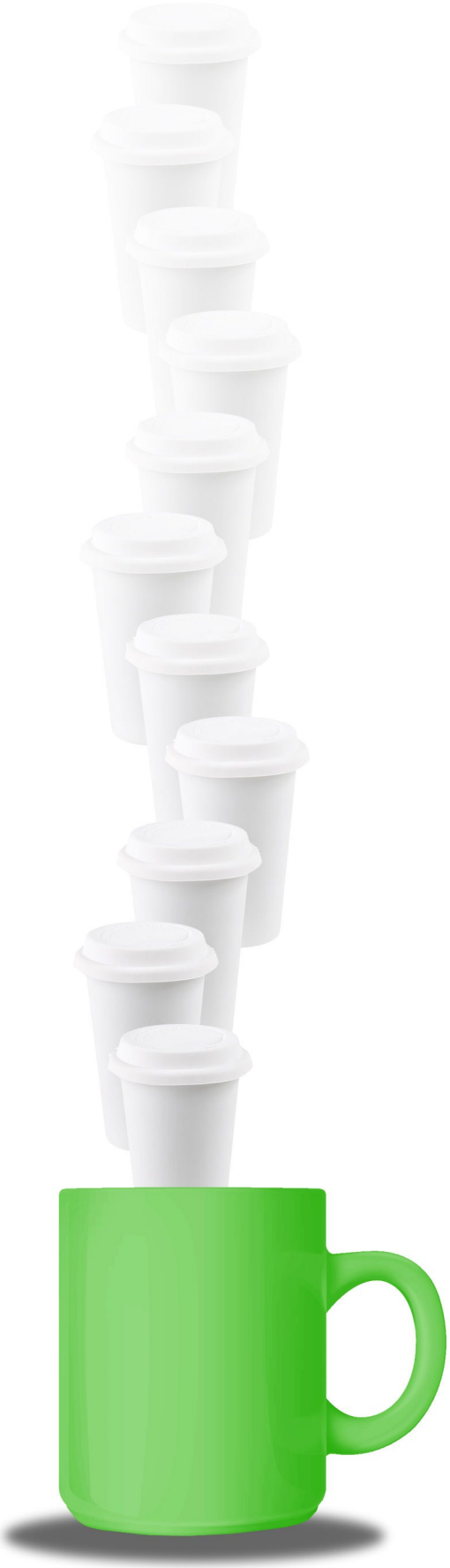
The Schwabe "Cups-To-Go"

by Carmen Calzacorta, Schwabe, Williamson & Wyatt

Many of us have planned to take our own durable water bottles or travel mug to avoid having to toss a disposable cup. But darn it – just like the well-intended cloth grocery bag – we stand in line empty handed. This is the scene that sparked the idea. But, it really started with our internal sustainability audit and a culture and environment in which people were willing to try some outside the box ideas that translated into a business case that worked for everyone.

In 2005, Schwabe Williamson & Wyatt ("Schwabe") hired an outside company to perform an internal audit and to help develop our sustainability plan. One of the audit items was inventorying our trash. We found a lot of paper cups. First we discontinued the use of paper and other disposable cups in our office– going to durable and washable cups instead. We distributed Schwabe branded traveling mugs to Schwabe folks and clients. It required an investment in the cups, new dishwashers, and some new duties for staff, but we got the desired result: the number of paper cups in the trash decreased.

Then, in early 2008, one of the lawyers on our sustainability committee found himself in line at Starbucks, without his travel mug, and realized that there has to be a better system. He was tired of coming into the building and going to his office only to turn around and go back to Starbucks for coffee. Back at his office he thought, "Can't Starbucks hold mugs for us?" That's where the idea started.



The sustainability committee knew that we would have to make the business case – not only to our firm, but to Starbucks. We started penciling it out: How much would the mugs cost (they had to be cost-effective and made from recycled materials yet unattractive enough that people wouldn't want to collect them? Who would be responsible for cleaning and getting the mugs to Starbucks and what did that cost us? Did we have the dishwashers to do it? Would Starbucks even entertain the idea? And could we convince them that it was a win-win?

Seeking a benchmark, we asked the Pacwest Center building management to help us go through our trash for one night and count up the Starbucks cups on our floors. With their help, we determined that we were responsible for about 140 cups per business day or about 36,400 cups in a year. WOW!

With this information, our director of operations went to see the manager at Starbucks. Their manager was enthusiastic but had to review it and clear it with their district manager and make sure that Starbucks complied with health laws. They came back and identified storage as a concern. We kept talking and discussed limiting the number of cups held at Starbucks and Starbucks starting looking at alternative ways of storing the mugs, and soon there was a solution.

Our initial launch was June 2008. We rolled it out and informed everyone about the 10 cent discount for using our reusable mugs and the honor system for returning them. We soon discovered that the mugs we had ordered didn't survive the dishwashers well. The second batch of mugs had a new problem: the lids held soapy water. The third batch resolved the issue. Then we had trouble keeping up with demand – we quickly exceeded our initial orders. There were some other start-up hiccups.

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LESSON LEARNED: It is tougher to get people to keep trying a new program if their first experience is bad, so plan ahead.

We also had a communication plan. For the first few months, we would remind everyone about the program and why we were doing it.

And we had to deal with the skeptics' questions: How much effluent is released into the sewer system? Is the washing biodegradable? How much energy is consumed by washing the mugs? What is the cost of dedicating someone to manage the process? We were able to work through these issues by communicating the benefits of the program and addressing to the extent we could the impact of the changes, but we still have skeptics.

LESSON LEARNED: You will get some resistance.

We now have about 250 Schwabe cups -to-go in circulation every business day in Portland. It has become an everyday habit for many of us to ask for a "Schwabe mug" at the Pacwest Center Starbucks. At the end of each day the Schwabe mugs are collected and washed at Schwabe and returned to Starbucks. We still have lawyers that walk into meetings with paper cups and many of us make a remark about them. We no longer fill the trash with paper cups, but those few that remain still can't be composted. The challenge and education continue.

The initiative gave us something that we are proud of and something to build on. Not an easy feat for lawyers, who by their nature are cynical and pessimistic. It has inspired us to look for other projects, and we continue to surprise ourselves.

The Sustainable Future Section proudly congratulates Jim on the formal recognition of his significant contributions to the goals of sustainability in the legal profession.

James M. Kennedy Receives OSB President's Sustainability Award

In November 2011, Jim Kennedy was presented with the Oregon State Bar President's Sustainability Award. The award was created in 2010 to recognize extraordinary leadership by an Oregon lawyer or law firm in promoting sustainability within the Bar and legal profession.

Jim has been a leader in promoting sustainability in the legal profession for many years. In 2007, Jim served as Chair of the Oregon Lawyers for a Sustainable Future Sustainability Task Force and was actively involved in drafting legislation related to corporate sustainability (House Bill 2826). As a result of Jim's efforts (with Dick Roy) and the persuasive case they presented to the Board of Governors, an OSB Task Force on Sustainability was formed in 2008. Due in large part to the work of that Task Force, of which Jim was a member, the Board of Governors in 2009 approved formation of the Sustainable Future Section of the bar and adoption of the OSB sustainability Bylaw (Section 26).

As the first Chair of the new Sustainable Future Section, Jim has provided strong leadership for the Section during its first two years. Though his term as Chair concludes at the end of 2011, he continues to serve on the Executive Committee and his contributions to the Section continue to impress.

Jim's involvement in sustainability is both personal and professional. He identifies four factors that played a significant role in developing his interest in sustainability:

(1) a concern for the future welfare of his three children and others of their generation; (2) the mentorship of Dick Roy, recipient of the OSB President's Sustainability Award in 2010; (3) his interest in how the legal system needs to change in order to protect the interests of future generations and meet the challenges of the next century; and (4) restoration of rural timber property in Grant County, Oregon owned by Jim and his family. Having witnessed the explosive growth in the length and complexity of legal documentation and the corresponding increase in the use and waste of paper, Jim and Rhonda, his wife and law partner, sought to regain a sense of personal equilibrium through their timber property restoration. Their efforts have included planting over 30,000 trees, restoring forest health, bringing back native grasses for forage, restoring riparian areas, eliminating invasive species and improving wildlife habitat, giving them extensive hands-on knowledge of the intricacies and challenges of sustainability.

The results of Jim's efforts regarding sustainability are equally evident in the legal profession and around the bar. For his tireless commitment and patient leadership, the President's Sustainability Award is well-deserved.

Investing With Impact:

Generating Strong Financial, Environmental, and Social Returns

By Nathan Kadish

Volatility in the stock market and questions about the practices of major banks have many people seeking new investment options. Increasingly, investors are critically evaluating the social and environmental impact of their choices. Finding investments that achieve strong financial, environmental, and social returns, however, is challenging. This article introduces two areas of focus for so-called "impact investors" -- local and social enterprises -- and three financial vehicles for accessing these markets: direct investments, loans, and public equities.

As background, impact investing is not assured by relying on a socially responsible investing (SRI) label. In many SRI funds, managers screen out certain types of businesses (oil, tobacco, fast food, etc.), but don't consider the positive impact (if any) generated by the businesses in which they ultimately invest. While a negative screen will disqualify certain companies, it does not necessarily drive beneficial social or environmental change in a significant way.

In contrast, locally owned investing (LOI) and social enterprise investing (SEI) provide a sharper focus for impact investors. LOI can be attractive as a strategy to retain capital within one's community - be it a neighborhood, city, state, or region - by injecting cash into locally owned independent businesses. This creates a multiplier effect as profits and working capital circulate locally. SEI moves beyond negative screening and seeks to support enterprises that generate financial, social, and environmental returns.

In recent years, there has been tremendous financial innovation in the impact investing space. Three of the more mainstream vehicles that give investors access to LOI and SEI opportunities are: direct investing, loan funds, and public equities.

Direct Investments

In Port Townsend, WA, a group of citizens started the Local Investment Opportunities Network (LION). They invest only in locally owned businesses in East Jefferson County. There are no qualification requirements for an investor except a pre-existing relationship with the business owner seeking capital. LION acts as a social platform, hosting member-only gatherings for investors and business owners to discuss ideas and opportunities. Approximately 95% of the businesses are looking for loans (5% are seeking equity). Because LION members engage in direct investments, without an intermediary, the investments generate higher returns than a bank CD and the businesses borrow below bank rates (most LION loans have interest rates of 5-8%). Since LION's inception in 2008, none of its $2 million in loans has defaulted.

Loan Funds

A loan fund is a common vehicle for impact investing because often social enterprises don't qualify for conventional financing. Similar to a CD, a loan fund requires a minimum deposit for a fixed timeframe. Unlike a typical bank, however, fund managers research not only the borrowing company's financial stability, but also its environmental practices and social interactions. Examples of these funds include the following:

Equal Exchange CDs finance a worker-owned co-op that runs the largest 100% "fair trade" company in the United States. The investment thresholds are $500 and a three year term. A $4,000 deposit (which is used as a loan guarantee to generate a line of credit) enables Equal Exchange to buy the entire annual crop from a third world farmer (five acres, supporting six-eight people). As of October 2011, the interest rate on this CD is 0.4% on a 36-month term, compared with Bank of America's 0.6% rate for the same term. Thus, for $8 less in return per year for three years, an investment in an Equal Exchange CD keeps a family on its farm, improving its quality of life. While the CDs are not FDIC insured, Equal Exchange states that it has never defaulted on a loan during its 24 years of operating.

Another example of a loan fund is RSF Social Finance, which lends money to social enterprises (both for-profit and not-for-profit organizations). The investment thresholds for its Social Investment Fund, a diversified direct loan fund, are $1,000 and a 90-day term. Interest is adjusted quarterly, and can be accrued, paid out, or donated to an RSF donor advised fund. The current interest rate is 1% annualized, which has not changed over the last 9 quarters (as of October 2011). Unlike bank rates, which fluctuate with the prime rate, RSF's rates are based on quarterly pricing meetings led by investors and borrowers. In total, RSF has generated over $230 million in loans, and currently has $70 million deployed over 70 projects. According to RSF, it has a 100% repayment rate since 1984.

Finally, One Pacific Coast Bank (which acquired ShoreBank Pacific in 2010) in downtown Portland is an FDIC insured bank, and currently offers a 1% return on a 36-month CD ($1,000 minimum deposit). One Pacific Coast's loan officers screen companies for environmental and social responsibility.

Public Equities

Direct investments and loans enable investors to inject cash into a business. In contrast, investing in a public equity by purchasing shares of stock generally does not provide any new funds directly to the business. It simply triggers an exchange of ownership at the stockholder level. Investing in this way provides an important signal to the investment community and can lead to positive change through shareholder activism. For example, Portland's Portfolio 21 mutual fund (^PORTX), employs negative screens, shareholder activism, and invests in businesses that are innovating to meet social and environmental goals. Portfolio 21 requires a minimum investment of $5,000 (or $1,000 for retirement accounts).

Conclusion

For the socially conscious investor, finding opportunities to invest with impact can be an overwhelming endeavour. Fortunately, as businesses shift their strategies to generate environmental and social returns (in addition to profits), options for retail and accredited investors to infuse capital into such enterprises will expand. The job of concerned investors is to watch for these opportunities and to ask their financial advisors to do the same.

Nathan Kadish developed his interest in impact investing based on experiences working with Oregon Business Council, Stand for Children, ShoreBank Pacific, and PwC's management consulting practice. He coordinates the impact investing study underway at the Center for Earth Leadership.

He's a native Portlander and received his MBA from the Kellogg School of Management at Northwestern University. Nathan is not a financial advisor. The examples of investment opportunities in this article are to illustrate approaches only, and are not an endorsement or recommendation of any approach or product.

Consider This:

"We are seeing the birth of a new perspective of the world, where ecology and economics are two sides of the same coin." - *Leif Johansson*

Editor's Note:

Thank you for reading *The Long View*.

Your feedback and suggestions are welcome. E-mail your comments to:

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The Long View

Photo by J. Michael Mattingly

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Announcements

Partners in Sustainability Program

The Sustainable Future Section (SFS) is pleased to announce a new **Partners in Sustainability** program.

In early 2012, the Sustainable Future Section will launch its **Partners in Sustainability** program.

The purpose of the program is to recognize and celebrate Oregon law firms that meaningfully implement sustainable office practices that satisfy criteria established by the Section.

The Program objectives are consistent with the sustainability goals articulated in Section 26 of the Bylaws of the Oregon State Bar. Each law firm that certifies compliance with the criteria will become a Partner in Sustainability.

The Section will recognize the commitment of Partners in Sustainability on the Section's Web site, the Oregon State Bar's Web site ,in Bar publications, and in other media.

Criteria for the program are broad and encompass such areas as paper management, reduction of energy and water use, waste reduction, sustainable purchasing, efficient transportation, and office education.

In some categories, application of the criteria differs based upon whether the law office is small (1-5 attorneys), medium (6-24 attorneys), or large (25 or more attorneys). To be eligible to become a Partner in Sustainability, a firm must adopt a sustainability policy containing specified elements, select a sustainability coordinator (which may be a volunteer or part-time position), and implement an education program focused on sustainability matters.

In connection with the Program, the Section will publish a Model Law Office Sustainability Policy, containing the required program elements and other recognized sustainable office practices. The Model Policy may be used by law firms without modification or adapted to the firm's circumstances or needs.

To become a Partner in Sustainability, an Oregon law firm completes a simple application that includes self-certification of compliance with the Program criteria. Although the Section will accept applications at all times, in order to be recognized in specified media advertisements or press releases, firms must meet specified deadlines.

Those firms submitting applications before March 15, 2012, will be recognized as Founding Partners in Sustainability in the Section's Earth Day 2012 advertisements in selected media.

The Section is in the process of completing the Program features, and will announce Program details to Section members in early January, 2012.