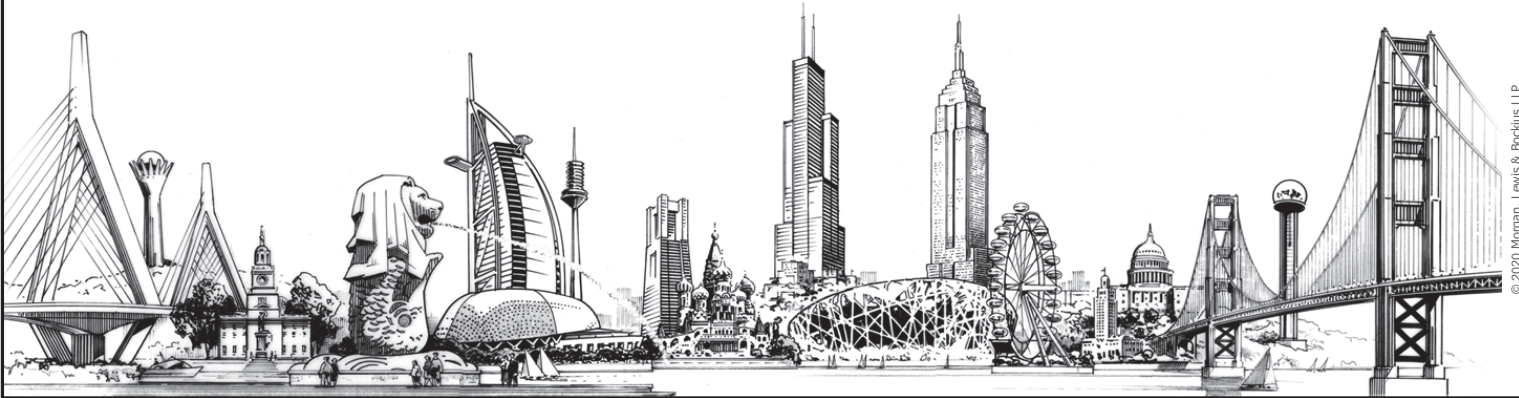


Morgan Lewis

NONPROFIT SECTOR UPDATE

Materials Prepared by: Alexander L. Reid
January 20, 2021

**These materials were prepared without input or review from any government speaker.
They reflect the views of the author only.**



1

Agenda

- Hindsight Is 2020
 - Bonds, Social Bonds
 - The Initiative to Accelerate Giving
 - Notice SCOTUS
 - Pinkert v. Schwab Charitable
 - Americans for Prosperity v Becerra
 - Consolidated Appropriations Act of 2021
- 2021 Starts With a Riot
 - Nonprofits and Insurrection
 - What to Expect in 117th Congress

Morgan Lewis

2

2

Hindsight is 2020

- Hong Kong protests, Soleimani assassination, Iran plane crash, Australian brush fires, Brexit, COVID-19 pandemic, school is canceled, Somali floods, can't buy toilet paper, Bangladesh cyclone, OMG it's airborne!, stock market crash, airline crash in Pakistan, George Floyd / Breonna Taylor / Ahmaud Arbery Black Lives Matter protests, return of Ebola, Russian oil spill in Arctic, China and Nepal floods, Rep. John Lewis dies, Beirut explosion, Weinstein verdict / #MeToo, Kobe Bryant, Prince Harry abdicates, Impeachment, Epstein/Ghislene, school is still canceled, murder hornets!, Chadwick Boseman, California fires, RBG, Armenia/Azerbaijan war, French beheadings, Belarus protests, Jeffrey Toobin zoom incident, Vienna terrorist attack, 30+ hurricanes, Eddie Van Halen, election, Sean Connery (James Bond!), Stop the Steal!, Alex Trebek ... winter holidays canceled...
- **Phew, 2021 is going to be so much better...!**

Morgan Lewis

3

3

Bonds, Social Bonds

June 23, 2020

The Ford Foundation announced the pricing and sale of a \$1 billion aggregate principal Social Bond (taxable), the net proceeds of which will help support and strengthen nonprofit organizations hit hard by COVID-19 pandemic. This Social Bond is the first-ever such offering by a U.S. nonprofit foundation in the taxable corporate bond market. The foundation's bond offering includes 30-year and 50-year maturities, with \$300 million maturing in 2050 and \$700 million maturing in 2070 at a fixed rate of 2.415% and 2.815%, per annum, respectively.

"The low yields and the successful, rare, 50-year maturity achieved through the bond sale are a strong indication of investor confidence in the Ford Foundation's stature in the private foundation space, its mission and investors' appetite for securities with a positive ESG and, in particular, social impact. The 50-year bond maturity is a first of its kind for a U.S. private foundation," said Sally Bednar of Wells Fargo Securities.



Morgan Lewis

4

4

Initiative to Accelerate Giving – Policy Proposals

- 15-year DAFs: Limit donor advisory privileges to 15 years from the date of the donation to the DAF.
- Limit charitable deduction for illiquid assets to the cash received after sale rather than appraised value.
- Postpone income tax charitable deduction until DAF is distributed.
- Liquidate DAF within 10 years of donor's death.
- Remove salary and travel expenses of family members from qualified distributions.
- Treat grants from private foundations to DAFs as non qualifying distributions.

Morgan Lewis

5

5

Initiative to Accelerate Giving – Policy Proposals (cont'd)

- Eliminate the foundation excise tax any year a foundation's payout is 7% or greater.
- Eliminate the foundation excise tax for time-limited private foundation with a life of 25 years or less.
- Increase amount of nonitemizers deduction, consider imposing a 1-2% AGI floor for giving, and continue to exclude gifts to DAFs and private foundations.
- Add new enforcement and reporting requirements

Morgan Lewis

6

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Nonprofit Sector Update, Part I

Also available as part of the eCourse

[2021 Nonprofit Organizations eConference](#)

First appeared as part of the conference materials for the
38th Annual Nonprofit Organizations Institute session
"Nonprofit Sector Update, Part I"