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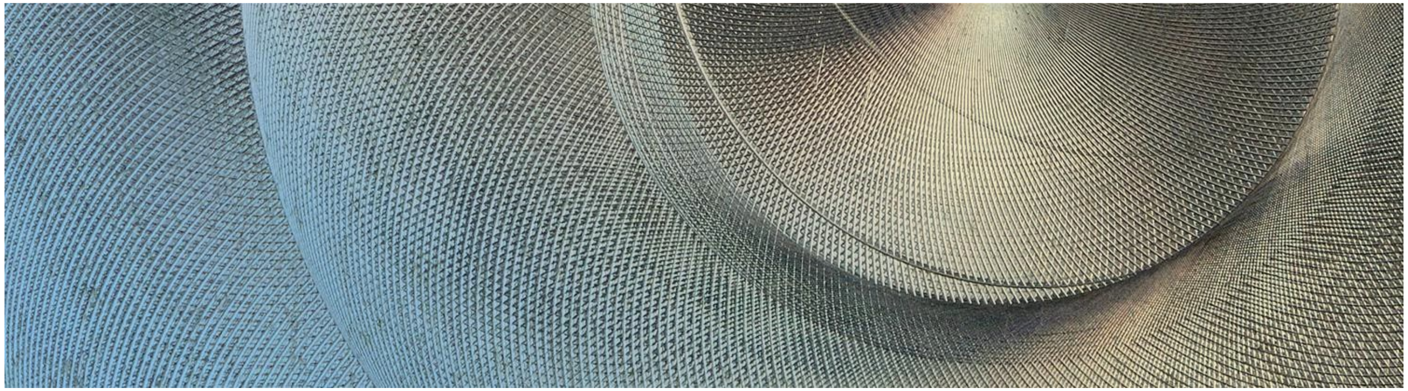

Investing in Times of Crisis

Graystone Consulting and Holland & Knight

University of Texas Law School Nonprofit Symposium

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Overview

- Managing investments during economically difficult times requires directors, trustees, and officers of charitable organizations to take several legal and practical considerations into account
- Charities must be prepared for economic downturns as part of their overall financial planning – this includes considering how changes in the economy may impact the way they approach their investment portofolios
- Charitable organizations in the U.S. generally are formed as nonprofit corporations or charitable trusts and are subject to state law in the jurisdiction of formation with respect to the fiduciary responsibilities of the directors, trustees, or officers
- Further, to date 49 states (all except Pennsylvania) and Washington, D.C. have adoped the Uniform Prudent Managemnet of Institutional Funds Act ("UPMIFA"), which includes investment and fiduciary standards for investing charitable funds and rules unique to spending endowment funds
- This presentation provides an overview of the key legal considerations when making investment management decisions and then walks through real world practical considerations that arise when managing an organization's investment portfolio

General Fiduciary Duties

- Nonprofit corporations are ultimately managed by the directors
- Directors of a nonprofit corporation are subject to fiduciary rules under the applicable corporate law of the state in which the nonprofit corporation was formed
- Generally, all U.S. jurisdictions impose on directors of a nonprofit corporation (i) a duty of obedience, (ii) a duty of loyalty, and (iii) a duty of care
- A charitable trust is governed instead by one or more trustees
- Under applicable state trust law and/or common law the trustees generally are subject to (i) a duty of loyalty, (ii) a duty of competence, (iii) a duty to reasonably exercise discretion, and (iv) a duty of full disclosure to its beneficiaries
- These duties apply with respect to all management decisions made by the directors or trustees, including investment decisions

Title search: Investing in a Time of Crisis

Also available as part of the eCourse
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