



A Framework for Constructive Capital:

Investment, Integrity, Impact

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Executive Summary

***A Framework for Constructive Capital* presents a market-oriented approach for supporting private capital flows and foreign direct investment based on a multi-dimensional foundation of systemic integrity.**

The *Framework* aims to deter the negative consequences of *Corrosive Capital* and reinforce the positive conditions for *Constructive Capital*. It upholds transparency, accountability, and the rule of law as a basis for equitable, inclusive, and sustainable economies. The need for such a *Framework* is based on the experience of the Center for International Private Enterprise (CIPE), which works with business organizations and communities throughout emerging markets to build prosperity and democracy.¹

Corrosive Capital

Opaque capital flows lacking market orientation with motives to exploit governance gaps to influence economic, political, and social developments in recipient countries.

Constructive Capital

Well-governed investment flows that serve transparent, market-oriented, and accountable purposes at both funding sources and destinations.

CIPE has elaborated these two contrasting concepts of capital flows to encourage good governance across a range of institutions and create an enabling environment for business and entrepreneurship. A solid foundation of integrity, along with the participation of a vibrant private sector, will help support investments with a constructive impact. Local economies will benefit from new opportunities, including through connections to global value chains. Moreover, such factors will also stem the flow of investments with a corrosive impact.

CIPE is collaborating with the UK-based Oxford Analytica Foundation to address how countries can develop effective policy frameworks to foster Constructive Capital flows.² This *Framework* has evolved as a response, reflecting a perspective across jurisdictions, institutions, and business communities. This report identifies a series of *Cornerstones for Constructive Capital* which create both a normative and practical foundation. It proposes a model for bridging governance gaps through mutually reinforcing linkages between investment, integrity, and impact. Notably, this can enhance the positive financial flows that contribute to building inclusive economies. Supportive trends in responsible business and investment are reviewed, and potential avenues for action at various levels are outlined. Overall, the *Framework for Constructive Capital* can serve as a catalyst for awareness and engagement across a wide range of stakeholders. It comes at a time of profound challenges across the globe, offering prospects to help shape a resilient and equitable recovery.

Part One: Introduction

A *Framework for Constructive Capital* presents an innovative approach for supporting private capital flows and foreign direct investment based on a comprehensive foundation for systemic integrity. The *Framework* upholds transparency, accountability, and the rule of law as a basis for equitable, inclusive, and sustainable economies.

Crucially, the conditions for well-governed financial flows must be strengthened at both their source and destination. Successful local implementation depends on mutually reinforcing linkages between investment, integrity, and impact. The *Framework* builds on the contributions of a vibrant and responsible private sector, along with stakeholder collaboration. It holds relevance across jurisdictions, institutions, and business communities. Grounded in a renewed commitment to trust, such a strategy will foster investments with a constructive impact and stem the flow of investments with a corrosive impact. As outlined below, global challenges have brought new urgency to the need for Constructive Capital. The crises in public health, economic stability, and political cohesion pose significant challenges to good governance.

Constructive Capital refers to financial flows that are well-governed at the funding source and destination. It supports markets and the rule of law, promotes transparency, and improves governance by holding governments accountable for ensuring a level playing field for the private sector. Such benefits often represent positive externalities of purely market-driven investments. These constructive investments tend to be drawn to businesses and local markets that support sustainable and equitable economic growth. When taken in the aggregate, they can enhance returns and increase future business opportunities. At a tipping point, constructive capital can spark a cycle of investment and business environment improvements. This further supports the development of robust market institutions and good governance. As global standards of business conduct rise, decision-makers who control capital investment that is subject to the rule of law, strict anti-corruption oversight, and comes from transparent sources grow increasingly reluctant to invest in less open markets.

The Center for International Private Enterprise (CIPE) engages with business organizations and economic policy think tanks, primarily in emerging and frontier markets, to strengthen democracy through private enterprise and market-oriented reform.³ Such work focuses on building strong institutions to create an enabling environment for business and entrepreneurship to flourish, and on helping local economies attract Constructive Capital and connect to global value chains. CIPE and the Oxford Analytica (OA) Foundation joined forces to address the question of how countries can develop effective policy frameworks to encourage Constructive Capital flows. The OA Foundation provides research and analysis in support of projects seeking to deliver positive social, environmental, economic, or political impact.⁴ It draws on a network of experts in subjects such as global governance, investment law, economics, development finance, sustainability, and corporate responsibility.

I. The Need for Constructive Capital

The need for a *Framework for Constructive Capital* is heightened by current risks as well as opportunities. During a period of converging crises across the globe, can the promotion of Constructive Capital help ensure a resilient recovery? The following themes consider the emerging context.

A key driver of efforts to support Constructive Capital is the need to deter Corrosive Capital. The descriptions developed by CIPE demonstrate the stark contrast in impacts. Moreover, the pervasive effects of Corrosive Capital may lead to further deterioration in the conditions that support Constructive Capital. The COVID-19 crisis has exacerbated long-standing challenges in integrity and anti-corruption efforts. In addition, as various sources of investment retrench, Corrosive Capital may find more inroads. This may further impede the institutions of effective governance.

Corrosive Capital refers to cross-border financing, whether state or private, that lacks transparency, accountability, and market orientation. It is the inverse of constructive capital. This type of investment undermines trust in institutions, weakens the rule of law, promotes opacity, and may exert monopoly power. CIPE developed the corrosive capital concept to identify such transactions. These include many flows from authoritarian regimes into emerging markets. Cumulatively, these corrosive capital investments represent a fundamental threat to democracy and inclusive markets. Investments that are opaque in origin, beholden to political pressure, or lack oversight often undermine the same market institutions that attract constructive capital. When certain levels of corrosive capital dominate the market, it can lead to a destructive cycle of endemic corruption and weakened institutions. This creates a toxic business environment that stifles local business innovation, diminishes equality and impedes development prospects.

However, four positive developments can be highlighted. A global effort is underway to achieve the United Nations (UN) Sustainable Development Goals (SDGs) by 2030. As explained in this report, CIPE views SDG 16 as an over-arching goal that is essential to achieving this agenda. The *Cornerstones of Constructive Capital*, for example, reinforce SDG 16 and its focus on peace, justice, and strong institutions. Notwithstanding setbacks, the momentum for the goals will continue, along with significant sustainability financing from public and private sources. The alignment with Constructive Capital may provide new opportunities.

Supportive trends in responsible business and investment have continued – and in many ways accelerated. This bodes well for CIPE’s strategies, which focus on the positive role of business in building inclusive societies. Of singular interest is the rise in ESG-related investing, which focuses on environmental, social, and governance factors. It has transformed corporate governance, along with business operations across the world. It has also revolutionized risk analysis and impact assessment in environmental and social areas. To give a sense of scale, \$120 billion poured into ESG funds in 2021, doubling the \$51.5 billion in 2020; estimates encompassing broader sustainable investment assets are as high as \$35.3 trillion.⁵ Constructive Capital can be promoted as a means of enhancing not only ESG factors, but also the underlying conditions for ESG investment outcomes across countries.

With respect to democracy, freedom, and the rule of law, indeed the current international indicators are all heading in a downward direction. Again, the Constructive Capital framework could be relevant in bolstering

such principles, notably at the local level in emerging markets. CIPE also draws on extensive experience in engaging with institutions of global governance.

Finally, a profound re-thinking of the capitalist system is taking shape. The relationship between business, government and society is changing. A key theme relates to fostering shared values, solving common problems, and rebuilding trust. CIPE is well-placed to contribute to such discourse, including through this work on elevating the positive impact of capital flows.

II. The Scope of this Report

The *Framework for Constructive Capital* is set forth in six parts, including this Introduction. **Part Two** identifies a set of six *Cornerstones of Constructive Capital*, creating both a normative and practical foundation. These are: Positive Peace; Rule of Law; Accountable Institutions; Political and Economic Freedom; Social and Economic Inclusion; Values-Driven Private Sector. Concerted action to strengthen each of these precepts will support Constructive Capital flows and curtail Corrosive Capital flows.

Part Three focuses on the bridging of governance gaps, and integrates the concepts of investment, integrity, and impact. It offers expert overviews on each of these topics, including capital flows, anti-corruption accountability mechanisms, and innovative approaches to economic, social, and sustainability impact assessments. The dynamics of such connections, which are relevant to both the public and private sectors, can help identify appropriate policy responses or other actions. This integrated approach to investment, integrity, and impact can be applied to multiple areas of the *Framework*.

Part Four reviews supportive trends in responsible business and investment, including sustainability. It addresses business and human rights, due diligence, ESG standards and reporting, and new forms of stakeholder engagement. Across sectors and jurisdictions, companies are re-aligning their governance and strategies, and influencing the broader business ecosystem. Such trends reinforce the key role of a values-driven and vibrant business community in ensuring the conditions for Constructive Capital.

Part Five considers the advancement of Constructive Capital by various stakeholders, including companies, government agencies, independent business associations, investment authorities, and civil society organizations. There is scope for further research at the local and international levels, as well as new collaborations to identify practical strategies.

Finally, **Part Six** offers concluding observations on reinforcing themes. The process of raising awareness and taking concrete action will yield a persuasive case for the concepts in this report. Moreover, in April 2022, CIPE launched a new Center for Accountable Investment. It is well-placed to carry forward this work and build momentum for the implementation of the *Framework for Constructive Capital*.

Part Two: Cornerstones of Constructive Capital

The *Framework for Constructive Capital* is built upon a set of six precepts that provide both a normative and practical foundation. These are referred to as *Cornerstones of Constructive Capital*. Shaped by policy evaluation as well as field experience, the *Cornerstones* draw on strategies CIPE has facilitated in collaboration with business communities around the world.

The question of whether constructive or corrosive capital flows come to dominate global investments holds profound economic, political, and social implications. To put it simply, capital flows that align with these *Cornerstones* are considered as Constructive, while capital flows that weaken them are considered as Corrosive. The *Cornerstones* can serve as a focal point for diverse stakeholders, including development agencies, business associations, and civil society groups. At the local and global levels, they are relevant to many aspects of Investment, Integrity, and Impact. Indeed, in keeping with the building metaphor, the set of six *Cornerstones* can help support the structural integrity of democracy and markets alike.

The *Cornerstones of Constructive Capital* are comprised of: Positive Peace, Rule of Law, Accountable Institutions, Political and Economic Freedom, Social and Economic Inclusion, and Values-Driven Private Sector. Of special relevance to the *Framework for Constructive Capital* is Sustainable Development Goal 16.⁶ It aims to “Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.” Thus, it readily reinforces all the *Cornerstones of Constructive Capital*. CIPE recognizes that the power of SDG 16 lies in its catalytic role in the achievement of all the SDGs. Successful action on this goal is also tied to SDG 17: “Strengthen the means of implementation and revitalize the global partnership for sustainable development.”

SDG 16 is often framed in terms of “SDG 16 Plus,” based on the conviction that peace, justice and inclusion must be integrated throughout the UN Sustainable Development Agenda. For example, Pathfinders for Peaceful, Just and Inclusive Societies – a group that includes international agencies, states, and civil society organizations – has developed an SDG16+ roadmap to deliver on the Agenda.⁷ Their cross-cutting strategies on prevention of harm, institutional change, inclusion, and empowerment are consistent with the approach CIPE takes in many communities. Likewise, mobilizing multiple sources of finance is a priority. The Pathfinders partnership builds a persuasive case for investment in SDG16+, with a particular focus on the needs of the most vulnerable countries.

The private sector plays a vital role in the advancement of SDG 16 at the local and global levels. Examples of such engagement are provided in Part Four of this report on responsible business.

I. Positive Peace

Peace is essential to human security and flourishing. It is the foundation of thriving societies and economies. While there is no single definition of peace, it certainly encompasses more than just the absence of conflict. The dynamics of contemporary conflicts are complex.⁸ However, the powerful nexus between peace and development is reshaping political, economic, and human security policies.⁹ The UN affirms the vital role of peace in the achievement of all SDGs, underscoring the link to just and inclusive societies. Global economic institutions such as the International Finance Corporation (IFC), for example, view the private sector as an essential driver of peace and prosperity, even in the world’s most challenging markets.¹⁰

The *Framework for Constructive Capital* expressly refers to this first Cornerstone as “positive peace” to reflect the authoritative research of the Institute of Economics and Peace (IEP).¹¹ Each year, the IEP issues an annual Global Peace Index (GPI), which ranks 163 independent states and territories according to their level of peacefulness. In addition, the IEP analyzes positive peace, defined as “the attitudes, institutions and structures that create and sustain peaceful societies.”¹² The factors considered in the Positive Peace Index (PPI) lead to other desirable socioeconomic outcomes and contribute to resilience.

The eight pillars of positive peace can serve to reinforce the conditions for Constructive Capital:

1. Well-functioning government
2. Sound business environment
3. Acceptance of the rights of others
4. Good relations with neighbours
5. Free flow of information
6. High levels of human capital
7. Low levels of corruption
8. Equitable distribution of resources

Moreover, business competitiveness and economic productivity are both associated with the most peaceful countries. While the concept of positive peace is a *Cornerstone of Constructive Capital* as a foundation of stability and prosperity, it also offers insights on business climate and investment decision-making.

The findings of the 2021 GPI reveal a world in which “the conflicts and crises that emerged in the past decade have begun to abate, only to be replaced with a new wave of tension and uncertainty as a result of the COVID-19 pandemic and rising tensions between many of the major powers.”¹³ Nonetheless, research indicates that a better PPI outcome in a given year will increase the probability of favorable economic results in the future.¹⁴ The *Framework for Constructive Capital* may thereby support economic processes which, in turn, will contribute to further improvements in positive peace.

II. Rule of Law

The rule of law is a multi-faceted precept of good governance that helps sustain the political and economic conditions for Constructive Capital. Renowned jurist Tom Bingham set forth the core principle of the rule of law as: “all persons and authorities within the state, whether public or private, should be bound by and entitled to the benefit of laws publicly and prospectively promulgated and publicly administered in the courts.”¹⁵ Drawing on this understanding, several linkages to the rule of law will be considered here.

Investment Flows: The rule of law is a significant factor in foreign direct investment (FDI) decision-making and risk analysis. For example, one survey of multinational company executives found that the rule of law is among the top three considerations in FDI decisions, together with “ease of doing business” and “a stable political environment.”¹⁶ Investors identified the most important elements of rule of law as integrity, stability, and transparency.

Corporate Responsibility: The rule of law helps to create favorable conditions for business operations and innovation, including long-term growth and sustainability. Moreover, the private sector itself contributes to the rule of law by acting responsibly through the support of voluntary codes, multilateral guidelines, and collective industry initiatives.¹⁷ The benefits of such efforts extend through supply chains. In 2015, the UN Global Compact released a *Framework for Business and the Rule of Law* to encourage engagement and support values such as accountability and equality.¹⁸

Economic Inclusion and Access to Justice: The rule of law helps ensure that the benefits of investment flows and business activities extend to the wider population. It also facilitates the legal empowerment of women and of marginalized communities.¹⁹ The recognition and enforcement of property rights are considered essential to economic security and opportunity.²⁰ Advancing the rule of law, including access to justice, is an objective of bar associations and legal organizations around the world.²¹ In 2019, the Task Force on Justice estimated that 5.1 billion people globally have unmet justice needs.²² The pandemic has since exacerbated the plight of those who fall within this justice gap. A new Justice Action Coalition has been formed to support a people-centered approach to justice systems, which also addresses the related challenges of economic inclusion.²³

Sustainable Development: The process of elaborating the Sustainable Development Agenda forged new connections between the rule of law and development. In 2012, the Rio+20 Conference affirmed: “We acknowledge that democracy, good governance and the rule of law, at the national and international levels, as well as an enabling environment, are essential for sustainable development, including sustained and inclusive economic growth.”²⁴ Thus, the rule of law came to be viewed as both an enabler of development and an outcome in itself. The International Development Law Organization (IDLO) reinforced this approach, noting that the rule of law “strengthens laws to drive transparency and participation and steers responsible and equitable investments in economic, social, and environmental priorities.”²⁵ After significant debate among UN Member States, SDG 16 on Peace, Justice and Strong Institutions included target 16.3: “promote the rule of law and ensure equal access to justice.”²⁶

The influence of such linkages is reflected in the work of the World Justice Project (WJP), which undertakes interdisciplinary research on rule of law issues.²⁷ According to the WJP’s Four Universal Principles, the rule of law is a durable system of laws, institutions, norms, and community commitment that delivers: *Accountability, Just Law, Open Government, and Accessible and Impartial Justice*. Each year the WJP publishes its Rule of Law Index, which measures how the rule of law is experienced and perceived across 128 jurisdictions.²⁸ Such trends help shape programs and advocacy to enhance rule of law performance. The reinforcing action of the Rule of Law, as well as the need for vigilance in upholding it, affirms its place as a *Cornerstone of Constructive Capital*.²⁹

III. Accountable Institutions

The need for accountable institutions, both formal and informal, is evident throughout the *Framework for Constructive Capital*. Each of the *Cornerstones* depends upon the policies, practices, and decisions of institutions at every level of society. Integrity, including transparency in decision-making, is one of the primary features of accountable institutions. This is key to countering corruption. Another attribute is inclusiveness, whereby people can access economic opportunity and public services in an equitable manner. Further indicators relate to effectiveness, with a focus on institutional outcomes.³⁰ Finally, an overarching theme is the importance of building a culture of trust.

This *Cornerstone* provides a foundation for Constructive Capital, but also a focal point for ongoing evaluation of the governance gaps that may increase the risk of corrosive capital flows. Given the transborder nature of such flows, jurisdictional issues may impede accountability. This demands a systematic approach.

The work of the Organisation for Economic Co-operation and Development (OECD), which aligns with CIPE’s priorities in several areas, addresses how institutional accountability can be strengthened. For example, the OECD recommendation for a public integrity strategy is built on three pillars of System,

Culture, and Accountability.³¹ The OECD emphasizes that trust is “a basic element for the well-functioning of institutions, including governments, markets, businesses, and for society more broadly.”³² With respect to government, both a culture of integrity as well as competence in delivering public services are crucial for boosting trust in institutions.³³ In 2019, the OECD launched a “Trust in Business Initiative,” which seeks to strengthen connections between companies and its policy work on corporate governance, responsible business, and anti-corruption.³⁴ CIPE has also been pursuing this topic, starting with trust in business and expanding the scope to trust in democratic and market institutions more broadly.³⁵

Researchers have examined the reciprocal relationship between social trust and the moral fabric of society, noting that these can “work together in virtuous upward cycles of mutual reinforcement, or in vicious downward spirals of mutual corrosion.”³⁶ Thus, the enhancement of social trust is not just a matter of utility or instrumental value – it is of fundamental importance for sustaining society. This also holds implications for how business activity can be aligned with social trust.

Accountable institutions can support the flow of Constructive Capital. Conversely, Corrosive Capital poses greater risks if such institutions should fail. Not only would Corrosive Capital not be deterred, but the mechanisms for corrective action would be weakened. The culture of integrity and trust would also be at stake, with potential long-term consequences.

IV. Political and Economic Freedom

As a *Cornerstone of Constructive Capital*, the concept of freedom holds many dimensions. Freedom is often expressed in terms of individual rights and liberties. Such rights and liberties shape the political, social, and economic order. In turn, the nature of this order underpins the free exercise of rights and liberties. More broadly, this process of mutual reinforcement ties into fundamental questions of participation and democracy.³⁷ A dynamic understanding of freedom can raise awareness of the risks of Corrosive Capital and foster conditions supportive of Constructive Capital.

A manifold concept of freedom, grounded in inherent dignity, is found within the Universal Declaration of Human Rights.³⁸ It proclaims that “the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.” With reference to the UN Charter, it invokes freedom of speech and belief, freedom from fear and want, and the equal rights of men and women.

The Universal Declaration holds profound implications for the just ordering of society. It promotes “social progress and better standards of life in larger freedom.” It affirms the will of the people as the basis for the authority of government. It asserts the right to own property.³⁹ Over the past seven decades, the Universal Declaration has shaped the development of human rights law and the human rights movement. In many contexts, human rights are advanced alongside principles of democratic governance.⁴⁰ Moreover, human rights guidelines are now transforming the responsibilities of business enterprises.⁴¹ This *Cornerstone of Political and Economic Freedom* can support freedom and democracy, as well as private sector commitments and advocacy.

Freedom House has described democracy as “a continuous project of renewal that ultimately ensures security and prosperity while upholding the fundamental rights of all people.”⁴² Its recent report from a bipartisan *Task Force on US Strategy to Support Democracy and Counter Authoritarianism* offers a series of policy strategies.⁴³ Several recommendations – such as combatting state capture and supporting corporate respect for human rights – could be deployed in relation to Constructive Capital. Beyond the geopolitical implications, such measures could bolster the local environments in which rights and freedoms can be realized.

V. Social and Economic Inclusion

The need for social and economic inclusion forms part of the overall context for Constructive Capital. Indeed, one of CIPE's aims in developing a *Framework for Constructive Capital* is to support foreign investment that promotes inclusion through local opportunities, job creation, and mutual benefits. More broadly, the *Cornerstone* on social and economic inclusion encourages engagement across government, business, and society. This holds implications for both community prosperity and democratic values.

For example, in 2020 the demand for diversity, equity and inclusion (DEI) became a rallying cry across countries and continents. The DEI movement exposes multiple forms of exclusion, confronts discriminatory attitudes and practices, and challenges entire systems. Various DEI initiatives are being implemented across multiple sectors, reshaping organizational leadership, workplaces, and cultures.⁴⁴ Connections are also being made to the field of responsible investment, given the significance of ESG factors. A project is underway through a new Task Force on Inequality-related Financial Disclosures (TFID).⁴⁵ It seeks to develop a set of metrics to guide companies and investors in measuring and managing their impacts on inequality, as well as the impact of inequality on company and investor performance.

In recent years, topics such as societal integration and cohesion, equal opportunities, access to public services, citizen participation, respect for diversity, and group legitimacy have become more central to policymaking.⁴⁶ This is reflected in everything from legal reforms to eliminate gender-based discrimination across industry sectors to community engagement protocols on major infrastructure projects. The World Bank has also made significant contributions to social and economic inclusion through its annual *Human Development Report* (HDR) and *Human Development Index* (HDI).⁴⁷ Such approaches to wellbeing focus on multidimensional aspects of poverty, as well ways of overcoming barriers to prosperity. Further impetus for such policies is provided through the UN Sustainable Development Agenda, which is committed to "leaving no one behind."⁴⁸

Finally, the private sector plays an indispensable role in social and economic inclusion. This is the focus of a partnership between the OECD and a global CEO-led coalition: Business for Inclusive Growth (B4IG).⁴⁹ Its objectives include addressing inequalities, creating opportunities, and fostering inclusive micro-economic business models. This work program may reinforce several strategies of relevance to the *Framework for Constructive Capital*, such as inclusion in company ecosystems, governance of public-private partnerships, and assessment of FDI qualities.

VI. Values-Driven Private Sector

The commitment to a values-driven private sector can be leveraged in multiple ways to advance the *Framework for Constructive Capital*. This section highlights several themes which contribute to the creation of progressive and accountable business cultures. Such themes also affirm CIPE's own core values of inclusive markets and democracy as the means of fostering inclusive growth for every citizen. Part Four of this report considers the changing landscape for responsible business and finance.

Scope of Values: This *Framework* identifies numerous values that can inform business conduct in relation to company compliance, business models and broader societal responsibilities. Active business support for all the *Cornerstones* can facilitate the realization of such values. Moreover, such support can help diffuse values throughout commercial relationships and supply chains, influencing the wider economic system.

Role of Leadership and Governance: Throughout the private sector, leaders are increasingly affirming values and shaping organizational culture. In the US, the National Association of Corporate Directors

characterizes culture as a “corporate asset” and urges the board, CEO, and senior management to clarify foundational elements of values and culture.⁵⁰ In the UK, the Corporate Governance Code provides: “The board should establish the company’s purpose, values and strategy, and satisfy itself that these and its culture are aligned. All directors must act with integrity, lead by example and promote the desired culture.”⁵¹ Improvements in corporate governance and compliance, along with business culture standards and outcomes, are key to CIPE’s overall objectives.

Stakeholder Engagement: Stakeholder engagement, augmented by the notion of “shared values,” is a long-standing feature of responsible business conduct. The parameters of such relationships are currently being tested, notably in view of the debates surrounding corporate purpose and the maximization of shareholder value.⁵² CIPE includes a wide range of stakeholders throughout its programs, supporting their role in strengthening private and public sector accountability.

Long-term Perspective: A commitment to values inspires a different time horizon, looking beyond quarterly financial results to long-term value creation. This can encourage investment in human, social, and natural capital. It demands a rigorous assessment of a range of risks, including to corporate reputation. Such a perspective may lead to greater organizational resilience and commercial opportunities.

Entrepreneurial Community: Values-driven companies are actively engaged with the wider entrepreneurial community, including business and professional associations. Across jurisdictions, this shapes the design of CIPE’s programs: “Over time, the strengthening of governance and markets can foster a supportive ecosystem of laws, regulations, culture, and institutions that foster innovative enterprises and create wealth for a broader section of society.”⁵³ Such an ecosystem is central to the implementation of the *Framework for Constructive Capital*, including the identification of governance gaps. The concept also underscores a changing dynamic with respect to business competition and collaboration.

Trust: Ensuring consistent alignment between values and actions promotes trust in business relationships – whether with workers, customers, suppliers, or other stakeholders. More broadly, the values-driven approach can strengthen trust between business, government, and civil society. Research presented in the *Edelman Trust Barometer 2022* indicates that business has maintained its position as the most trusted institution.⁵⁴ CEO Richard Edelman observed: “Business must now be the stabilizing force delivering tangible action and results on society’s most critical issues. Societal leadership is now a core function of business.”⁵⁵ This suggests an enhanced mandate for the private sector, which can open opportunities for advancing Constructive Capital.

The six *Cornerstones of Constructive Capital* offer a foundation for analysis and action by various stakeholders. In particular, they can serve as a reference point for enhancing investment environments and assessing investment outcomes. The following section of this report considers a model for bridging governance gaps through an integrated approach to Investment, Integrity and Impact.

Part Three: Bridging the Governance Gaps – Investment, Integrity, and Impact

The *Framework for Constructive Capital* must continually respond to the dynamic interconnections between investment, integrity, and impact.

The Introduction described both the negative impacts of Corrosive Capital and the positive impacts of Constructive Capital. This contrast brings into focus the question of governance gaps. Institutional issues may involve inadequate procurement procedures, lack of transparency and oversight, failures in regulatory enforcement, and deficiencies in judicial processes. How can investment become less corrosive and more constructive? How are multi-level integrity mechanisms implemented and enforced? How might innovative approaches to impact assessment in the public and private sectors help inform policies and enhance outcomes?

I. Investment: Private Capital Flows to Developing Countries

A. Overview

Since the 1980s, capital flows to emerging market and developing countries (EMDCs) have been primarily driven by the private sector, rather than being reliant on the official sector as they had in the past.⁵⁶ As a result, private capital flows have become the key channel to invest savings from developed countries to emerging and frontier markets. The motivation behind this phenomenon is straightforward. Industrialized countries tend to be capital intensive and their marginal return on capital, on balance, is lower than that in capital-deficient countries. Investors from developed countries can therefore expect to reap better returns on their investments in emerging economies, while helping these countries grow. Indeed, many studies have shown that foreign capital flows can help close the saving-investment gap in EMDCs, supporting their development efforts.⁵⁷ Moreover, there is significant potential for increased capital flows from developed to developing countries.

Behind these positive trends, however, different types of private capital flows have exerted different effects in the recipient countries, some positive but some negative. Capital flows can broadly be divided into foreign direct investment (FDI) or foreign portfolio investment (FPI). FDI involves an investor or group of investors from one or more countries buying a share of an enterprise in another country, or buying the enterprise outright, in order to establish a significant degree of influence over the enterprise for a prolonged period. FPI involves an investor or a group of investors buying into the financial assets of another country. This may be through buying shares in stock-market listed firms with the expectation that they rise in value, lending to private firms, or buying bonds issued by the government or private firms in exchange for a fixed return in future.

Some forms of capital flows can be constructive, helping to industrialize the recipient countries, develop their business practices, and advance their overall governance and economic institutions. FDI tends to be “stickier” than FPI, as it often represents a long-term investment in a country’s key sectors or enterprises. If appropriately designed, it will create jobs and develop supporting services in the local area. Other forms of capital flows can be corrosive, having weakened the necessary institutions for effective government. FPI is easier to withdraw and can sometimes increase indebtedness without bolstering local firms and communities. Various academic studies have found a positive relationship between FDI and economic development in EMDCs, as well as a negative relationship between FPI and economic development. It is important to gain a deeper understanding of the impact of transborder capital flows in order to consider appropriate public policy responses.

B. Corrosive Capital

Corrosive capital is often characterized by volatility and lack of transparency. Moreover, the problem of elite capture – whereby the investment narrowly benefits the upper echelons of a country's population – may exacerbate economic and social inequalities.

FPI behaves in a pro-cyclical and volatile manner. In the upswing phase, portfolio capital pours into EMDCs, to be followed by a sudden stop that also precipitates capital outflows. Domestic authorities have found it difficult to deal with this “boom and bust” pattern of portfolio capital flows. In the inflow phase, cutting interest rates to reduce the attractiveness of capital inflows can further stimulate the economic upswing. This may increase the risk of asset price-bubbles forming, and then potentially deflating very suddenly if a country's circumstances deteriorate. In the outflow phase, raising interest rates to encourage investors to maintain their investments can exacerbate an economic downturn. Thus, some research points to a negative relationship between FPI and economic growth.⁵⁸

The lack of transparency in some types of capital inflows presents another intractable problem. There is a legitimate reason to preserve confidentiality in financial transactions among private actors. However, when the borrowers are sovereign countries, or their official bodies, the lack of disclosure and transparency can create an environment that facilitates malfeasance. At its worst, undisclosed foreign borrowing can abet corruption by local officials. It can lead to ill-conceived and wasteful investment projects which increase the country's indebtedness but not its capacity to repay the debt. Without adequate disclosure and transparency, a country's debt can build up. Within international financial markets, if anxieties mount regarding the ability of a country to repay its debts, investors will expect a higher return. Such pressure may lead to a rise in market interest rates, posing a risk of a collapse in investor confidence. This may even create a debt crisis within the country, placing burdens on growth prospects and on future generations.

The current concern about the lack of transparency in foreign lending to EMDCs is largely due to practices by China and other authoritarian states. In the past two decades or so, China has significantly increased its financing to EMDCs, estimated to total \$1.5 trillion to 150 countries around the globe.⁵⁹ Much of the financing – but not all – has been channelled through the Belt and Road Initiative (BRI) launched in 2013.⁶⁰ Despite China's being the world's largest creditor to EMDCs, there is insufficient transparency regarding its various lending entities, as well as the amounts of the loans, their intended purposes, and the terms and conditions.⁶¹ The lack of transparency has given rise to concerns about the potential for misuse of the loans by local officials, including for wasteful investments which leave the country highly indebted without the new productive capacity to service the debt.⁶² Countries that have been unable to pay the debt (including Sri Lanka, Djibouti, and others⁶³) were obliged to turn ownership or control of their ports to Chinese state-owned creditors. Moreover, debt restructuring procedures remain complicated and many low-income countries are wary of the resulting reputational damage. Finally, the lack of distinction between official lending, for instance by China's Export-Import Bank (which participates in the Paris Club of official bilateral lenders) and state-owned lenders like China Development Bank (which considers itself as part of the private sector) can be problematic. For example, this has impacted official debt suspension procedures for low-income countries that were intended to alleviate pandemic-related financial pressures.⁶⁴

C. Constructive Capital

Capital flows can be corrosive or constructive depending on their institutional and normative frameworks – both with respect to where they originate and to where they are directed. Two examples of Constructive Capital are set forth here, one regarding FDI and a second regarding investment in infrastructure.

The first example relates to stable long-term capital flows as typified by market-driven and transparent FDI.⁶⁵ FDI flows are comparable in volume to portfolio flows but are much more stable. Notably, they largely avoid the boom-and-bust cycles. FDI investors typically commit their capital for the long term, helping to transfer production, management, and marketing skills to the recipient companies to make them profitable. In the process, FDI helps to develop the corporate sector of the recipient countries, including the legal and regulatory environment for companies. One such example is the role of FDI in helping to shape the democratic and market transition of Central and Eastern Europe after the collapse of the Soviet Union. Many studies have confirmed the positive relationship between FDI flows and economic development in EMDCs.⁶⁶

The second example pertains to infrastructure investment in EMDCs, which can enhance economic growth and other conditions conducive to Constructive Capital. However, there are serious shortfalls in such funding. If unaddressed, these may exacerbate the risk of Corrosive Capital. The OECD provides estimates of the annual infrastructure investment needs of developing countries.⁶⁷ The billions of dollars of actual investment from the public sector, complemented by that from the private sector, still leave an infrastructure investment gap of about 50 percent per year. Going forward, public funding for infrastructure investment is unlikely to increase significantly – especially given post-COVID budgetary constraints, exacerbated by growing demands for domestic social and healthcare expenditures. Likewise, due to capacity and exposure issues on infrastructure projects, private sector investment is likely to remain insufficient.⁶⁸ Such a situation may increase the pressure on EMDCs to turn to sources of capital that could prove to be corrosive, thereby undermining the *Cornerstones of Constructive Capital*.

D. Policy Measures to Encourage Constructive Capital

Defensive policies, trying to stop the worst outcome, might not stem the risk of Corrosive Capital. Offensive policies, trying to promote the best outcome, may create a better overall environment for investment. The discouragement of Corrosive Capital is primarily about government policy, with private sector input where applicable. In contrast, the encouragement of Constructive Capital comes predominantly from the private sector through professional management and building trust among businesses. This includes the important role of independent chambers of commerce and business associations.⁶⁹

Bearing in mind the public/private sector distinction, there are certain policy measures that governments can undertake to simultaneously discourage Corrosive Capital and encourage Constructive Capital. These are included here by way of illustration, rather than recommendation. Such efforts are indicative of ways to bridge the governance gaps, notably through enhanced procedures, transparency, and accountability. They also suggest potential competitive advantages in attracting cross-border investment.

First and foremost are measures to promote disclosures and transparency in international financial transactions, especially bank and company lending to EMDCs.⁷⁰ Only a few of the Low-Income Countries (LICs) meet World Bank requirements for debt reporting and evaluation. Only one-third of the developing countries eligible for concessional lending from the International Development Association (IDA) provide reports on private sector external debt statistics. More generally, most EMDCs fall short in ensuring that institutions adequately separate borrowing decisions from political pressures, as specified in the World Bank requirements for debt administration, legal framework, and auditing practices.

In particular, the governments of all countries, but especially of EMDCs, should be required to disclose all their debt to the IMF in their regular Article IV consultations, and certainly when countries negotiate with the IMF for assistance programs.⁷¹ In addition, governments should be encouraged to properly disclose financing arrangements to their own citizens. Enhanced transparency can help national legislatures, civil

society organizations and the wider public to engage with governments on questions of financial management. Such monitoring may help reduce corruption and the misspending of public funds, while also strengthening the rule of law and good governance.

A second policy response is to recalibrate regulations to encourage long-term investment rather than ultra-short-term transactions. Indeed, fiscal regulations in many countries already tax long-term capital gains at lower rates than short-term capital gains. However, prudential regulations for financial institutions such as banks, life insurance companies and pension funds have a bias against long-term holding of assets which are subject to higher capital charges compared with shorter-term ones. This regulatory approach should be adjusted to encourage long-term investment, but in a way that does not compromise institutional issues regarding disclosure standards, risk management and valuation of long-term assets.

A third policy response relates to the development of legal, regulatory, and institutional frameworks that support business activities as well as effective economic policy implementation in developing countries. This approach reinforces CIPE's key objectives in emerging markets, and also offers a significant opportunity for government leadership in promoting Constructive Capital. For example, demonstrated competency in maintaining a strong rule of law environment for businesses is a key asset in the competition to attract FDI flows – the most stable and beneficial form of capital to developing countries. Such an effort must be grounded in inclusive policymaking and involve public-private dialogue with the local business community. Overall, such a strategy could help promote the modernization and efficiency of the economy.

Finally, efforts should be made to improve public-private partnership (PPP) schemes and broader investment programs to make them more useful to a range of international investors. In seeking to leverage participation in infrastructure projects in developing countries, diligence is required with respect to role of state-owned enterprises. The World Bank has identified three steps that countries, especially EMDCs, can take to create the conditions for successful PPPs.⁷² First, making a clear political commitment to promote and support a PPP effort to mobilize private sector investment in infrastructure. Second, improving and clarifying processes to expedite the preparation and execution of PPP projects. Third, forming dedicated PPP project teams to interact with private sector companies in negotiating, planning, and managing PPP contracts and projects. By advancing in these three areas, EMDCs can gain a competitive advantage in attracting international private investors to their PPP projects and enhance the conditions for Constructive Capital.

II. Integrity: Anti-Corruption Norms, Institutions, and Accountability Mechanisms

A. Overview

Within a consideration of Constructive Capital, integrity depends upon an ecosystem that minimizes corruption. This will improve business efficiency and spur economic and investment opportunities by (1) reducing the legal risks and costs to business, both in the host country and the business' home country, (2) allowing business to compete and operate in a market without the burdens and costs of acting corruptly, and (3) permitting business to compete fairly in public procurements of goods, services, and infrastructure projects.

This Section briefly describes the normative and institutional frameworks, as well as the accountability mechanisms, which are essential to creating an anti-corruption ecosystem.⁷³ This involves both the public and private sectors.⁷⁴ Such frameworks operate at international, national, and sub-national levels, and consider both the demand-side and the supply-side of corruption. Of particular relevance to businesses are national anti-corruption laws with extraterritorial reach. Here, it should be noted that the concept of

Corrosive Capital does not extend to illicit financial flows related to money-laundering, drug trafficking or terrorist financing as such.⁷⁵ However, corruption can be enabled by systems that facilitate illicit financial flows.

The *Framework for Constructive Capital* can help address the problem of corruption in several ways. Corruption in a host country presents a risk to the safety of an investment. All capital investment decisions require an assessment of risk and return, both by the capital provider and the host country. While investors have a range of risk tolerances, most will need a reasonable level of confidence that their investment will be able to generate returns and be protected. The *Cornerstones of Constructive Capital* – including positive peace, rule of law, and accountable institutions – can bolster that confidence. Indeed, the consequences of corruption can significantly undermine all six *Cornerstones*. Effective integrity strategies are designed to continually identify and remedy a range of governance gaps. Moreover, they increasingly rely on multi-stakeholder approaches to implementation, as well as impact assessments.

B. Anti-Corruption Norms and Institutional Frameworks

Numerous normative and institutional frameworks support anti-corruption measures at the international and national levels. At the international level, the norm against corruption and bribery is reflected in multilateral conventions, along with the policies, guidelines, standards, and tools developed by international and intergovernmental organizations. Key conventions that are legally binding on states that have ratified them include: the UN Convention against Corruption (UNCAC); the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; the African Union Convention on Preventing and Combating Corruption; the Inter-American Convention Against Corruption; and various instruments of the Council of Europe.⁷⁶

The core international and intergovernmental organizations in the anti-corruption space include the G20 countries; the United Nations along with units such as the UN Office on Drugs and Crime (UNODC); specialized organizations including the World Bank and International Finance Corporation; the International Monetary Fund; the OECD; and the Financial Action Task Force. These organizations operate within a vast network of other institutional actors that includes national and subnational governments; other international governmental institutions and standard-setting bodies; and non-governmental organizations (NGOs). The process also benefits from organizations with expertise in analysis related to corruption and governance, such as think tanks and business associations.

At the national level, states continue to develop and implement National Action Plans in accordance with their UNCAC commitments in five broad areas: prevention, criminalization and law enforcement, international cooperation, asset recovery, and technical assistance and information exchange. Stakeholders include state institutions (executive, legislative and judiciary) at the national and subnational levels, civil society organizations, businesses, labor unions, and a wide range of other groups. These stakeholders can serve as important allies and partners in the development of anti-corruption strategies and can reduce the vulnerability of given reform efforts to changes in political leadership. As Constructive Capital pertains to cross-border capital flows, the legal system where the investment originates is also an important accountability mechanism because of its impact on the supply side of corruption.

As noted, businesses have a stake in this process – including through national laws on bribery and corruption. These can have extraterritorial jurisdiction, extending their reach to conduct that takes place abroad. Examples include the US Foreign Corrupt Practices Act of 1977 and the UK Bribery Act of 2010.⁷⁷ Both the US and the UK, along with forty-two other states, are parties to the OECD Anti-bribery Convention. They have agreed to legally binding commitments which criminalize bribery of foreign public officials in

international business transactions. Thus, the institutional processes of the OECD can help shape private sector implementation efforts.

C. Anti-Corruption Accountability Mechanisms

Accountability is of critical importance in addressing corruption and creating environments conducive to Constructive Capital. It involves three key elements: defining responsibility; answerability (the obligation of actors to provide information and explain their actions); and enforcement (sanctions and disciplinary actions, including legal and regulatory sanctions). Multiple accountability relationships exist in national systems, with citizens, legislatures, finance and other ministries, regulatory agencies, judiciaries, civil society organizations, and the private sector connected to each other in networks of control, oversight, cooperation, and reporting. Transparency is crucial to ensuring accountability, and this requires access to information and the opening-up of government processes, proceedings, documents, and data to public scrutiny. With transparency, there can be public oversight and monitoring by civil society and the media.

Many business enterprises have responded to anti-corruption laws by strengthening compliance programs and risk management strategies.⁷⁸ This includes developing written policies and standards of conduct, providing training, enhancing internal monitoring and auditing, and establishing rigorous disciplinary procedures. In addition, companies have put in place whistleblowing and other complaint mechanisms to facilitate the reporting of offenses. Such compliance programs extend to subsidiaries operating internationally. They can also involve comprehensive due diligence processes throughout all aspects of company operations, commercial relationships, and supply chains.

Of course, government enforcement action based on suspected corrupt practices can result in substantial fines and reputational damage. For companies, this is part of enterprise risk management. But businesses also understand the wider harms of corruption, as well as the commercial benefits of an ecosystem that minimizes corruption. Through collaborative action, they engage with various business associations and multi-stakeholder initiatives to strengthen a culture of integrity.⁷⁹ Examples include the Extractive Industries Transparency Initiative⁸⁰ and the World Economic Forum's Agenda for Business Integrity.⁸¹ This also underscores the importance of the *Cornerstone* on a Values-Driven Private Sector.

Finally, resources such as corruption and governance indices are well-known and widely used globally.⁸² They typically contain scores that represent quantified values assigned to qualitative characteristics, for instance in the Corruption Risk Forecast launched by CIPE and the European Research Centre for Anti-Corruption and State-Building in 2022. Indices can be viewed as an accountability mechanism because they demonstrate the deficiencies in the policies, laws and enforcement culture of states. These are often used in civil society campaigns advocating for anti-corruption reform, by national government authorities responsible for reducing corruption, and by international organizations and donor governments seeking to universalize the anti-corruption norm. They can also be helpful in business risk assessment and decision-making. Again, such indices can serve as another tool in bridging the governance gaps.

III. Impact: Connections with Investment and Integrity

A. Overview

The connections between investment, integrity and impact heighten awareness of what is at stake in advancing Constructive Capital. The concept of impact is a powerful one, helping to define how certain actions influence the attainment of desired outcomes. This section provides insights from the private sector, noting the nature of positive and negative impacts in social and environmental matters. It also offers insights

from development and finance institutions, with attention to performance standards. This suggests how impact assessment can inform potential models for action on Constructive Capital. First, questions of impact are re-shaping many aspects of responsible business practices – notably through the ESG imperative. Second, expectations about the governance and long-term contributions of cross-border investments are shifting. For example, the OECD has developed FDI Qualities Indicators.⁸³ Overall, impact-led approaches are driving significant change across sectors. The field of economics is reassessing the nature of externalities. At the same time, technological innovations are transforming the metrics, measurement, management, and reporting of impacts. The *Framework for Constructive Capital* is positioned to take advantage of such developments.

B. Insights on Impact from the Private Sector

Within the private sector, environmental and social impacts are generally considered in terms of their negative and positive aspects. Although a mix of impacts arises in practice, they tend to be conceptualized separately – relying on different normative frameworks and management tools. More holistic approaches are beginning to emerge, as discussed below, and corporate governance is playing an increasingly significant role.

1. Addressing Negative Impacts

The impetus to manage negative impacts above and beyond mere compliance with national law comes from a recognition of institutional weaknesses – often found in emerging markets but at times in mature markets as well. There is therefore a need to fill such governance gaps. The drive to do so through private sector action, in alignment with widely accepted global norms, is a hallmark of the responsible business conduct approach. For example, companies and banks that finance them have a long history of managing negative environmental impacts. This is a matter of both compliance and of risk management, involving sophisticated systems of impact assessment, analysis, monitoring, and adjustment. Multinational companies, operating under various levels of regulation, often adopt their own standards to manage environmental impacts consistently across all jurisdictions.

The management of social impacts poses a distinct set of challenges, especially as it entails a disparate set of issues with little apparent connection – working conditions, labor rights, human capital, diversity and inclusion, interactions with communities affected by projects. The adoption of the UN Guiding Principles on Business and Human Rights (UNGPs)⁸⁴ and the revision of the OECD Guidelines on Multinational Enterprises brought welcome clarity to addressing social issues.⁸⁵ Within an international human rights framework, these initiatives also built on existing business procedures. Of special note are the developments surrounding human rights due diligence. Companies are called upon to systematically identify, assess, and then manage their negative impacts on human rights, including within their supply chains and wider business relationships. Several European governments and the European Union are drawing on the UNGPs and OECD Guidelines in adopting legislation on mandatory due diligence.⁸⁶

2. Addressing Positive Impacts

Alongside the attention to managing the private sector's potential negative impacts, there is an important shift to amplify positive impacts. This goes beyond the traditional measures of jobs created, taxes paid, or contributions to national GDP to include indicators such as productivity, innovation and gender equality. Such change has been prompted, at least in part, by the adoption of the UN Sustainable Development Agenda. The SDGs set out global goals, while complementary analysis highlighted how far the world is from meeting those goals. This opened a conceptual and practical path for the private sector to help fill

those gaps, and to expand the discourse about positive contributions. One innovative example is found in the Kampala Principles on Effective Private Sector Engagement in Development Cooperation.⁸⁷ Such dialogues might now include the role of business in supplying water and sanitation, or expanding educational opportunities, or building sustainable transport infrastructure, or reducing food waste. The 17 SDGs, along with their 169 targets, give the private sector both a set of concrete objectives and a sense of legitimacy for action. Nonetheless, measuring the extent of positive impact continues to pose challenges.⁸⁸

This raises the question of how to increase the flow of private capital to help address the world's social and environmental challenges. Regulatory provisions related to fiduciary duty place certain constraints on investor decision-making. To examine their application, the Principles of Responsible Investment (PRI) undertook a multi-year study on *Fiduciary Duty in the 21st Century*.⁸⁹ Investors have a fiduciary duty to integrate financially material factors, including risks associated with environmental, social, and corporate governance factors. But what are the implications for sustainability impact? A further PRI project, *A Legal Framework for Impact*, was completed in 2021.⁹⁰ The extensive report, which draws on expertise across many jurisdictions, addresses sustainability impact in investor decision-making.

3. A More Holistic Approach to Impact

There are many conceptual and practical challenges associated with impact. However, it is worth noting two initiatives that draw together both positive and negative impacts, as well as both environmental and social factors.

First, the UN Environmental Program Finance Initiative (UNEP-FI) has developed a set of “Principles for Positive Impact Finance.”⁹¹ Positive Impact Business & Finance is defined as “that which serves to deliver a positive contribution to one or more of the three pillars of sustainable development (economic, environmental, and social), once any potential negative impacts to any of the pillars have been duly identified and mitigated.” The inclusive definition suggests this initiative may have potential application to the concept of Constructive Capital. It is relevant to all sectors of the economy, and to all types of financing. Moreover, the initiative posits that “a common understanding of impact across the investment chain is needed to enable finance and its public and private stakeholders to analyze, manage and deliver impact across the economy.” A second important development comes from the European Union, which has launched a major initiative on sustainable finance.⁹² The “Taxonomy Regulation” offers a classification method to help investors, companies, issuers, and project promoters navigate the transition to a low-carbon, resilient, and resource-efficient economy.⁹³ Across a wide range of industries, the Taxonomy sets performance thresholds for economic activities that must be met in order to be considered “sustainable.” The core of the Taxonomy affirms an integrated impact approach. Projects will not qualify as “sustainable” unless they demonstrate that, in addition to having positive environmental impacts, they do no significant harm to other environmental objectives. Moreover, they must also meet minimum social safeguards, demonstrating alignment with the UNGPs and the OECD Guidelines.

C. Insights on Impact from Development and Finance Institutions

Strategies for strengthening Constructive Capital and mitigating Corrosive Capital can draw important lessons from the impact-related work of various institutions of global economic governance. These pertain to flows of FDI as well as to private investment in local capital markets. In keeping with the objectives of this *Framework*, such insights can contribute to a thriving private sector and promote higher expectations of responsible business conduct. More broadly, the mandates of development and finance institutions can serve to reinforce the principles reflected in the *Cornerstones of Constructive Capital*. Four examples of impact-related initiatives are provided here.

First, publicly funded development finance institutions – such as the International Finance Corporation (IFC) and the European Bank for Reconstruction and Development (EBRD) – have significant experience with the administration of ESG performance standards. For many years, clients have needed to meet such performance standards to secure financing.⁹⁴ The standards require clients to manage their environmental and social risks and impacts, thereby also limiting the bank's risk exposure. Private sector banks have increasingly recognized the benefits of having a systematic and common approach to environmental and social risk management. They have adopted the IFC Performance Standards in the form of the Equator Principles, first launched in 2003 and most recently updated in 2020.⁹⁵

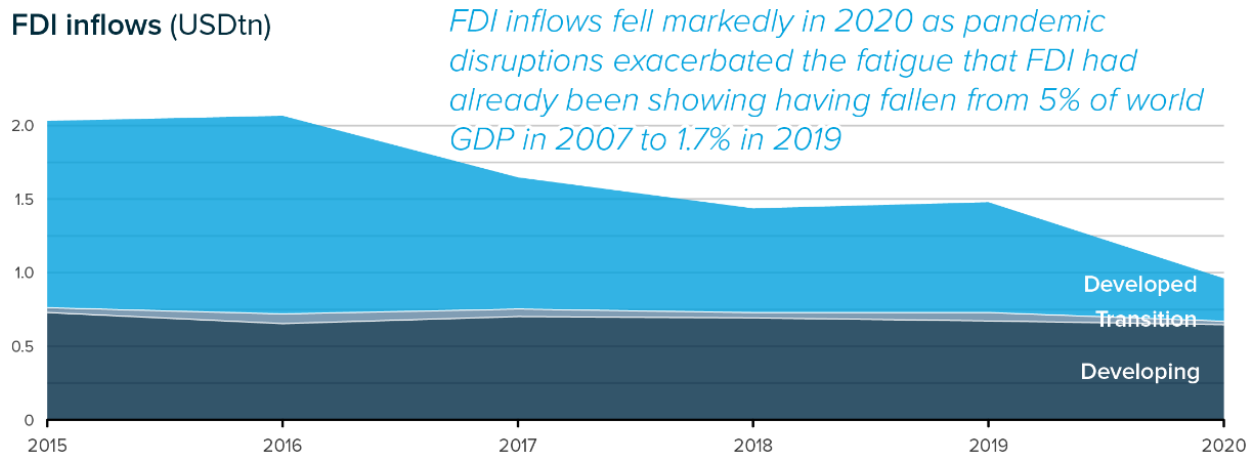
Second, the field of impact assessment is also tied to the growing demand for companies to report on non-financial performance. The IFC and EBRD, for instance, work with stock exchanges and regulators to strengthen local capital markets, helping businesses to secure long-term financing.⁹⁶ Such markets encourage “the kind of entrepreneurial risk-taking that fosters innovation and accelerates job creation and economic growth.”⁹⁷ Local capital markets can also shield economies against destabilizing fluctuations in international financial markets, a corrosive risk identified above in Section I on investment. The IFC recognizes the shift taking place in drivers of corporate value and, drawing on its global experience and partnerships, has developed a comprehensive *Toolkit for Disclosure and Transparency*.⁹⁸ The guidance is relevant to the *Framework for Constructive Capital*, emphasizing the importance of accurate and verified information to investor decision-making. The *Toolkit* aims to help match responsible companies in emerging markets with institutional investors. The title of this resource captures this trend toward impact: *Beyond the Balance Sheet*.

Third, progress on the Sustainable Development Agenda is an important theme within this *Framework*. An essential foundation for the implementation of the SDGs is the UN workstream on Financing for Development (FfD).⁹⁹ It aims to provide an integrated approach for aligning financing flows and policies with economic, social, and environmental priorities. The FfD effort has mobilized public and private financial actors across the world and now intersects with the movement toward green finance and sustainable investment.¹⁰⁰ The *Framework for Constructive Capital* may offer impetus to examine capital flows in relation to governance systems. Impact-focused multi-stakeholder collaborations in finance, investment management, banking, and capital markets offer new engagement opportunities.¹⁰¹ Moreover, the topic of FfD is a focal point of high-level global gatherings in every region.

Finally, an important new global collaboration, the *Impact Management Platform*, was launched in London in November 2021.¹⁰² It builds on the former Impact Management Project, a forum which operated from 2016 to 2021. With a focus on managing sustainability impacts, it brings together key institutions of global economic governance, including UNGC, OECD, IFC, UNDP, and UNEP-FI. Through the Platform, partnering organizations aspire to clarify the meaning and practice of impact management; work towards interoperability and fill gaps as needed; and have coordinated dialogue, as appropriate, with policymakers.

While the site is primarily aimed at impact professionals in the public and private sectors, its use by policymakers, regulators, academics, and non-profit organizations is also addressed. Moreover, it aims to be relevant to a wide range of businesses (from multinationals to small and medium-sized local enterprises) as well as investors (from IFIs to mainstream financial institutions). A core set of actions reflects an emerging consensus on how organizations can manage sustainability impacts in a way that is integrated with financial performance.¹⁰³ The resources include a growing list of organizations, standards, frameworks and toolkits.¹⁰⁴

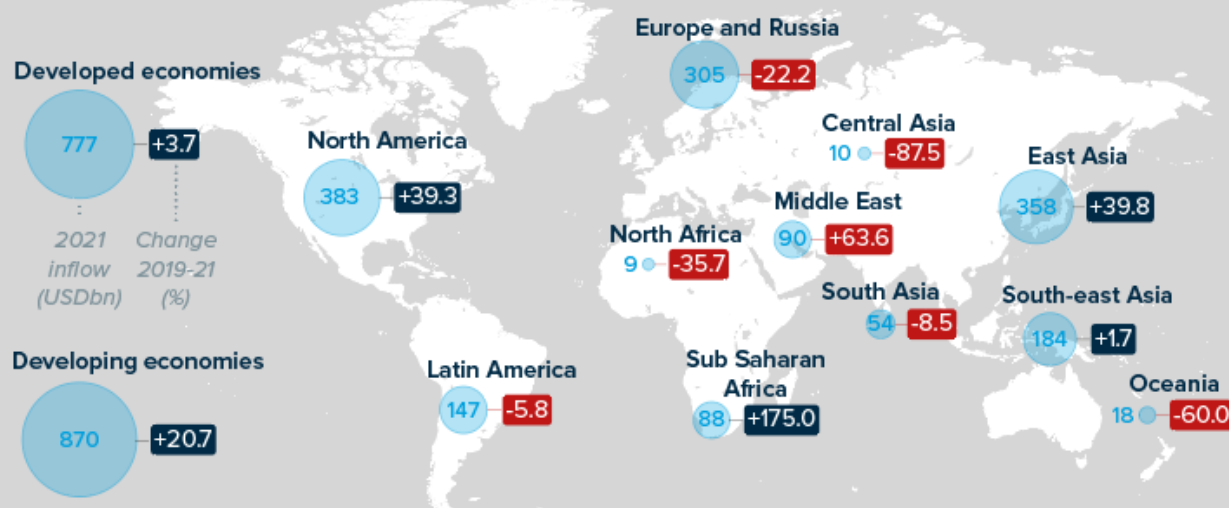
Overall, insights from both the private sector and global development institutions can forge connections between investment, integrity, and impact. These are relevant to the flows of both FDI and FPI. Such an approach can help bridge governance gaps and bolster Constructive Capital. The following part of the report considers supportive trends in responsible business and investment. Impact will again be a key feature, notably in view of due diligence expectations and the rise of ESG investment.



Data: UNCTAD Global Investment Trends Monitor

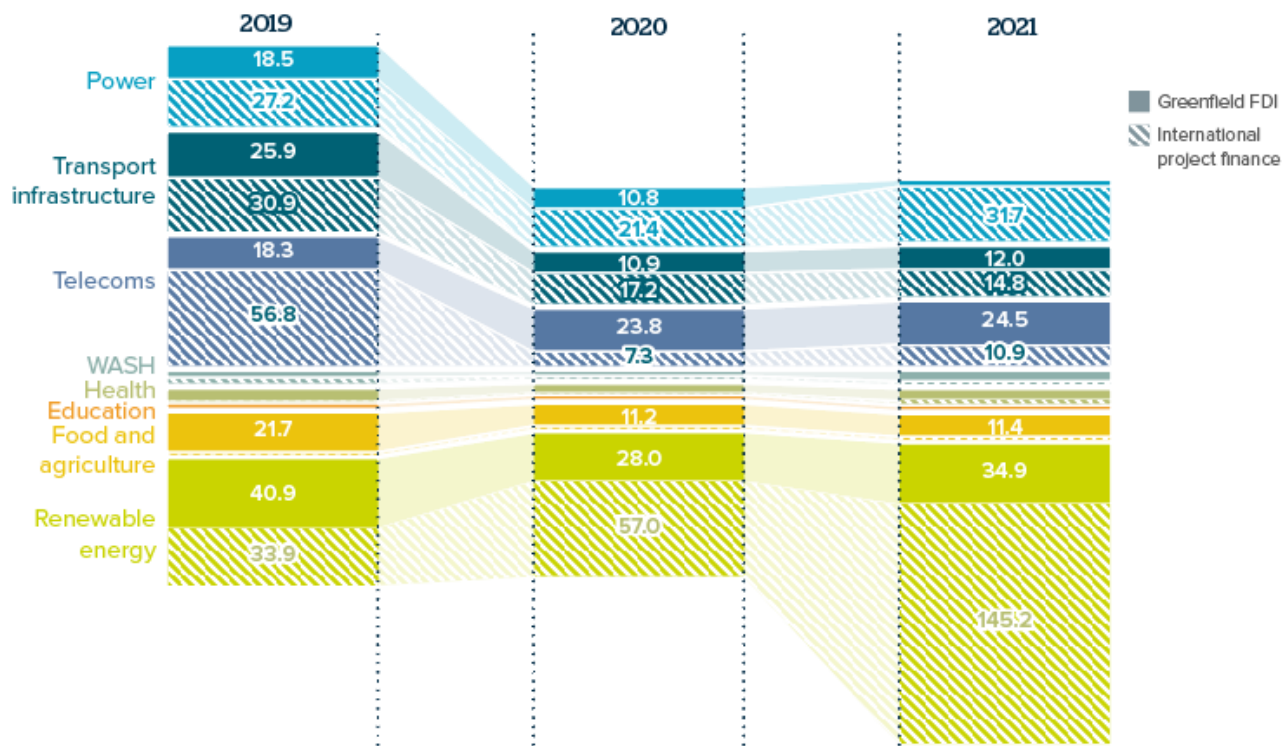
FDI inflows by region, 2021 (USDtn)

FDI inflows picked up markedly towards the end of 2020 and in the first half of 2021, but this was led by investment in developed markets



Global private investment in SDG sectors in developing economies (USDbn)

FDI into power and renewable energy in developing economies picked up during the pandemic but investment into telecoms, education and food declined



Data: UNCTAD Global Investment Trends Monitor

Part Four: Supportive Trends in Responsible Business and Investment

The role of business in its broader economic, political, and social context is central to CIPE’s work on Constructive Capital. The changing parameters of responsible business and investment, along with shifting societal expectations, offer new prospects for engagement and impact.

Such developments can shape strategies for Constructive Capital, both in theory and in practice. As noted in Part Two, a values-driven private sector is one of the *Cornerstones of Constructive Capital*. The supportive trends described here reinforce this foundation. They also underscore the links between investment, integrity, and impact – notably through ESG strategies.

I. Context

A responsible private sector can make enduring contributions to strengthening Constructive Capital and curtailing Corrosive Capital. By way of background, the evolution of both responsible business and responsible investment are briefly described. These movements are converging in a meaningful way, driven by the power of capital decision-making and allocation.

Programs for corporate social responsibility (CSR), which developed alongside business compliance and ethics programs, were initially based on community outreach and philanthropic efforts.¹⁰⁵ In 2000, the UN proposed a “Global Compact” with business focusing on voluntary commitments regarding human rights, working conditions, environmental measures, and anti-corruption.¹⁰⁶ Other multi-stakeholder initiatives also responded to a range of relevant topics and industries, raising standards and encouraging companies to report on their activities. Corporate responsibility became defined through managing risks and mitigating negative impacts – and eventually through identifying positive opportunities. Corporate responsibility now embraces broader questions of sustainability.¹⁰⁷ It guides multiple aspects of company values, strategies, and operations with influence across multinational supply chains.

Emerging on parallel tracks, responsible investment originated in the “socially responsible investment” initiatives of the 1970s.¹⁰⁸ This has moved into the mainstream and is now re-shaping the corporate responsibility movement. During the first decade of the 21st century, the corporate responsibility agenda focused on climate change and environmental sustainability, poverty and development, as well as labor and human rights. This perspective continued over the last decade, even as the climate crisis intensified, inequality widened, and human rights abuses persisted. Critics perceived a disconnect between corporate policies and actions, between commitments and impacts.

At the same time, the view took hold that capital – mobilized by investors and deployed in the financial markets – held a key that could unlock progress. It could bring the weight of asset allocations, as well as direct engagement and shareholder advocacy, to bear on public companies. Institutional asset owners and managers, plus a few sovereign wealth funds, began to see ESG risk factors as potentially material to investment decisions and outcomes. This laid the basis for “ESG investing” driven by environmental, social, and corporate governance factors. As discussed below, mainstream investors across different asset classes have gradually embraced the agenda. For example, JP Morgan estimates that assets referring to ESG principles may soon represent 44% of global assets under management.¹⁰⁹

Within this context, Part Four of the report takes up four developments: Business and Human Rights; Due Diligence Initiatives; Responsible Investment and ESG; SDG 16 and Transformational Governance.

II. Business and Human Rights

The UN Guiding Principles on Business and Human Rights, endorsed in 2011, created for the first time a globally authoritative standard on business and human rights.¹¹⁰ The UNGPs establish the state duty to protect human rights, the corporate responsibility to respect human rights, and the shared obligation to ensure access to effective remedy for victims of business-related human rights harms. The UNGPs have been reinforced in numerous other global and regional standards and frameworks. Notably, the OECD has included the business responsibility to respect human rights and due diligence for responsible business conduct in the OECD Guidelines for Multinational Corporations.¹¹¹

The UNGPs do not mandate a specific form of government regulation applicable to companies operating within or from their territory. Instead, their implementation relies on a “smart mix” of measures to ensure that states meet their duty to prevent and address business-related human rights abuses, and to ensure that companies meet their own responsibilities to respect human rights, including through due diligence.¹¹² Such measures may include legislation, regulation, policy guidance and support for companies, as well as incentives.¹¹³ Large multinational companies are expected to establish human rights policies and report on their implementation in practice.¹¹⁴ Overall, company disclosures are being subject to greater scrutiny. Several human rights-focused corporate benchmarks have also emerged, clarifying industry risks and related issues.¹¹⁵ While aimed at companies and a range of stakeholders, these benchmarking initiatives are also proving to be useful to investors.

In the decade since their endorsement, the UNGPs have been taken up by governments, companies, and many civil society organizations.¹¹⁶ As a result, the due diligence process has become an important way for companies to demonstrate respect for human rights and manage risks. The stakeholder pressures continue to grow, not just about inputs but about outcomes. Moreover, the expectations placed on multinational corporations are extending to their suppliers, especially in labor-intensive industries. This sharpens the focus on problems of forced and child labor, human trafficking, and modern slavery. At the same time, enhancing compliance throughout global supply chains can pose local challenges. CIPE’s work in emerging markets confirms the need to educate and support businesses in implementing practicable measures to minimize risks and safeguard their operations.

Finally, the business and human rights agenda has generally been considered as separate from environmental and climate issues. Yet, given the mounting climate crisis, impacts on human rights are becoming part of the discourse. The climate justice agenda highlights disproportionate effects in the Global South, as well as in poor communities within both rich and poor countries alike.¹¹⁷ Thus, companies are beginning to identify and manage their environmental and climate impacts through the lenses of inequality and social injustice.

III. Due Diligence Initiatives

The question of due diligence in human rights, as well as in environmental matters, is tied to the governance of corporate risks. Across jurisdictions, there is growing interest in strengthening due diligence and disclosure requirements. This has been influenced by the UNGPs, but also builds on current mandatory disclosure and transparency legislation related to specific issues. Examples include conflict minerals and modern slavery. Resources such as the OECD Due Diligence Guidance for Responsible Mineral Supply

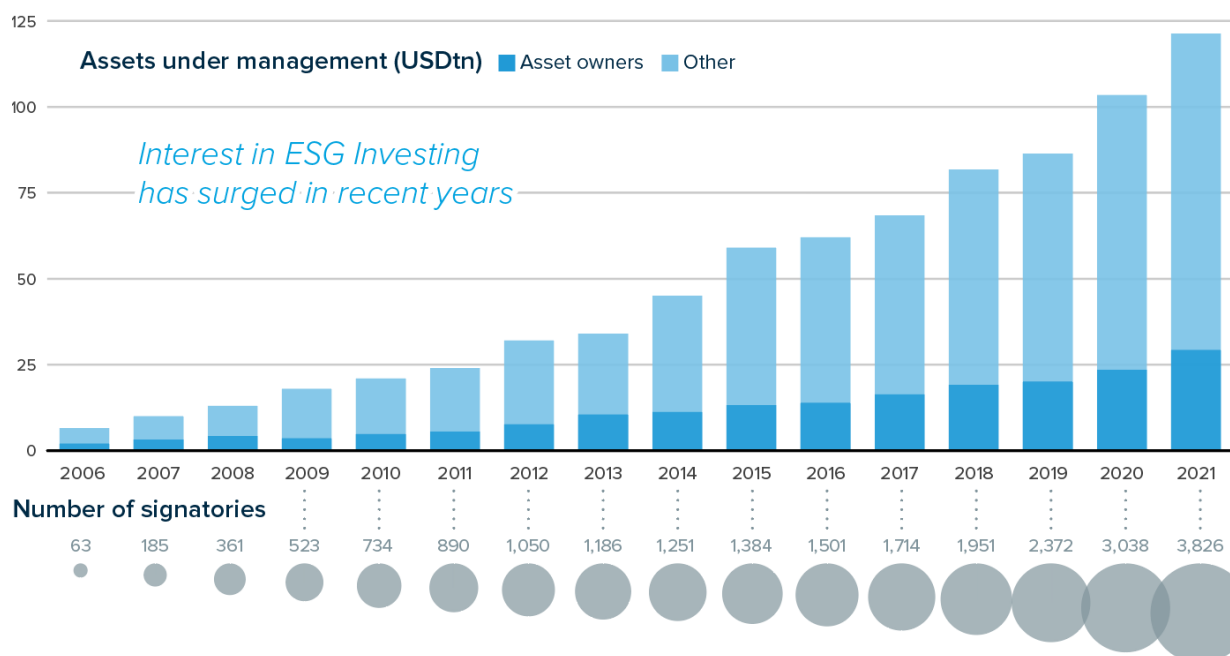
Chains and the OECD Due Diligence Guidance for Responsible Business Conduct help companies to identify and manage risks as well as to comply with government mandates.¹¹⁸

Such disclosures were initially opposed by some companies and industry associations due to concerns over compliance costs and administrative burdens. With time, they gained business support for helping to strengthen supply chain oversight and risk management of legitimate human rights and environmental issues. However, there is still a large gap in knowledge and capacity between multinational corporations and local businesses that needs to be addressed, especially in emerging and frontier markets. Select regulators, investors, activists, and other stakeholders have appreciated the heightened transparency and accountability enabled by these disclosures. Nonetheless, this points to another challenge regarding the risk of Corrosive Capital. There is no global consensus on these issues. Some countries allow, or indeed in certain cases encourage, their companies to operate according to a different set of principles to gain an unfair competitive advantage.

While several countries have adopted or are considering legislative measures, one significant example will be noted here. By 2024, the EU is expected to enact mandatory due diligence requirements regarding human rights and environmental issues. The scope will include EU companies above certain size and turnover thresholds, as well as comparable non-EU companies that are active in the EU.¹¹⁹ Referred to as the EU Sustainable Corporate Governance Initiative, this is part of a post-pandemic recovery package and growth plan as well as a response to climate change. It should be noted that other provisions within this ambitious Sustainable Finance Package are also of relevance to Constructive Capital, including those on sustainable investment taxonomy and corporate sustainability reporting.¹²⁰

Such initiatives may accelerate the take-up of mandatory environmental and human rights due diligence legislation in other jurisdictions. Moreover, companies within supply chains will be encouraged to implement policy and transparency commitments, due diligence systems, and grievance mechanisms if they want to be attractive partners to global businesses. At the same time, the distinct elements of ESG will become more integrated – and G will become more actively applied to E and S – as companies across the value chain move to strengthen their governance of environmental and social issues. As mandatory disclosure requirements take hold, companies will become more consistent in reporting of ESG data. However, many companies are concerned about the scope of such requirements and the related operational burdens. Regulators need to consider due diligence obligations in consultation with the business community. The risk management and transparency associated with such efforts, if effectively implemented, may help to enhance flows of Constructive Capital and root out Corrosive Capital.

PRI growth 2006-21



Data: unpri.org

IV. Responsible Investment and ESG

A. Overview

The term “ESG investing” refers to the practice of considering environmental, social, and governance factors in investment decisions alongside purely financial factors.¹²¹ Environmental factors focus on climate change, toxic pollution, land and water, biodiversity, and deforestation. Social factors focus on labor and human rights, local communities, and issues of inequality and discrimination. Governance factors focus on roles and responsibilities of corporate boards, executive management, and shareholders (for public companies), as well as on compliance and risk management processes. Overall, ESG investing seeks to evaluate corporate performance on these three sets of factors to inform investment decisions, reduce risk, and enhance long-term if not short-term performance.

Early impetus for ESG came from an UN-led initiative in 2005, when a group of the world’s largest institutional investors created the “Principles for Responsible Investment.”¹²² Signatory investors commit to six principles to integrate ESG issues into investment analysis and decision-making processes, and to demonstrate active ownership. The PRI initiative is now an independent organization, with continuing UN support. It conducts research on emerging issues and offers a range of resources and engagement opportunities. As of 2021, the PRI had more than 3,800 signatories, representing approximately US \$121 trillion in assets under management.¹²³

This global reach to companies around the world creates new opportunities to heighten environmental and social priorities, mitigate risks, and improve corporate governance. However, ESG investing is still an evolving field. Metrics are currently inconsistent, and overall impact is difficult to assess. Of course, CIPE recognizes the growing significance of the ESG agenda as well as its potential in relation to Constructive and Corrosive Capital, especially in emerging and frontier markets.¹²⁴

B. Company Engagement

One important aspect of ESG relates to company engagement and shareholder advocacy. While the ESG investing market remains dominated by North America and especially Europe, it is rapidly growing in the Asia-Pacific region. Stock exchanges, which can significantly influence how large numbers of companies govern themselves, are also increasingly involved with the ESG agenda. As part of the Sustainable Stock Exchanges (SSE) initiative, several exchanges have launched ESG guidance programs for their listed companies.¹²⁵

The rise in ESG investing is primarily driven by the continued long-term performance of ESG funds, along with the growing awareness among mainstream investors that ESG factors are material to financial performance. However, with the UNGPs and guidance from the OECD regarding the applicability of the MNE Guidelines to institutional investors, there is also a growing acceptance that investors share responsibility for the impacts of their investments through the performance of the companies in which they invest. The EU has redefined the role of institutional investors as financial actors by requiring disclosure of the steps they have taken to address the adverse environmental and/or social impacts of their investment decisions.¹²⁶

The expansion of ESG investing is also reflected in and reinforced by the approaches that investors use to engage with companies in their portfolios. Investor strategies include dialogue with company management, shareholder resolutions and proxy voting, multi-stakeholder standard-setting, and in rare cases, divestment. BlackRock, a front-runner on stewardship priorities and engagement, reported a record \$10 trillion in assets under management as of January 2022.¹²⁷ Also noteworthy is the announcement from the Glasgow Financial Alliance for Net Zero.¹²⁸ Major banks and financial institutions with more than US \$70 trillion in assets under management have pledged to cut the “carbon content” of their assets by 2030 and to work towards “net zero” emissions by 2050.

Climate change, human rights and other issues have also become crucial factors for identifying and assessing risks in investment portfolios. ESG investing is increasingly seen as an extension of established due diligence practices. The COVID-19 pandemic has strengthened this understanding, with record inflows into ESG funds. The crisis has also heightened attention to the “S” in ESG given the need to address risks to worker health and safety, as well as to labor conditions in global supply chains.¹²⁹

C. ESG Standards and Reporting

As indicated, various trends are driving the mainstream acceptance and expansion of ESG considerations in business conduct. The growth of the ESG market has also led to the proliferation of disclosure requirements and assessment procedures. Company reporting on these factors can be inconsistent and difficult to compare. Moreover, numerous commercial firms now offer analytics-driven ESG information. Underlying the complexity are jurisdictional variations in regulatory oversight as well as legal interpretation of issues such as materiality. Multiple efforts are currently underway for greater harmonization regarding both standard-setting and disclosure. The following are particularly relevant:¹³⁰

- The Sustainability Accounting Standards Board (SASB), an independent standards-setting organization, has merged with the International Integrated Reporting Council (IIRC) to create a new organization called the Value Reporting Foundation. It collaborates with bodies such as the Global Reporting Initiative (GRI) and Climate Disclosure Standards Board (CDSB).

- Several jurisdictions are examining ESG-related standards and disclosure requirements. For example, the EU will replace existing provisions under its Non-Financial Reporting Directive (NFRD) with a proposed Corporate Sustainability Reporting Directive (CSRD).
- The International Financial Reporting Standards (IFRS) Foundation launched a new International Sustainability Standards Board (ISSB) in November 2021 at the COP26 in Glasgow. The IFRS sets accounting standards that are already relied upon in many jurisdictions, and the ISSB will build upon existing non-financial reporting frameworks. The role of the ISSB is supported by groups such as the International Organization of Securities Commissions (IOSCO) and the World Economic Forum International Business Council (WEF IBC), as well as by the leading professional accounting firms.

Investors, companies, and professional services firms are closely monitoring these developments. Although the scope and timelines may shift, the preparation process is underway. This period of change will redefine corporate reporting – as well as accountability – for years to come. It also holds important implications for stakeholder engagement, long-term value creation, and the overall contribution of the private sector to society.¹³¹

V. SDG 16 and Transformational Governance

The UN Global Compact (UNGC) has developed an innovative framework that draws on trends in both responsible business and responsible investment. It is anchored in SDG 16 implementation and informed by ESG practices. This initiative on Transformational Governance is also forging links between corporate governance and public governance.¹³² As such, it reflects several themes of relevance to the *Framework for Constructive Capital*, including the reinforcement of the *Cornerstones of Constructive Capital*.

The UNGC addresses questions of rule of law and governance through its *Action Platform for Peace, Justice and Strong Institutions*. This collaborative effort is aligned with the Ten Principles of the UN Global Compact and the UN Sustainable Development Goals, particularly SDG 16. It helps companies to identify business risks and opportunities, engage in stakeholder dialogue with civil society and other actors, share best practices, and demonstrate leadership. Selective advocacy by companies – together with business partners and civil society allies – could support the foundations of Constructive Capital to the mutual benefit of economies and societies. The Action Platform is also a complement to the “shared space” approach in supporting the rule of law, accountable governance, and civic freedoms.¹³³

In September 2020, in commemoration of the 75th anniversary of the UN and the 20th anniversary of the Global Compact, the UNGC issued “A Statement from Business Leaders for Renewed Global Cooperation.”¹³⁴ More than 1,000 Chief Executive Officers from companies in over one hundred countries demonstrated their support for the United Nations and global cooperation through peace, justice, and strong institutions.

In June 2021, the *SDG 16 Business Framework: Inspiring Transformational Governance* was launched at the UN Global Compact Leaders’ Summit. Key points include:

- The SDG 16 Business Framework will help companies embrace transformational governance, a principles-based philosophy that calls on business to be more accountable, ethical, inclusive, and transparent as a driver to responsible business conduct, enhanced ESG performance, and strengthened public institutions, laws and systems.
- With the increasing overlap and urgency on ESG issues, transformational governance is a prism through which businesses can expand their understanding of the “G” in ESG. It demonstrates why and how businesses can assess and implement each target of SDG 16 through internal and external activities, including throughout their supply chains.

The SDG 16 Business Framework does not aim to create new legal commitments or standards, but to deepen the understanding of the role that business can play in advancing these issues. It can strengthen cross-functional engagement, while encouraging companies to assess their situation and identify opportunities for improvements. It can also help companies to incorporate such understandings into board and management oversight, values and culture, strategies, policies, operations, and relationships. The SDG 16 Business Framework now provides an extensive online resource that offers dozens of examples of company action on both corporate governance and public governance.¹³⁵ Such examples could help inform the advancement of the *Framework for Constructive Capital*.

In conclusion, a Values-Driven Private Sector has been set forth as one of the *Cornerstones of Constructive Capital*, but it also serves to strengthen other *Cornerstones*. The way in which business operates, the culture it instils, and the relationships it maintains can all be sources of support. This overview of trends in responsible business and investment has highlighted improvements in corporate governance practices and risk assessment; new procedures for transparency and reporting; greater engagement in multi-stakeholder initiatives, and increased attention to a broad range of social and sustainability issues. One of the key challenges CIPE has identified is to translate the UNGPs and other international principles into actionable steps for mid-sized companies in emerging markets. The growing focus on impacts has further heightened expectations for all companies to align their commitments with meaningful actions. This begins with their own operations and supply chains. At the same time, businesses have new opportunities to support broader societal goals, helping to create an enabling environment for profitable and sustainable business models.

Part Five: Advancing a Framework for Constructive Capital

This report has presented numerous insights on strengthening Constructive Capital and curbing Corrosive Capital. Part Five draws together an approach to advancing a *Framework for Constructive Capital*.

The first section, with a focus on awareness, considers the broad constituency for Constructive Capital. The second section offers an indication of potential actions by key stakeholders. The third section highlights business opportunities for engagement. These steps are interrelated and ongoing, with a view toward promoting collaborations for systemic change.

I. Awareness of Constructive Capital

Policy implementation occurs top-down or bottom-up. With time, elements of a *Framework for Constructive Capital* may gain traction at the normative level for adoption or at the grassroots level for advocacy. As a starting point, the *Framework* should rely on the stakeholders within a given jurisdiction who are already working on questions of investment, integrity, and impact. This could be at a national, subnational, or local level. The ideal anchor is the wider business community, to include companies of all sizes and sectors, financial institutions, professional service firms, research and training institutes, business and trade associations, multi-stakeholder partnerships, and others. They could help form a constituency for the advancement of Constructive Capital.

This report has emphasized the vital role of a values-driven private sector, as well as the contributions of responsible business. Chambers of commerce, for example, are well-placed to take the lead in mobilizing such a constituency. The involvement of investment promotion agencies, port authorities, and special trade zone administrators would be vital. Outreach should include a range of civil society and local community representatives. Given the importance of diversity and inclusion, special efforts should be made to ensure the participation of women, minorities, and other under-represented groups. This constituency for Constructive Capital can be leveraged to encourage awareness and to support assessment across governance and accountability systems. It is also central to effective action and dissemination of best practices.

The process of raising awareness among stakeholders will evolve over time. Consideration might be given to hosting local events to introduce the *Framework*, encourage dialogue, and build the constituency. The *Cornerstones* could serve as an initial focal point, notably with respect to their relevance and resilience. Specific examples of investments with either corrosive or constructive consequences might also be identified. This may later lead to the development of a collaborative strategy for action.¹³⁶

II. Action to Advance Constructive Capital

The process of stakeholder engagement will bring clarity to a range of issues and help identify emerging priorities for action. Given the availability of new digital tools, options to advance the *Framework for Constructive Capital* should be grounded in data-driven approaches. These may include stakeholder and supply-chain mapping; risk analysis and scenario planning; assessment of misinformation and disinformation; institutional integrity standards; program monitoring and evaluation methodologies. The OECD, for example, has prepared a guide on *Analytics for Integrity: Data-Driven Approaches for Enhancing Corruption and Fraud Risk Assessments*.¹³⁷ Such efforts would also help operationalize the Investment, Integrity, Impact model at the core of this report.

In addition, the advancement of a *Framework for Constructive Capital* requires attention to geo-political challenges, along with related risks and responses. Such concerns also pertain to broader questions about the future of global political and economic governance. The year 2020 marked the 75th anniversary of the founding of the United Nations organization. The milestone brought into sharp relief the strains in global cooperation, and indeed the perceived assault on a rules-based international order. Such developments implicate global governance reforms, but they can also be relevant to local problem-solving. Overall, the assessment process should consider both economic and ethical rationales for action, building the case for Constructive Capital.

To accelerate implementation, specific actions for stakeholder application of Constructive Capital should be identified. By way of a starting point, examples are offered in the following outline:

Governments

- Integrate the *Framework* into various aspects of government programs and oversight procedures
- Collaborate with Investment Promotion Agencies on effective strategies tied to rule of law commitments
- Re-evaluate investment treaty regimes, notably in view of current critiques about justice in economic governance¹³⁸
- Apply innovations in metrics and measurement related to impact, including benchmarks¹³⁹
- Apply data, analysis and toolkits developed by international financial institutions and other agencies involved with economic governance
- Ensure the effectiveness of domestic legal regimes and procedures at all levels, notably through transparency and accountability mechanisms
- Identify weaknesses in various phases of the procurement process and undertake needed reforms
- Enhance due diligence procedures regarding inbound investment, especially for long-term projects and infrastructure
- Enhance processes for assessing overall government outcomes¹⁴⁰

Business and financial sector

- Enhance transparency and due diligence procedures throughout business operations and value chains
- Integrate the *Framework* into investment evaluation and decision-making processes
- Examine the implications of trends in sustainable investment and finance for FDI strategy and ESG factors
- Enhance the benefits of portfolio investment, including through initiatives such as Sustainable Stock Exchanges¹⁴¹
- Expand the application of impact-related metrics, measurement, and management
- Consider how private sector activities may support the *Cornerstones of Constructive Capital* through direct operations, value chains, and collective action

Business associations

- Create opportunities for dialogue between stakeholders on issues of cross-border capital flows and their impacts, raising awareness and driving action
- Respond to relevant policy developments and coordinate business positions
- Share best practices in responsible business conduct and investor relations
- Identify emerging industry-sector issues in relation to Constructive Capital
- Enhance training in corporate governance, compliance, risk assessment, and reporting
- Facilitate the role of small and medium-sized enterprises, including in supply chains
- Contribute to strengthening integrity measures throughout the local economy

Civil society

- Hold governments accountable for implementation of relevant laws and international standards in order to close governance gaps
- Promote the scope of accountability for business, through both compliance and stakeholder pressure
- Continue to leverage global policy developments such as SDG 16 implementation
- Develop processes for engagement with stakeholders and diffusion of information
- Identify relevant priority areas for advocacy campaigns, including to promote diversity, equity and inclusion

Professional bodies

- Raise standards of conduct among the constituency; for example, lawyers assessing their own influence on integrity safeguards given their role as advisors with certain clients or projects
- Reinforce relevant legal regimes and accountability mechanisms, especially those with extra-territorial dimensions
- Monitor regulatory and reporting developments on topics such as ESG standards and accounting practices
- Collaborate with other professional bodies for knowledge-sharing
- Create professional training programs on evolving issues such as corporate governance

Think tanks and academia

- Conduct interdisciplinary research grounded in theoretical and empirical analysis
- Clarify the concepts of Constructive Capital and Corrosive Capital, along with their impacts
- Identify areas for potential policy reform
- Investigate the corrosive consequences of investment projects to expose governance gaps
- Guide the practical steps for advancing the *Framework*

III. Business Opportunities for Stakeholder Engagement

The context and modalities for actions to advance Constructive Capital are undergoing continual change. Several developments are explored here, with a view to helping businesses frame opportunities and priorities for stakeholder engagement.

A. Influence of Corporate Purpose

To both support and benefit from *Constructive Capital*, companies should recognize how the business responsibility agenda is evolving. Several of these trends are indicated in Part Four. In addition, various initiatives seek to redefine the role of corporations in society. One key idea relates to the fundamental understanding of business purpose. In 2019, the Business Roundtable organized an effort for 181 of its members – all CEOs of major US corporations – to adopt a Statement on the Purpose of a Corporation.¹⁴² They declared that companies should serve not only their shareholders and maximize shareholder return, but also their stakeholders and deliver societal benefit. The statement garnered exceptional attention. In 2018, the British Academy launched an ambitious research and engagement program on the Future of the Corporation. It has defined the purpose of business as “profitably solving the problems of people and planet, and not profiting from creating problems.”¹⁴³ The Academy’s *Principles for Purposeful Business* examine accountability and implementation. Key reforms to enable such commitments relate to corporate law and regulation; ownership and governance; measurement and performance; finance and investment.¹⁴⁴ More

broadly, such questions about purpose tie into debates about the place of shareholders and stakeholders within the capitalist system – and the need to build collaboration and trust.

B. Momentum for ESG Investment

The trends within ESG-driven investment will influence opportunities to support Constructive Capital. This momentum is accelerating with the harmonization of sustainability standards and reporting requirements as well as the expansion of human rights and environmental due diligence regulations. More investors will become engaged, and more companies will incorporate ESG issues into their strategies, operations, and key performance indicators. Board responsibilities and risk analysis will continue to be realigned to meet investor expectations. These shifts will lead to the development of more comprehensive datasets and analytical tools. Attention is also focused on each of the three factors, with pressure for various emerging issues to be included within the ESG lens. Overall, in terms of Constructive Capital, both the quality of capital flows and the conduct of business enterprises will be enhanced – with prospects for driving broader changes that thwart Corrosive Capital flows.

It must be understood that the baseline of putting measures in place to identify, prevent and mitigate adverse impacts on society and the environment is no longer sufficient to satisfy stakeholders. Where companies fail to deliver positive changes quickly enough, stakeholders – increasingly including investors – will demand legally binding approaches to ensure transparency and accountability. The Constructive Capital approach offers advantages, encouraging companies to maintain high standards through voluntary codes of conduct. It places a priority on transparency and accountability for all actors and relies on active engagement with both civil society and the public sector.

C. “Shared Space” between Civil Society and Business

Civil society actors as well as companies depend on the legal and institutional frameworks that define the shared space to operate. Civil society cannot flourish, and business cannot thrive outside these frameworks. As expressed in a report on *Shared Space Under Pressure: Business Support for Civic Freedoms and Human Rights Defenders*: “Successful, sustainable business and investment environments require accountable governance bound by rule of law. Such environments can only be maintained when the rights that define the shared civil society space – freedom of expression, assembly and association – are respected and protected.”¹⁴⁵ These elements allow other human rights to be realized. Importantly for business, they are also the lifeblood of innovation and entrepreneurship, and of the freedom to create value and generate both economic profit and societal benefit. As such, this approach is relevant to Constructive Capital, both because of its objectives and its modalities for action.

Business has sometimes taken the “shared space” – and the associated benefits of a stable business and investment environment – for granted. However, this shared space is now under pressure around the world. Attacks on human rights defenders are increasing. Autocracies are acting with impunity, and even some long-standing democracies are backsliding. Amidst these trends, various stakeholders are calling on business to join forces with civil society in defending the shared space. The shared space framework calls for companies to be “voices and forces” for civic freedoms and for human rights defenders when they are directly linked to companies’ own operations and supply chains. It also challenges companies to see the opportunity to act in situations where their operations are not directly involved, but where the shared space on which business and civil society both depend is at stake.

Part Six: Conclusion – The Case for Constructive Capital

The development of a *Framework for Constructive Capital* has revealed a series of mutually reinforcing themes. This brief conclusion highlights several of them.

1. The *Cornerstones of Constructive Capital* are aimed at supporting capital flows that have positive impacts on governance, and at stemming capital flows that have negative impacts on governance. At this time of extreme economic disruption, as well as pressure on the attainment of the SDGs, they can serve to bolster confidence that investments will achieve their intended objectives. The Sustainable Development Agenda, notably SDG 16, informs and inspires many aspects of this *Framework*.
2. The *Framework* is undergirded by both economic rationales and broader democratic values. It is committed to long-term value creation for both companies and societies. The *Framework* also expressly articulates numerous values and fosters a values-driven culture.
3. The *Framework* is implemented on a local basis, but it is shaped by international policy mechanisms and relies on data from institutions of global economic governance. It is also attentive to the inter-relationship between corporate governance and global governance. In turn, the *Framework* may exert influence at the international level.
4. The challenges of risk and resilience feature in this report, reflecting the discourse around both private sector and public sector measures. However, current circumstances also underscore the significance of systemic risks, such as the threats posed by pandemics and climate change. This points to the need to prioritize complementary and comprehensive systems-based strategies.
5. Consequences and impact, and not the financial flows as such, are crucial to understanding Constructive Capital and Corrosive Capital. For this reason, impact assessments undergird the implementation of the *Framework*. Indeed, this posits the question: what is the impact of a given investment on systemic integrity? Such a focus also complements the broader interest in impact evaluation across various institutions and stakeholders, offering additional avenues for influence, innovation, and advancement.
6. The current period has been dubbed “The Great Reset.” This raises prospects for a different understanding of the relations between business, government, and society. There is significant momentum to drive change and help attain shared objectives. The *Framework* responds to this period of re-setting, relying on new collaborations across sectors, actors, and jurisdictions. There is also another key imperative: the restoration of trust. The *Framework* depends upon – and contributes to – a multi-dimensional reinforcement of this essential attribute of democracies and markets alike.
7. The *Framework for Constructive Capital* can play a part in a high-stakes quest: the revitalization of democracy. Its context, cornerstones, and concepts affirm the ideals of accountable governance, individual freedom, and social and economic inclusion. Practical application depends on active participation across communities. Moreover, a vibrant and responsible business sector is central to its success. The *Framework* can show how private enterprises and democratic institutions work together to build democracies that deliver.

These themes signal the powerful potential of this *Framework for Constructive Capital*. Transborder capital flows can be a force for supporting both accountable institutions and responsible business communities. Successful outcomes of such investments will in turn create an even stronger case for Constructive Capital. There is an urgent need to move forward on this agenda now, as the world is “building forward” to a more resilient and inclusive future.

Today, as authoritarian influences around the globe seek to undermine democratic values, the Center for International Private Enterprise is convinced that Constructive Capital is more vital than ever. In its decades of work at the intersection of democracy and markets, CIPE has seen how easily corrosive investments from autocratic regimes can erode public trust, particularly in emerging economies. CIPE hopes that a wide range of stakeholders from governments, businesses, associations, civil society, professional bodies, and academic networks will engage with the ideas presented in this report. Through necessary reforms and principled actions, countries at both the origin and destination of capital flows can create conducive conditions for Constructive Capital. This may also help mitigate the negative effects of corrosive investment flows. Across sectors, the *Framework for Constructive Capital* can serve as a valuable resource for practical strategies.

CIPE’s newly launched Center for Accountable Investment (CAI) offers an innovative opportunity for thought leadership at the intersection of democracy and markets. It seeks to identify and refine tools and methodologies regarding Constructive and Corrosive Capital that can be deployed within CIPE’s project portfolio. CAI pursues a dual strategy to put the *Framework for Constructive Capital* into practice, seeking to increase the flows of Constructive Capital and reduce the effects of Corrosive Capital. CIPE’s work with local partners from around the world has always given the organization a unique perspective. Through CAI, CIPE will bring that knowledge and experience to the global democracy community.

Endnotes

- ¹ CIPE Corrosive & Constructive Capital Initiative; <https://corrosiveconstructivecapital.cipe.org/>
- ² Oxford Analytica Foundation; <https://www.oxan.com/foundation/>
- ³ Center for International Private Enterprise; <https://cipe.org/>
- ⁴ Oxford Analytica Foundation; <https://www.oxan.com/foundation/>
- ⁵ ESG update (13 December 2021); <https://www.gobyinc.com/esg-funds-new-record-inflow-2021/>
- ⁶ *Transforming our World: The 2030 Agenda for Sustainable Development*, UNGA Res. 70/1, 25 September 2015; <https://sustainabledevelopment.un.org/content/documents/21252030%20Agenda%20for%20Sustainable%20Development%20web.pdf>. See also *Our Common Agenda*, the UN Secretary-General's report of September 2021, which presents a vision for the future of global cooperation; <https://www.un.org/en/un75/common-agenda>
- ⁷ Pathfinders for Peaceful, Just and Inclusive Societies, *The Roadmap for Peaceful, Just and Inclusive Societies – A Call to Action to Change our World* (NYU Center on International Cooperation, 2017 and 2019); <https://www.sdg16.plus/>
- ⁸ According to the World Bank, by 2030 up to two-thirds of the world's poorest people could live in settings of fragility, conflict and violence (FCV). It also points to a more complex risk landscape due to factors such as rising inequality, demographic shifts, new technologies, climate change, and illicit financial flows. Conflicts also drive 80% of all humanitarian needs; <https://www.worldbank.org/en/topic/fragilityconflictviolence/overview#1>. The US Institute of Peace (USIP) addresses violent upheavals in fragile states, particularly those stemming from the destabilizing roles of competing powers and rising competition for scarce resources; <https://www.usip.org/>
- ⁹ Stockholm International Peace Research Institute (SIPRI); <https://www.sipri.org/research/peace-and-development>
- ¹⁰ The IFC maintains that “the vast needs of fragile and conflict-affected countries can only be met if private enterprises are able to grow, create employment, provide the goods and services people need to improve their lives and generate the tax revenue that allows governments to provide essential services.”; <https://www.ifc.org/wps/wcm/connect/dcd9f4c0-d34a-4556-9e5a-0dcb3a9b0ac0/IFC+FCS+Brochure.pdf?MOD=AJPERES&CVID=IglUzLj>
- ¹¹ Institute for Economics and Peace (IEP) resources are available at: <https://www.economicsandpeace.org/>. Notably, the IEP indicators of well-functioning government include participation, rule of law, human rights, and freedom.
- ¹² IEP Positive Peace Report 2022, pp 9-14; <https://www.economicsandpeace.org/wp-content/uploads/2022/01/PPR-2022-web-1.pdf>
- ¹³ Global Peace Index 2021, Executive Summary, p 2; <https://www.economicsandpeace.org/wp-content/uploads/2021/06/GPI-2021-web.pdf>
- ¹⁴ Global Peace Index 2021, pp 71-72. The IEP conducts additional specialized research on this topic, such as *Business & Peace Report 2021 -- Peace: A Good Predictor of Economic Success*, May 2021; <http://visionofhumanity.org/resources>
- ¹⁵ Tom Bingham, *The Rule of Law* (London: Allen Lane, 2010); the book also identifies eight conditions that support this core principle, indicating how the rule of law is understood in western democracies.
- ¹⁶ British Institute of International and Comparative Law (BIICL), *Risk and Return – Foreign Direct Investment and the Rule of Law* (Project of the Bingham Centre for the Rule of Law at BIICL, in collaboration with Hogan Lovells and the Economist Intelligence Unit, 2015); https://binghamcentre.biicl.org/documents/49_risk_and_return_fdi_and_the_rol_compressed.pdf
- ¹⁷ For example, CIPE is engaged with the palm oil industry association; <https://www.rspo.org/news-and-events/news/strengthening-business-integrity-to-improve-compliance-with-the-rspo-standards>
- ¹⁸ UN Global Compact resources on business and the rule of law are available at: <https://www.unglobalcompact.org/library/1341>
- ¹⁹ For example, the World Bank conducts research on *Women, Business and the Law*; <https://wbl.worldbank.org/en/wbl>
- ²⁰ In 2005, the UNDP convened an influential *Commission on Legal Empowerment of the Poor*, which explored the links between exclusion, poverty, and the law with a focus on access to justice, property rights, labor rights, and business rights; https://www.undp.org/content/dam/aplaws/publication/en/publications/democratic-governance/legal-empowerment/reports-of-the-commission-on-legal-empowerment-of-the-poor/making-the-law-work-for-everyone--vol-ii---english-only/making_the_law_work_II.pdf

- ²¹ For example, the American Bar Association Rule of Law Initiative works to promote justice, economic opportunity and human dignity through the rule of law; https://www.americanbar.org/advocacy/rule_of_law/. See also James R. Silkenat and Gerold W. Libby, eds., *Building the Rule of Law: Firsthand Accounts from a Thirty-Year Global Campaign* (ABA Book Publishing, 2021), which refers to commercial law reforms in Eastern Europe and other jurisdictions. Advocates for International Development, based in London, mobilizes pro bono rule of law expertise for projects around the world; <https://www.a4id.org>. Namati, a grassroots NGO of justice defenders, hosts a Global Legal Empowerment Network; <https://namati.org/network/>
- ²² Center on International Cooperation, *Task Force on Justice, Justice for All – Final Report* (2019); <https://www.justice.sdg16.plus/>. This global justice gap includes 2.1 billion people employed in the informal economy, 2.3 billion who lack proof of housing or land tenure, 1.1 billion people who lack proof of legal identity, and 1.4 billion people with unmet civil or administrative justice needs.
- ²³ Justice Action Coalition; https://www.justice.sdg16.plus/files/ugd/6c192f_0e538ec70290493fbd6f05df5e0f29e1.pdf
- ²⁴ *The Future We Want* (A/RES/66/288), 11 Sept 2012; <https://sustainabledevelopment.un.org/rio20>
- ²⁵ The International Development Law Organization (IDLO), *Doing Justice to Sustainable Development* (2014); <http://www.idlo.int/sites/default/files/pdfs/publications/Doing%20Justice%20to%20Sustainable%20Development.pdf>
- ²⁶ United Nations and the Rule of Law; <https://www.un.org/ruleoflaw/sdg-16/>
- ²⁷ World Justice Project; <https://worldjusticeproject.org/>
- ²⁸ WJP Rule of Law Index; <https://worldjusticeproject.org/our-work/research-and-data/wjp-rule-law-index-2021>. WJP research also shows that rule of law correlates to higher economic growth, greater peace, less inequality, improved health outcomes, and more education.
- ²⁹ This recalls an observation about the significance of the rule of law: “The ideal of the rule of law helps create the ‘virtuous circle’ which – however partial and imperfect the first steps towards it – can transform societal understandings about power, rights and justice which themselves help societies to become more inclusive. Rule of law and its ideology are a force which keeps the virtuous circle turning.” Nick Booth, *The Force that Turns the Virtuous Circle: Rule of Law, Socio-economic Development and the Post-2015 Agenda*; British Institute of International and Comparative Law, Singapore Symposium Proceedings on the Importance of the Rule of Law in Promoting Development (2014); http://www.biicl.org/documents/654_the_importance_of_the_rule_of_law_in_promoting_development.pdf
- ³⁰ For example, the World Bank’s *Worldwide Governance Indicators* (WGI) consider six dimensions of governance: Voice and Accountability; Political Stability and Absence of Violence; Government Effectiveness; Regulatory Quality; Rule of Law; Control of Corruption. The criteria are based on perceptions of “the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government’s commitment to such policies.”; https://govdata360.worldbank.org/indicators/h580f9aa5?country=BRA&indicator=388&viz=line_chart&years=1996,2019
- ³¹ OECD *Recommendation of the Council on Public Integrity*, adopted on 26 January 2017; <https://www.oecd.org/corruption-integrity/explore/oecd-standards/integrity-recommendation/>. The areas of policy capture, public procurement, and public infrastructure are being re-focused toward a comprehensive risk-based approach.
- ³² “Strengthening Trust in Business,” *Highlights from OECD Business and Finance Outlook* (2019).
- ³³ OECD resources on Trust in Government are available at: <https://www.oecd.org/gov/trust-in-government.htm>
- ³⁴ OECD resources on Trust in Business are available at: <https://www.oecd.org/daf/ca/trust-business.htm>
- ³⁵ “Business Must Build Trust for Post-Covid Rebuilding,” (CIPE Insights, 1 November 2021); <https://www.cipe.org/newsroom/businesses-must-build-trust-for-post-covid-rebuilding/>
- ³⁶ Nikolas Kirby and Andrew Kirton, *Corporations, Business and Social Trust* (British Council, 2019); <https://integrity.bsg.ox.ac.uk/files/bcreportpfpdf>
- ³⁷ This influences the legal and regulatory systems of all jurisdictions more broadly, including the limitations and protections related to various rights and freedoms. Principles of participation, democracy, and accountability underlie CIPE’s work on Constructive Capital.

- ³⁸ UN General Assembly Resolution 217A, adopted on 10 December 1948 in Paris, France; <https://www.un.org/en/about-us/universal-declaration-of-human-rights>. The Universal Declaration of Human Rights (UDHR) urges all nations to promote respect for specified rights and freedoms, and to secure their universal and effective recognition and observance through progressive national and international measures.
- ³⁹ UDHR, Art. 17. The inclusion of the right to own property was controversial, given Cold War tensions between democratic and communist models of economics and ownership.
- ⁴⁰ The International Covenant on Civil and Political Rights (ICCPR), adopted by the UN General Assembly on 16 December 1966, sets forth the legal basis for the principles of democracy in international law. The International Covenant on Economic, Social and Cultural Rights (ICESCR) was adopted on the same day. The Universal Declaration, together with these two Covenants, is referred to as “The International Bill of Rights.” See also: www.un.org/en/global-issues/democracy
- ⁴¹ The UN Guiding Principles on Business and Human Rights, which set forth a “Protect, Respect, and Remedy” framework, were adopted in June 2011; https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf. See also the Business and Human Rights Resource Centre; www.business-humanrights.org. This topic is considered in Part Four of this report.
- ⁴² *Freedom in the World 2021: Democracy under Siege*, p 16; <https://freedomhouse.org/report/freedom-world/2021/democracy-under-siege>
- ⁴³ *Reversing the Tide: Towards a New US Strategy to Support Democracy and Counter Authoritarianism* (April 2021); https://freedomhouse.org/sites/default/files/2021-04/Democracy_Task_Force_Report_2021_Final4_04132021.pdf
- ⁴⁴ For example, the McKinsey & Company consulting firm examines issues of gender equality, diversity, and inclusion. Resources for companies seeking to building more inclusive workforces are available at: <https://www.mckinsey.com/featured-insights/diversity-and-inclusion>
- ⁴⁵ Task Force on Inequality-related Financial Disclosures (TFID); <https://rightscolab.org/the-tifd-project/>
- ⁴⁶ UN Department of Economics and Social Affairs, *Social Perspective on Development*; <https://www.un.org/development/desa/socialperspectiveondevelopment/issues/social-integration.html>. See also <https://www.worldbank.org/en/topic/social-inclusion>
- ⁴⁷ World Bank resources on the *HDR and HDI* are available at: <https://hdr.undp.org/en>. See also *Multidimensional Poverty Index*; <http://hdr.undp.org/en/2020-MPI>
- ⁴⁸ For example, the Pathfinders report of September 2021 outlines new strategies for engaging local communities to create more inclusive and equal societies; https://www.sdg16.plus/files/uqdc6c192f_c734a9b63bb14e3bb3ea4d596effd6d.pdf
- ⁴⁹ OECD Business for Inclusive Growth; www.oecd.org/inclusive-growth/businessforinclusivegrowth/
- ⁵⁰ *Report of the NACD Blue Ribbon Commission on Culture as a Corporate Asset* (National Association of Corporate Directors, October 2017); <https://www.nacdonline.org/insights/publications.cfm?ItemNumber=48256>
- ⁵¹ See Principle 1.B of the FRC UK Corporate Governance Code (2018); <https://www.frc.org.uk/directors/corporate-governance-and-stewardship/uk-corporate-governance-code>
- ⁵² See, for example, “The Harvard Oxford Debate on Stakeholder Capitalism,” *Harvard Law School Forum on Corporate Governance* (23 June 2020); <https://corpgov.law.harvard.edu/2020/06/23/the-harvard-oxford-debate-on-stakeholder-capitalism/>
- ⁵³ Eric Hontz, “Building a Market for Everyone: How Emerging Markets Can Attract Constructive Capital and Foster Inclusive Growth” (CIPE Insights, 25 October 2019); <https://www.cipe.org/newsroom/building-a-market-for-everyone-how-emerging-markets-can-attract-constructive-capital-and-foster-inclusive-growth/>
- ⁵⁴ *Edelman Trust Barometer 2022*; https://www.edelman.com/sites/g/files/aatuss191/files/2022-01/2022%20Edelman%20Trust%20Barometer%20Global%20Report_Final.pdf
- ⁵⁵ See the announcement at <https://www.edelman.com/news-awards/2022-edelman-trust-barometer-reveals-even-greater-expectations-business-lead-government-trust>. The results of 2022 Trust Barometer indicate that: “by an average of five-to-one margin, respondents in the 28 countries surveyed want business to play a larger role on climate change, economic inequality, workforce reskilling and addressing racial injustice. All stakeholders want business to fill the void...” Nearly 60 percent of employees would choose a workplace based on shared values and expect their CEO to take a stand on societal issues; 64 percent of investors are looking to back businesses aligned with their values.

- ⁵⁶ Bilge Erten *et al.*, “Managing Capital Flows to Emerging Markets,” Center for Economic and Policy Research (August 11, 2020); <https://voxeu.org/article/managing-capital-flows-emerging-markets>
- ⁵⁷ For perspectives on foreign direct investment in Sub-Saharan Africa and the ASEAN region, see <https://www.tandfonline.com/doi/full/10.1080/23311886.2020.1743138>; https://www.researchgate.net/publication/228433991_Savings_Investment_and_Capital_Flows_An_Empirical_Study_of_the_ASEAN_Economies
- ⁵⁸ S. Rehman and H. Ahmad, “The Impact of Foreign Capital Inflows on Economic Growth: Pooled Mean Group Analysis for Developing Countries,” *Pakistan Economic and Social Review*, 54(2) (2016), pp 191-203.
- ⁵⁹ S. Horn, C. Reinhart and C. Tresbesch, “How Much Money Does the World Owe China?” *Harvard Business Review* (February 2020); <https://hbr.org/2020/02/how-much-money-does-the-world-owe-china>
- ⁶⁰ CIPE has developed a platform on China’s Belt and Road Initiative; <https://www.brimonitor.org>
- ⁶¹ The Center for Global Development has issued a report on secretive debt contracts (March 2021); <https://www.cgdev.org/publication/how-china-lends-rare-look-into-100-debt-contracts-foreign-governments>. The CGD’s resources on China are available at: <https://www.cgdev.org/topics/china>
- ⁶² *Channeling the Tide: Protecting Democracies Amid a Flood of Corrosive Capital* (September 2018); <https://www.cipe.org/resources/channeling-the-tide-protecting-democracies-amid-a-flood-of-corrosive-capital/>
- ⁶³ M. Ferchen and A. Perera, “Why Unsustainable Chinese Infrastructure Deals Are a Two-Way Street,” (July 2019); https://carnegieendowment.org/files/7-15-19_Ferchen_Debt_Trap.pdf; F. Alam and S. Asef, “The Implications of BRI in Djibouti: A Critical Geopolitical Analysis,” (August 2020); <http://rais.education/wp-content/uploads/2020/08/035FA.pdf>
- ⁶⁴ Implemented through the G20 and Paris Club, the Debt Service Suspension Initiative (DSSI) offered eligible developing countries the opportunity to participate in a framework to have debt-service payments owed to creditors suspended. As a response to the pandemic, the DSSI began in May 2020 and expired at the end of December 2021; <https://www.worldbank.org/en/topic/debt/brief/covid-19-debt-service-suspension-initiative#:~:text=The%20World%20Bank%20and%20the%20IMF%20supported%20the%20implementation%20of,in%20response%20to%20the%20crisis>. The role of China has been subject to critique; <https://www.stimson.org/2021/normalizing-chinas-relations-with-the-paris-club/>, <https://www.piie.com/sites/default/files/documents/pb21-10.pdf>
- ⁶⁵ T. Baiashvili and L. Gattini, “Impact of FDI on economic growth: The role of country income levels and institutional strength,” European Investment Bank Working Paper (January 2020); https://www.eib.org/attachments/efs/economics_working_paper_2020_02_en.pdf
- ⁶⁶ See reference above at note 65.
- ⁶⁷ <https://www.oecd.org/env/cc/q20-climate/Technical-note-estimates-of-infrastructure-investment-needs.pdf>
- ⁶⁸ Infrastructure projects entail risks that most such investors are not prepared to undertake. For example, the extensive planning and construction phase is fraught with regulatory and execution risks, at a time when there is no cash inflow. The operation phase poses further risks of uncertain demand and revenue collection. Finally, investors may face an uncertain legal and regulatory environment upon withdrawing from the investment.
- ⁶⁹ See reference above at note 53.
- ⁷⁰ See generally, *World Bank Global Outlook*, Chapter 1; <https://openknowledge.worldbank.org/bitstream/handle/10986/34710/9781464816123.pdf>
- ⁷¹ A core responsibility of the IMF is to oversee the international monetary system and monitor the economic policies of its 190 members. Article IV of the IMF Articles of Agreement provides the basis for regular consultations with member countries; <https://www.imf.org/en/About/Factsheets/IMF-Surveillance>. For the 2021 update on China, see <https://www.imf.org/en/Publications/CR/Issues/2022/01/26/Peoples-Republic-of-China-2021-Article-IV-Consultation-Press-Release-Staff-Report-and-512248>
- ⁷² <https://blogs.worldbank.org/transport/three-ways-governments-can-create-conditions-successful-ppps>

- ⁷³ To facilitate access to the extensive accountability resources that support this ecosystem, including citations to treaties and legal frameworks, this note provides a list of relevant sources:
- UN Convention Against Corruption, <https://www.unodc.org/unodc/en/treaties/CAC/>
 - UN Office on Drugs and Crime - Financial Action Task Force, <https://www.fatf-gafi.org/pages/unitednationsofficeondrugsandcrimeunodc.html>
 - UN Global Compact, <https://www.unglobalcompact.org/what-is-gc/mission/principles>
 - OECD Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions, <https://www.oecd.org/corruption/oecdantibriberyconvention.htm>
 - OECD Public Integrity Handbook, <https://www.oecd.org/corruption-integrity/reports/oecd-public-integrity-handbook-ac8ed8e8-en.html>
 - International Monetary Fund Enhanced Framework on Governance 2018, <https://www.imf.org/en/Publications/Policy-Papers/Issues/2018/04/20/pp030918-review-of-1997-guidance-note-on-governance>
 - World Bank Worldwide Governance Indicators, <http://info.worldbank.org/governance/wgi/>
 - World Bank Sanctions System, <https://www.worldbank.org/en/about/unit/sanctions-system>
 - Inter-American Development Bank, Integrity and Sanctions System, <https://www.iadb.org/en/integrity/sanctions-system>
 - International Chamber of Commerce - ICC Rules on Combatting Corruption, <https://iccwbo.org/publication/icc-rules-on-combating-corruption/>
 - International Standards Organization - ISO-37001 Anti-Bribery Management Systems, <https://www.iso.org/iso-37001-anti-bribery-management.html>
- ⁷⁴ CIPe undertakes extensive anti-bribery and corruption work around the world; <https://acgc.cipe.org/>
- ⁷⁵ Separate accountability mechanisms cover such issues, based around the Financial Action Task Force (FATF); <https://www.fatf-gafi.org/pages/unitednationsofficeondrugsandcrimeunodc.html>
- ⁷⁶ See references above at note 73.
- ⁷⁷ US Foreign Corrupt Practices Act of 1977; <https://www.justice.gov/criminal-fraud/foreign-corrupt-practices-act>. UK Bribery Act of 2010; <https://www.legislation.gov.uk/ukpga/2010/23/contents>
- ⁷⁸ For example, guidance is provided in Stuart H. Deming, *Designing an Effective Anti-Bribery Compliance Program: A Practical Guide for Business* (ABA Publishing, 2018).
- ⁷⁹ For example, see the Business Integrity Programme hosted by the UK chapter of Transparency International; <http://transparency.k405.es/business-integrity-programme>
- ⁸⁰ The Extractive Industries Transparency Initiative (EITI) offers a global standard for the good governance of oil, gas and mineral resources; <https://eiti.org/documents/eiti-progress-report-2021>
- ⁸¹ World Economic Forum (WEF), Global Future Council on Transparency and Corruption, "Agenda for Business Integrity" (December, 2020) ; <https://www.weforum.org/press/2020/12/world-economic-forum-launches-an-innovative-framework-on-anti-corruption-day/>. See also the WEF's strategic work curated by the International Anti-Corruption Academy; <https://intelligence.weforum.org/topics/a1Gb0000000LiPSEA0?tab=publications>
- ⁸² For example, Transparency International and its annual *Global Corruption Perceptions Index*; <https://www.transparency.org/en/cpi/2021>
- ⁸³ *FDI Qualities Indicators: Measuring the sustainable development impacts of investment* (OECD, October 2019); <https://www.oecd.org/investment/fdi-qualities-indicators.htm>. These Indicators currently focus on productivity and innovation, employment and job quality, skills, gender equality, and carbon footprint. See also <https://www.oecd.org/daf/inv/investment-policy/FDI-Qualities-Policy-Toolkit-Consultation-Paper-2021.pdf>
- ⁸⁴ *UN Guiding Principles on Business and Human Rights* (June 2011); https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf. See also Part Four on responsible business and investment.

- ⁸⁵ The Organisation for Economic Co-operation and Development, *OECD Guidelines on Multinational Enterprises* (rev. 2011); <http://mneguidelines.oecd.org/guidelines/>
- ⁸⁶ Updates are available at the Business and Human Rights Resource Centre; <https://www.business-humanrights.org/en/big-issues/mandatory-due-diligence/>. See also the discussion of due diligence in Part Four.
- ⁸⁷ Kampala Principles on Effective Private Sector Engagement in Development Co-operation; <https://www.effectivecooperation.org/system/files/2019-07/Kampala%20Principles%20-%20final.pdf>. Launched in 2019, the five Kampala Principles are: inclusive country ownership, results and targeted impact, inclusive partnership, transparency and accountability, leave no one behind. These principles reinforce CIPE's work, as shown through its local involvement; <https://www.effectivecooperation.org/KampalaPrinciplesCaseStudies>
- ⁸⁸ In parallel to such efforts, publicly funded development finance institutions also seek to assess their own contributions to development. See for example, the IFC's efforts on Anticipated Impact Measurement and Monitoring; [202012-IFC-AIMM-brochure.pdf](https://www.ifc.org/sites/default/files/2020-12/202012-IFC-AIMM-brochure.pdf). Additional methodological insights, from the field of private impact investment, are offered by the Global Impact Investing Network (GIIN); <https://thegiin.org/impact-investing/need-to-know/#what-is-impact-investing>
- ⁸⁹ PRI, *Fiduciary Duty in the 21st Century* (2020); <https://www.unpri.org/fiduciary-duty/fiduciary-duty-in-the-21st-century-final-report/4998.article>
- ⁹⁰ PRI, *A Legal Framework for Impact: Sustainability Impact in Investor Decision-Making* (2021). This is the second joint project involving UNEP-FI and the Generation Foundation, authored by the Freshfields law firm; <https://www.unepfi.org/investment/legal-framework-for-impact/>
- ⁹¹ The *Principles for Positive Impact Finance* and associated resources and toolkits are available at: <https://www.unepfi.org/positive-impact/principles-for-positive-impact-finance/>
- ⁹² For an overview, see: https://ec.europa.eu/info/business-economy-euro/banking-and-finance/sustainable-finance/overview-sustainable-finance_en
- ⁹³ Regulation (EU) 2020/852 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088; https://ec.europa.eu/info/law-sustainable-finance-taxonomy-regulation-eu-2020-852_en
- ⁹⁴ See for example, *IFC Performance Standards* (2012); https://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/Sustainability-At-IFC/Policies-Standards/Performance-Standards
- ⁹⁵ *The Equator Principles* now involve 118 signatories in 37 countries; <https://equator-principles.com/>
- ⁹⁶ For example, the EBRD is helping to develop ESG reporting guidelines for companies listed on the Warsaw Stock Exchange, and has sponsored similar efforts in other countries; https://www.gpw.pl/news?cmn_id=111000&title=GPW+and+EBRD+Publish+%E2%80%99CESG+reporting+Guidelines%E2%80%99D
- ⁹⁷ *Beyond the Balance Sheet: IFC Toolkit for Disclosure and Transparency* (2018); https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/ifc+cg/resources/toolkits+and+manuals/beyond+the+balance+sheet+-+ifc+toolkit+for+disclosure+and+transparency, at p ix.
- ⁹⁸ See the IFC document cited above note 97.
- ⁹⁹ *Addis Ababa Action Agenda*, Outcome Document (16 July 2015); https://sustainabledevelopment.un.org/content/documents/2051AAAA_Outcome.pdf. The UN has established a Financing for Development Office and hosts an annual ECOSOC Forum on Financing for Development; <https://www.un.org/sustainabledevelopment/financing-for-development/>. See also the *Financing for Sustainable Development Report* (2020); https://developmentfinance.un.org/sites/developmentfinance.un.org/files/FSDR_2020.pdf
- ¹⁰⁰ The commitment to combat climate change and its impacts, affirmed in SDG 13, calls for public and private investment to facilitate climate adaptation, mitigation, and well as the just transition net zero economy. Some of these efforts are coordinated under the theme of Climate Finance; <https://unfccc.int/topics/climate-finance/the-big-picture/introduction-to-climate-finance>
- ¹⁰¹ For example, the Global Investors for Sustainable Development Alliance collaborates with the UNDP on a SDG Investor Platform; <https://www.undp.org/press-releases/undp-and-gisd-alliance-launch-sdg-investor-platform-unlock-trillions-sdg-aligned>

- ¹⁰² The Impact Management Platform “supports practitioners to manage their sustainability impacts – including the impacts of their investments – by clarifying the actions of impact management and explaining how standards and guidance can be used together to enable a complete impact management practice.” Note that the reference to “Platform” pertains to the institutional collaboration, and not the website; <https://impactmanagementplatform.org/>
- ¹⁰³ <https://impactmanagementplatform.org/impact-management-core-concepts-explained/>
- ¹⁰⁴ <https://impactmanagementplatform.org/resource-list/>
- ¹⁰⁵ The evolution of this field is evident in the work of the Corporate Social Responsibility Initiative at Harvard University, which is now referred to as the Corporate Responsibility Initiative; www.hks.harvard.edu/centers/mrcbg/programs/cr/. See also Business for Social Responsibility (BSR); <https://www.bsr.org/en/>
- ¹⁰⁶ The United Nations Global Compact is regarded as the world’s largest voluntary corporate sustainability initiative, engaging more than 15,000 signatories in over 150 countries. Grounded in universal principles, the tenth point on corruption was added after the adoption of the UN Convention against Corruption. The website provides extensive resource materials; <https://www.unglobalcompact.org>
- ¹⁰⁷ See, for example, the World Business Council for Sustainable Development; <http://www.wbcsd.org>
- ¹⁰⁸ The Forum for Sustainable and Responsible Investment, a pioneer in this field, provides annual reports on socially responsible investment trends; <http://www.ussif.org>
- ¹⁰⁹ “Why COVID-19 Could Prove to Be a Major Turning Point for ESG Investing”; <https://www.ipmorgan.com/insights/research/covid-19-esg-investing>
- ¹¹⁰ *UN Guiding Principles on Business and Human Rights* (2011); https://www.ohchr.org/documents/publications/guidingprinciplesbusinessshr_en.pdf
- ¹¹¹ *OECD Guidelines on Multinational Enterprises* (rev 2011); <http://mneguidelines.oecd.org/guidelines>
- ¹¹² Shift Project, “Fulfilling the State Duty to Protect: A Statement on the Role of Mandatory Measures in a ‘Smart Mix’”; <https://shiftproject.org/fulfilling-the-state-duty-to-protect-a-statement-on-the-role-of-mandatory-measures-in-a-smart-mix/>
- ¹¹³ Some 40 governments have created “national action plans” to promote the UNGPs and increase adherence among companies operating from their jurisdictions; <https://globalnaps.org/>
- ¹¹⁴ The UNGPs Reporting Framework helps companies make assessments and disclosures regarding commitments to human rights; <https://www.ungpreporting.org/>
- ¹¹⁵ The World Benchmarking Alliance provides comprehensive resources; <https://www.worldbenchmarkingalliance.org>
- ¹¹⁶ Updates on due diligence are available at the Business and Human Rights Resource Centre; <https://www.business-humanrights.org/en/big-issues/mandatory-due-diligence/>
- ¹¹⁷ Updates on Climate Justice are available at the Business and Human Rights Resource Centre; <https://www.business-humanrights.org/en/big-issues/climate-justice/>
- ¹¹⁸ See <https://www.duediligenceguidance.org/>; <https://www.oecd.org/investment/due-diligence-guidance-for-responsible-business-conduct.htm>
- ¹¹⁹ European Commission announcement of rules for companies to respect human rights and environment in global value chains (23 February 2022); https://ec.europa.eu/commission/presscorner/detail/en/ip_22_1145
- ¹²⁰ European Commission Communication on Sustainable Finance Package (21 April 2021); https://ec.europa.eu/info/publications/210421-sustainable-finance-communication_en. Some of these issues are taken up in Part Three and the discussion on impact.
- ¹²¹ See <https://www.unpri.org/sustainability-issues/environmental-social-and-governance-issues>
- ¹²² <https://www.unpri.org/>
- ¹²³ <https://www.unpri.org/about-us/about-the-pri>
- ¹²⁴ CIPE’s work in business integrity also focuses on practical and regulatory aspects of ESG; <https://acgc.cipe.org/>
- ¹²⁵ Sustainable Stock Exchanges; <https://sseinitiative.org/esg-disclosure/>
- ¹²⁶ <https://www.jdsupra.com/legalnews/sustainable-finance-disclosure-7965546/>
- ¹²⁷ <https://www.wsj.com/articles/blackrock-now-manages-over-10-trillion-in-assets-11642162013>. “The Power of Capitalism” is the theme of CEO Larry Fink’s 2022 letter to business leaders; <https://www.blackrock.com/corporate/investor-relations/larry-fink-ceo-letter>
- ¹²⁸ Glasgow Financial Alliance for Net Zero; www.gfanzero.com

- ¹²⁹ <https://corpgov.law.harvard.edu/2020/10/20/survey-analysis-esg-investing-pre-and-post-pandemic/>
- ¹³⁰ EY and Oxford Analytica, *The Future of Sustainability Reporting Standards* (2021); https://assets.ey.com/content/dam/ey-sites/ey-com/en_gl/topics/sustainability/ey-the-future-of-sustainability-reporting-standards-june-2021.pdf
- ¹³¹ The Alliance for Corporate Transparency provides research on the standardization of sustainability guidance, with a focus on developments in the EU; <https://www.allianceforcorporatetransparency.org>
- ¹³² UN Global Compact, *SDG 16 Business Framework: Inspiring Transformational Governance*; <https://sdg16.unglobalcompact.org/>
- ¹³³ Business and Human Rights Resource Centre and International Service for Human Rights, *Shared Space Under Pressure: Business Support for Civic Freedoms and Human Rights Defenders* (2018); <https://media.business-humanrights.org/media/documents/fdfe07e3d812cfcfed4235fbbf820a3d77599b13.pdf>. Part Five of this report considers how this approach might be leveraged to advance the *Framework for Constructive Capital*.
- ¹³⁴ See the materials at <https://unglobalcompact.org/take-action/20th-anniversary-campaign> and <https://unglobalcompact.org/news/4589-09-21-2020>
- ¹³⁵ UN Global Compact; <https://unglobalcompact.org/what-is-gc/our-work/governance/transformational-governance>
- ¹³⁶ In keeping with the building metaphor, locally led efforts could elaborate a “Blueprint for Constructive Capital.” Such a document would generate additional attention and opportunities for engagement. It could also help identify potential risks and governance gaps.
- ¹³⁷ OECD report available at: <https://www.oecd.org/gov/ethics/analytics-for-integrity.pdf>
- ¹³⁸ Columbia Center on Sustainable Investment, *Rethinking International Investment Governance: Principles for the 21st Century* (2018); <https://ccsi.columbia.edu/content/rethinking-international-investment-governance-principles-21st-century>
- ¹³⁹ World Benchmarking Alliance; <https://www.worldbenchmarkingalliance.org/>
- ¹⁴⁰ For example, through processes such as the Government Outcomes Lab, based at the University of Oxford’s Blavatnik School of Government; <https://golab.bsg.ox.ac.uk/>
- ¹⁴¹ Sustainable Stock Exchanges; <https://sseinitiative.org>
- ¹⁴² The August 2019 Business Roundtable statement was presented in the context of an Opportunity Agenda. This affirms that America’s economic model, “based on freedom, liberty and other enduring principles of our democracy, has raised standards of living for generations, while promoting competition, consumer choice and innovation.” See <http://www.businessroundtable.org> for this statement and annual updates.
- ¹⁴³ British Academy, *Future of the Corporation*; <https://www.thebritishacademy.ac.uk/programmes/future-of-the-corporation/>
- ¹⁴⁴ British Academy, *Principles for Purposeful Business*; <https://www.thebritishacademy.ac.uk/publications/future-of-the-corporation-principles-for-purposeful-business/>. The Enacting Purpose Initiative, based at the University of Oxford’s Saïd Business School, provides relevant practical guidance for boards of directors; <http://www.enactingpurpose.org/>
- ¹⁴⁵ See citation at note 133 above, at p 19. Shared civic space strategies also feature in the UNGC initiative on Transformational Governance, described in Part Four, which may offer additional avenues for engagement.



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