StradleyRonon

Talking Investment Management: Commitment to Diversity: Key Issues in Asset Management

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David Grim (00:07):

Welcome, everyone, to the Stradley Ronon Podcast. I am Dave Grim from our investment management group here at Stradley Ronon. And the goal of our podcast is to provide our take on some of the key issues of the day in the asset management industry. I encourage you to check out our previous episodes, which covered, among other things, the aggressive current SEC investment management agenda, as well as our observations on the implementation of two very major rules in our world on valuation and derivatives. Today, we're going to address another critical topic in our industry, which is diversity, equity, and inclusion. Every survey I read, one of the key takeaways from the survey is, Wow, we really need to do more. And today we plan to talk about how to do more. We're gonna do that in a couple of different ways. First, Stradley Ronon has been making a number of efforts in the hiring and team development areas, and what we'd like to do is share some practical tips that we have found to be helpful to us and that we hope will be helpful to you too at your organization.

David Grim (01:16):

Developing subject matter expertise on DEI issues is another way that any individual can help to build a more inclusive environment at their organization. So in an effort to help you build your subject matter expertise, we're gonna spend the second part of our podcast describing some of the current congressional and SEC initiatives in the DEI space. I am just thrilled to be joined by my partners, Jamie Gershkow from our IMG group, and Brian Seaman from our litigation group here at Stradley Ronon. In addition to being a Stradley Ronon partner, Jamie is the co-chair of our hiring committee here at Stradley Ronon, and she's also been very involved in the important Women in ETFs group. We're gonna touch briefly on that work a little bit later in the podcast. Brian is our Chief Diversity Officer at Stradley Ronon, and quite simply, he's a driving force behind everything we do on these issues.

David Grim (02:06):

Both of them are terrific, and thanks so much for joining me here today. So let's get to it, and I hope all of our listeners enjoy it. So, to kick off our content here, I thought a good way to do it was to just share some survey data about the asset management industry and diversity. So one of the big studies out there, the ICI and IDC, put together a study a couple of years ago, and let me just highlight a few statistics that are in there. So, on the management side, women represent 41.8% of the asset management industry's workforce. Minorities made up 30.5% of the industry. When you flipped to the boardroom, you had women representing 29.7% of all independent directors, and 45% and 5% of independent directors who were nominated and started their board service in 2019, minorities represented 10.7% of all independent directors and 22.5% of independent directors who started in 2019.

David Grim (03:20):

When you flip to the legal industry, you see a similar story. According to a 2022 survey at the associate ranks, black associates saw the biggest year-over-year rise in representation, which was 0.6%, which took them to 5.77% of all associates in 2022. When you look at the summer associate numbers, you had people of color at 43, right around 43%, which was up from 41% in 2021. And women at 55, a little over 55%, which was the fifth year in a row that more than 50% of the summer class was female. When you get to the partner ranks, equity and non-equity people of color, 11.4% women at a little over 26.5% with 4% of all partners as women of color. And then one final stat for everyone, LGBTQ plus 4.17% of all lawyers identified as such. So, Brian, I'd love to bring you in here. You know, you hear about this kind of data all the time. Sure. Asset managers and law firms face a lot of the similar challenges when it comes to this, and I just, I'd just love to get your, take some, you know, some of the few things that you think about as you hear this data and what we've been doing on the hiring and team development front that you think might be of interest to our audience. Yeah.

Brian Seaman (04:57):

Well, thanks so much, Dave. I really appreciate it. Thrilled to be here this morning to talk about these issues. This is not only my job, it's also my passion. So I'm always just excited to share some information to dig into this data and what it actually means. Now, I think a lot of folks could hear that data and think, wow, these numbers sound great. In many ways, when we look at law in comparison to many other industries, we are doing really well in ensuring that our classes, especially with some associate classes, are diverse. And the reason that we're seeing these changes, it's because law firms and the entire legal industry are being intentional. They were looking at these numbers years ago and said, They're terrible. We are doing nothing to ensure that our classes are diverse as they come in.

Brian Seaman (05:53):

And then we're doing nothing to ensure that once those people are hired, that we're creating an inclusive environment for them to be in. So that's, you know, I look at those numbers, and I think, wow, we're making progress, but it's slow progress. I mean, if you were looking at the summer associates, the summer associates of color, the number went from 41.34% up to 43.03%. That's great. I mean, those are, that's a pretty big change, but there's still a lot to do. And one of the exciting things that I think, at least within the legal industry, law firms are doing a lot of legal departments within corporations are doing is becoming Mansfield certified. And that's something that's Stradley Ronon. We became Mansfield certified three years ago, and we're continuing with the program. And essentially what that is, is I'm sure Jamie and Dave, that you've heard about the Rooney role.

Brian Seaman (06:53):

And that was a rule that was started in the N F L some time ago when they looked at the league and said, A great majority of our players are players of color, and almost none of our coaches are men of color. Unfortunately, we still don't have any female head coaches in the NFL. But what they thought was, well, one of the reasons that this is happening is that the pools from which the head coaches were being selected were all white coaches. So there's no way that they're ever gonna hire a coach of color if there's no coaches of color even in consideration. So what the N F L did was essentially said, okay, we need to ensure that before that final round of interviewing happens, 30% of the final candidates have to be people of color. And as a result, they did see some small changes in the number of head coaches who were not white.

Brian Seaman (08:00):

I think that the N F L would come through and say that they're not seeing the changes as quickly as they would like, but nonetheless, it was an idea that got lots of different industries thinking, do we need to do the same thing? And that's exactly what happened in the law. Now, ours is called the Rooney Rule. Ours is called the Mansfield Rule, which is named after a pioneering female law student. One of the first. And what it really is within a legal context is here at Stradley Ronon and at any other firm or legal department who wants to become Mansfield certified, we have to pledge that for lateral attorney hiring for lateral partner hiring for consideration of leadership roles, for lots of different really important data points within a firm. Before those processes start to select whoever is gonna get a new job, a leadership role, we have to ensure that the final slate of candidates is at least 30% diverse within the Mansfield world.

Brian Seaman (09:11):

That's women, people of color, people, or people with disabilities. So it's a big group. And why this has been so important to the legal field is because it has changed the way that we think. It's forced us to go back and look at our policies and procedures and to say, is there bias built into this? Are we really considering diversity and equity at every step of these processes? Are we working with headhunters who are focused on diversity? Are we having good, diverse teams who are doing the selection? Are we asking questions that are going to the skills rather than to some, you know, weird connection between the interviewer and the interviewee, like where they went to college or what sports they like, things like that? A lot of law firms are now saying, We have to be smarter with this process. And that's what Mansfield has done, and the results have been significant.

Brian Seaman (10:11):

The results have been significant here at Stradley Ronon. But like I said, I think it's something that really gets us thinking, and one way in which it gets us thinking is with our hiring process. And that's why I'm so glad that Jamie is on this podcast with us this morning. She's one of our co-chairs of our hiring group, and she's somebody who thinks about these topics every single day. So Jamie, I'd love you to hear, for you to jump in and for you and I to talk a little bit more about what we're doing in the hiring world to ensure that that we're being as conscious and intentional as we can about diversity and equity.

Jamie Gershkow (10:53):

Thanks, Brian. Thanks for the introduction. Happy to be here with everyone today. Hiring is a super important part of any firm or company's initiatives related to diversity and inclusion, and it's one way to really implement Affirm's diversity and inclusion goals. Here at Stradley Ronon, we've done a number of things to help improve our hiring process when it comes to diversity and inclusion. One thing we did a few years ago was a complete revamp of our law student hiring process. And we took a look at it, and, you know, with any interview process, there's a lot of subjectivity that goes into that. And we thought, what is one way to make this a more objective process to help counter unconscious bias that we all may bring to the table? And so what we did was we thought about what traits we are trying to hire for. What are the successful characteristics that a candidate has that we're looking for? We also developed a set of questions that are designed to elicit responses on which we can evaluate the specific traits that we think are important for successful attorneys.

Brian Seaman (12:04):

Jamie, can I just ask you real quick, you just brought up the idea of trying to come up with questions that actually get to the heart of the values of the firm, that get to the traits that are necessary to succeed as a summer associate and obviously later as a lawyer. Could you explain just a little bit about like what were those traits and how did you figure out what those were gonna be?

Jamie Gershkow (12:29):

Sure. So the traits that were looking for are things like grit, resilience, self-motivation, so questions that are really looking for opportunities for the candidate to show us that they have the commitment to do what it takes to complete a task, that they have strong work ethic, that they seek out solutions to problems. Another trait that we look for is leadership and teamwork. So candidates that are proactive, goal-oriented, willing and able to lead and are comfortable handling conflict and diverse views. Another trait that we look for relates directly to diversity and inclusion. So candidates that share strides, core values as they relate to the importance of diversity. Another trait that we look for are strong interpersonal skills and professionalism. So we ask candidates questions that give them the opportunity to show us that they're able to adapt to different working styles and preferences, and that they have the ability to work well with others. Another trait that we look for are candidates that are interested in the firm. So candidates that have shown us that they've really, you know, done their homework on Stradley Ronon and are interested in our company. And then lastly, of course, strong analytical skills and substantive knowledge. You know, candidates that can tackle complex problems. And we ask questions that give candidates an opportunity to really show their critical thinking skills.

Brian Seaman (13:58):

Yeah, it's truly apples to apples in a way that, at least within our firm, we weren't doing. I mean, the way that I, the three of us on this phone, were interviewed was that we were sent to a law firm. You get shuttled through four or five people who would basically print out your resume as you walked in and would say, Oh, hey, oh, you went to college here. Oh, I like that college. So, how was law school? You know, questions like that. At the end of 30 minutes, the success of that individual interview was often based on, well, do we like each other? Do we have something in common? You know, it's that old thing that they used to ask, where, like, would you wanna be this person's colleague at 2:00 a.m.? Which is, you know, I get it. I understand what that question is asking, but at the end of the day, we want to know if this person has the hard skills.

Brian Seaman (14:52):

And one of the liabilities of that process was that if you just got the wrong draw of interviewers, the very best candidate could fail in that process for no, nothing that has to do with skills, nothing that has to do with success in law school. So what Jamie described, I think that's so exciting, there's a bunch of innovations in that process that have really made big changes. You know, first of all, Jamie said it's a panel, so no longer is it these one-on-one interviews that can sort of go anywhere they want. We have a group of people who are doing the interview together, who, let's say, it's probably gonna be me because I'm always off topic. You know, Jamie could stop me and say, Hey Brian, why don't we ask this question and go back to those fundamental questions that are actually going to help us judge whether the person will be successful.

Brian Seaman (15:46):

So, you know, that's the first thing. The second thing with a panel that is so really effective is that all of us have biases. The whole point of this is to reduce the bias and to recognize the bias. There's no way we're gonna get rid of it, because no matter what happens, you know, I'm a gay guy and if a a gay man or woman walk in the door, I'm gonna see them and say, even if I know nothing about you, I'm gonna feel like I have something in common with you, and I might sort of just give you a little extra kick because I see that person and say, oh, I recognize myself in you. And what Jamie can do is say, Brian, that's the third candidate that came through that you liked, who happened to be? Do you just like, let's dig down a little further. And that's what a panel allows because everyone is seeing the same interview. It's not like everybody's kind of got different interactions with the person. We all sit through the same thing. So that's super-duper effective.

Jamie Gershkow (16:47):

And I think, Brian, if I can interrupt for a sec, one other thing that's really interesting about this process is that we all perceive things differently. So, a candidate's response to one question, I might take one way, and you take an entirely different way, both of us can be right, but I might not have otherwise seen the reception of what the person said without hearing that from you. Because, you know, we all come to the table with our own views based on our own personal experiences. So I think it's super beneficial having this panel of diverse views to be able to evaluate the candidates. And one thing that we try to do is when we complete those scorecards, we complete those scorecards before discussion of the candidate to remove co to help try the remove confirmation bias where I'm hearing your take on a candidate and thinking, oh, well actually maybe that is right and what I thought wasn't correct, I'm gonna change my score. We try to remove that from the process by having a score first and then have discussion afterwards.

Brian Seaman (17:50):

Yeah. And the one other thing that I think is so fascinating about this process is that you know how sometimes you change the system, and you don't realize how sort of broken the old system was until you really dig down. I think that's what happened here was we looked and we said, okay, so now what we're doing is we're asking the same set of questions to all of our candidates in the same way. Whereas what we were doing before was asking totally different questions to different candidates, all by different people using different scores. So, how did we ever compare apples to apples? Now we have the ability, especially because many of our panels will sit and see three or four or five candidates in a row, so that at the end of it, we can all sit down and say, wow, we had five killer candidates today.

Brian Seaman (18:43):

But of them, you know, X candidate was definitely the best because you're able within the group to compare them all together. You know, the fact that we didn't ask people the same questions and then try to compare them was so wild to me. And this is like an innovation. I'm excited that we're sharing this because this is like an innovation that we hear from people who interview with us, who will say, This is so different. It's so different. But it feels very fair. And that's one of the things that we really want to do. In my role as Chief Diversity Officer, you know, the whole point of this is to remove barriers so that everyone has the same opportunity to succeed in what they want to do. And, you know, this is doing that, this is exactly what we're doing. We're removing barriers that are artificial.

Brian Seaman (19:34):

None of those things that happened before had anything to do with a candidate's skillset, with their desire to do a good job, to really join and be a part of our culture. Now what we're doing actually does that. So I think it's very exciting. And just one last thing on the process that I think really works, that I think is very important, is that at the beginning of every one of these interviews, someone on our team explains what we're doing. So we say, what we're gonna do today is gonna be a little different, and here's the reason we're doing it. It's because this process reduces bias. This process is fair. And, you know, we explain that. And as a result, the candidates, when they sit down, I think sometimes they exhale a little bit and they relax because they think, oh, this is a firm that cares about this stuff and wants me to succeed in a fair way, which I think makes a big difference.

Jamie Gershkow (20:29):

And I'm glad you shared the candidate feedback that you heard. When we first made this change, I remember being a little bit skeptical, thinking of it from the position of a law student, oh my goodness, this is gonna be so intimidating walking into a room of three attorneys and being asked, you know, a set of questions. But you know, you get the right people in the room. And it's not that it turns into a great conversation, but it's based on meaningful questions on which you can actually evaluate the candidates.

Brian Seaman (20:56):

Yeah. It also allows the candidates to look at the panel of interviewers, at least here at Stradley Ronon, our team of, let's say, a dozen people who are doing the interviews. We all like each other, and we interact with each other in really sort of kind, smart, supportive ways. So we even find that the way that the panelists talk to each other during the interview also gives the candidate an idea, oh, this is what my colleagues are gonna be like when I interact with my colleagues in the future, this is the way they're gonna make me feel. You know, because so much of diversity, equity, and inclusion work is community building. And it says, what kind of community do we wanna build within our organization? What do we want our values to be? And we hear at Stradley Ronon think, you know what?

Brian Seaman (21:45):

The interview is our first opportunity to demonstrate our values to our candidates because the people who succeed best here are the people who really want to buy into what is important here, which is great client service. It's about being kind to your coworkers, being supportive, and just really building a community of people who want to do good work and be good to each other. But you have to actually think about that. You have to be intentional about that. And what's exciting about the work that Jamie and her co-chair Joe Kelleher are doing in the hiring area is that it is being thought of, you know, the inclusion part of this is being thought of at every step of the process.

David Grim (22:32):

Great stuff from both of you. Thank you for that. And Brian, I think what you just said actually transitions nicely to the next piece that I wanted. If you could spend just a few minutes on it, right? So we've talked, we focused mostly on hiring, right? Yeah. And then it's a sort of building the community with the folks that we have here. Do you wanna talk for a few minutes about some of the things that we're doing, training, development, what, you know, how, however you wanna take it? That would be great.

Brian Seaman (22:58):

Yeah. Once again, you know, all of this, that there's, you're hearing a lot today about sort of diversity exhaustion that people are saying, wow, we're just hearing about this stuff so much. It's all, it's all we hear about. And you know, when I hear that, I roll my eyes a little bit because this is work that we all need to do. It's a responsibility that we all need to realize that we have. And sometimes we have to, as organizations, insist that people just consider these issues in real ways. So what we try to do here at Stradley Ronon is to just give folks lots of opportunities to grow, to educate, and to contribute to our efforts in a way that feels natural to them. We recognize that diversity and inclusion concepts are still fairly new. I mean, I assume for the three of us on this call, I never went to high school.

Brian Seaman (24:02):

They never said the words diversity and inclusion. It was, you know, those weren't like real concepts that were being taught. But now we have a full generation of young people who, you know, are, let's say, our first-year associates could be 24. They have spent their entire lives hearing about diversity, inclusion, and racial equity. So we have to be prepared for all of our generations of people within our organization, our youngest people who are as educated and as passionate about creating an inclusive environment as anybody. And then you've got some really older people, more senior people within the organization, who find these concepts very new and feel very foreign to them. So as an organization, what we try to do is say, well, what can we do to get all of those people to contribute a little? And one of the things that I think is super important is to tell everyone within the firm that everyone has a responsibility to do this work.

Brian Seaman (25:06):

There was a long period of time where, within basically any organization, the responsibility for doing diversity and inclusion work was put on diverse attorneys. So they would say, Oh, great, you don't think that the organization is doing a good job in supporting women? Well, women go and fix it. And that was, I, I don't wanna say that that didn't work because we had a lot of unbelievable lawyers and business professionals who stepped up and said, you know what? Great, thanks for the opportunity. I'll do everything I can. But that's a small bit of an organization. You know, we have about 40 diverse lawyers here at Stradley Ronon out of approximately 200. So that's a good number of people, but that's 40 out of 200. What about all the people who aren't diverse? What are they doing? What are they doing to advance the ball? So by saying to people, everybody within the organization, Hey, what are you doing?

Brian Seaman (26:12):

What are you doing to help junior people at the firm feel like they belong? And one of the really easy ways that we have done that is that on every business professional and attorney self-evaluation that is done for us annually at the firm, they are asked the same question: What have you done personally to advance diversity, equity, and inclusion in your life and community this year? And we ask them to provide specific examples. Now, I always hate the idea that somebody would take action in regard to diversity and inclusion, just because we are asking at the end of the year what they've done. But you know what, sometimes that's what's necessary. It gets somebody thinking throughout the year, oh no, at the end of the year, I am going to have to write down on my self-evaluation what I've done in the diversity and inclusion world this year.

Brian Seaman (27:07):

So maybe somebody will show up to a meeting, somebody will come to a discussion session or go to a CLE, or even just pick up a book, watch a different movie, or do any of these things for many years. I think the idea was, especially for the majority of folks, that it's somebody else's issue. That's somebody else's problem to fix. That doesn't affect me. And especially as many of our attorneys get more senior, to recognize, oh, I'm a leader within the firm, now I have to demonstrate these traits that I keep saying the firm is based on. I need to demonstrate them in the world. And I think we've done a pretty good job here, and we provide lots of opportunities for people to participate. We do CLEs, we have in-house trainings, and we do lots of client events. We celebrate our heritage months.

Brian Seaman (28:01):

We have a CLE on the Crown Act that's coming up in just a few weeks. We just want people to dip in and say what feels good to me as a way that is genuine for me to support the way that the firm is becoming more and more inclusive. So there's, I just think that all organizations need to be intentional about this stuff. They need to provide lots of opportunities to participate and then allow people to say, well, what feels good to me? What feels genuine to me? And then that's the way that you get people hooked. You know, I think for a long time, what organizations were doing was saying, okay, everybody come in for seven hours of implicit bias training. And that's just a lot. I mean, that's a lot of training on anything, let alone on this kind of topic.

Brian Seaman (28:56):

So, you know, I think what works is little small bites. I always, Jamie's heard me say this before, I, I just always say like, I'm always poking people, you know, poking them with like, here's an article. You wanna go to a CLE, here's an event you can go to. You know, just keep people thinking like, oh, this is always percolating right under the surface. So I think there are great opportunities for people to get involved, but they just need to keep thinking, this is my responsibility. It's everybody's responsibility, and if somebody acts like it isn't, that's gonna be a real barrier to the organization moving forward.

Jamie Gershkow (29:34):

And I think, Brian, what's great about all the programming that your team puts on is, you know, it's recognizing that being involved in diversity and inclusion initiatives doesn't have to look the same for everyone, right? They can, you can approach it in your own way, right? So, for some people, you might wanna be president of whatever diversity group it is that has particular meaning to you. For others, it's showing up to your colleagues' events and being an ally. And for others, it's, you just wanna learn more. Maybe you'll go to the various trainings that the firm is hosting. And I think that's great that it's not a one-size-fits-all, and we recognize that here.

Brian Seaman (30:13):

Yeah, showing up is often the best, best way to demonstrate that you're, you know, a part of the movement. I have you know, Jamie and I have talked about this a lot. It's just, you know, sometimes the folks within the organization who are underrepresented when they walk into a room and see a room full of people, especially our leaders, are most senior partners, when they walk in and see them there, they think, well, this just doesn't talk. This is what the firm actually believes in. And look, we're a law firm. A law firm is just made up of people. And, you know, it's made up of owners of the business. And when people walk in and say, Wow, like this room is filled with the owners of the business, this is what we really believe. That's when folks really feel like they belong as part of the organization.

David Grim (31:04):

Great stuff by both of you. Thanks for all of that. Jamie. Can we spend a minute on your work with the Women in ETFs group and whether there's any sort of overlap or similar themes going on there? I think that would be great for the audience to hear.

Jamie Gershkow (31:20):

Yeah, we sure can. Dave, I always appreciate an opportunity to plug the work that Women in ETFs are doing. So, Women in ETFs is an organization that looks to bring together people in the ETF ecosystem across the globe to champion the goals of equality, diversity, and inclusion. Our fellow Stradley Ronon partner, Miranda Sturgis and I have been involved in various leadership positions and different chapters for Women in ETFs for many years. And Stradley's been an enthusiastic sponsor and host of a variety of events throughout the years. The Women in ETFs organization hosts a variety of professional development and educational events, networking opportunities, and mentoring programs. One initiative that I particularly value is that a few years back, after identifying that many conference panels and media appearances did not necessarily reflect the diverse talent and expertise in today's ETF industry. Women in ETFs launched a speaker's bureau to provide a registry of knowledgeable and accomplished Women in the ETF industry in order to help work toward power and women's representation at ETF conferences and in the media. And they paired off with a handful of conferences and media outlets in order to help increase that representation. Right now, Women in ETFs has over 8,000 members across the globe and counting. It's a really great group with great programming. So, if you are anyone looking to become more involved in the ETF industry and support diversity initiatives, I definitely encourage you to take a look at joining your local chapter.

David Grim (32:53):

8,000 People. I'd love. That's amazing. Really? Yes, it's incredible.

Jamie Gershkow (32:58):

I think the inaugural breakfast at the ETF conference was a little over a hundred people. It's grown a lot in, I think, under 10 years now, so it's got a lot of momentum and initiative to it, and it's doing really great things in the industry.

David Grim (33:18):

Excellent. Great. Thank you. Thank you for that, Jamie. Okay, so the last part of our time with our audience today, we're just gonna spend a few minutes on what's up on Capitol Hill and what's up at the SEC around diversity and inclusion issues. And the idea here, right, is one way Brian's talking about sort of, you know, taking responsibility, taking action, right? One way to do that is to learn about what's going on with these issues, right? And so, you know, it's with that spirit that we're sharing these ideas and information with you here in Washington. So, just quickly, I'm gonna touch on a variety of things when it comes to the Hill. I think that the best resource that I've seen in 2019 was the house, which actually held a hearing called Diverse Asset Managers Challenges, Solutions and Opportunities for Inclusion.

David Grim (34:19):

And it had a variety of witnesses, testimony, and studies, and even some draft legislation attached to it. And that legislation, which was called the Diverse Asset Managers Act, was modeled on the Rooney role. Something that Brian referenced earlier, right? And basically the idea, it had a bunch of stuff in it, but one of the ideas was when funds or advisors are hiring an advisor, they have to consider at least one diverse-owned candidate when making the hiring. And one of the statistics that was very prominent in that hearing at that time was that there were 70 trillion in assets under management in the industry. Less than 1% of them were managed by minority and women-owned firms, right? So the Hill sort of took that and said, all right, we want a whole event around it and some ideas. And so they've been, there've been a series of bills and possible bills floating around the hill since then.

David Grim (35:19):

None have come into law yet, but it's definitely a topic that is of much interest in Congress. So that's what, that's a little bit on the hill. And when it comes to the SEC side of things, there's kind of a series of points that I would highlight for you. In terms of, of interest to the asset management world the, the proxy voting disclosure rule that just got adopted by the SEC, this is the rule that, you know, funds have been required for a long time to provide a lot of information about how they do their proxy voting, the new rules. One of their focus areas is categorizing the types of issues that proxy voting is happening on. Within those categories, one of the new categories is diversity, equity, and inclusion. So, for example, matters that you're voting on, such as board diversity or pay gap, are covered in that category.

David Grim (36:17):

And so what's gonna happen with that rule is a little unclear at this point because the attorney generals in certain states have sued the SEC over it. So we have to kind of watch where those lawsuits are going. But of course, in the meantime, the implementation clock is ticking. It's not until the summer of 2024 when that rule is gotta be implemented. The issue with that, of course, is that it's the year leading up to the summer of 2024, which starts this summer. That's the period that's gonna be covered. So your implementation period really needs to get started soon, as those dates start to bear down on us. Another rule, this one's proposed, so it's not yet adopted by the SEC, although I think it could get adopted this year, is the ESG rule for funds and advisors.

David Grim (37:10):

And the way I like to summarize that rule for people, right? On the registered fund side, basically what it says is there are these three categories that are, one's called integration, one's called focused, and one's called Impact. And what they're trying to do is categorize funds based on their ESG investment practices. And then, depending on the sort of level or the way you do your ESG, an example of how diversity and inclusion are folded into it. There are some ESG strategies that will have a screen for investments based on forward or workforce diversity, right? If you have that kind of screen, that's gonna put your fund in the focused strategy category. And that means additional disclosure around how, basically, how you do that strategy. There's a kind of similar component to the rule for, for all advisors context. And one thing that's interesting in the SEC discussion there is that notes, there's a private fund collaboration group that has been working on standardizing ESG metrics, including board diversity as one of the six categories that they're working on.

David Grim (38:25):

So, the SEC sites that work don't really do anything about it. It doesn't adopt it, it doesn't endorse it or whatever, but at least they recognize that it's out there. So again, that's a rule that I think without a proposal, the co they got, they got a lot of pretty negative comments on it, but I think in all likelihood, they're gonna move forward and try to adopt some version of that in 2023. Two rulemakings that are mostly on public companies. So, asset managers as investors in public companies, I think, might find these of interest. One is something called their human. The SEC's Human Capital Rules were adopted in 2020. And the 2020 rules are pretty principles-based. And I think they've actually had quite an impact in the diversity area in terms of how public companies disclose certain things about their diversity practices.

David Grim (39:23):

According to one study, 96% of the S&P 100 companies already have to disclose diversity in their investor communications. Nonetheless, I think those rules have been criticized by some as not being prescriptive enough about what needs to be in these disclosures. So I think the word on the street here is that the SEC is going to take another shot at those rules, probably proposing something this year that makes them a little bit more prescriptive around these issues. Similarly, in terms of public companies' focus, although this is only a sliver of public companies, there's a NASDAQ rule, so a rule for NASDAQ-listed companies, and this one is directed at the boards of those companies. Those companies are required to provide disclosure of board diversity statistics and either have or explain why they don't have at least two diverse directors.

David Grim (40:26):

So this doesn't apply directly to much of the asset management industry because it's only for BDCs. It's not for other investment companies. But again, as users of disclosure of Nasdaq-listed companies, our industry needs to keep an eye on this rule. Like one of the ones I mentioned earlier is actually subject to legal challenge, and so it's, again, in this weird place, right, where people have to implement it, but the court cases are going on. What does that all mean? So stay tuned for the latest on that. The last topic I just wanted to highlight in the SEC world is that the SEC has an advisory committee on asset management issues, and on July 21, they actually issued a report on diversity and inclusion in asset management.

David Grim (41:25):

Lots of interesting stuff in that report. I encourage you to take a look at it. There are a number of studies in there. One theme of those studies is showing how the performance of diverse-owned firms is equal to or greater than that of those that lack diverse leadership. There are some other studies that focus on the unfortunate continuing discrimination that remains as a barrier for diverse-owned firms in a lot of ways in our industry. So, here are some recommendations to the SEC for some changes that could be made. One is around advisor disclosure regarding diversity within the advisory firm fund decision, again, enhancing the diversity disclosure requirements, either at the board level or at the advisor or fund advisor level. Another piece that Chair Gensler has actually expressed interest in is the guidance on fiduciary duty. That takes on the issue, I think right now, when a lot of people are selecting firms, this goes to some of the things that Brian and Jamie were talking about earlier, right?

David Grim (42:40):

Some of the screens that they look at are assets under management or how long they've been in the industry. And of course, you know, that's not <laugh> that's not gonna work out very well for you know, new or diverse owned firms that haven't been in the business that long, don't have a lot of assets under management yet. And so I think one of the goals of this guidance would be to make it clear that as a fiduciary, when you're making these selections, it's a multifactor analysis, and you can look to things beyond just how many assets under management the potential candidate has. So Derek Gensler suggested that guidance should be provided, too. So that's a quick run-through of Congress and the SEC on diversity issues. So, Brian and Jamie, we've covered a lot today. Just before we come to a close here, I'd ask if you have anything that you wanted to say earlier that you haven't had a chance to? Brian, I'll start with you. Fire away.

Brian Seaman (43:43):

No, I think the only thing that I would leave people with is to just keep thinking about these issues and think about, you know, what your individual responsibility and power are in creating an inclusive environment. You know, just do one thing. Go to one meeting, read one book. You know, start small and just understand that you're doing the work yourself, which will demonstrate to other people that they should also be doing it. You know, just sometimes it's hard in that first moment to think like, well, what do I do? It seems like such a huge challenge to overcome, and just to be able to say, I'm just gonna do one small thing. I'm gonna be a part of moving this entire movement forward.

Jamie Gershkow (44:27):

I think my last takeaway, kind of similar to Brian's, is that it can feel really daunting when you think about the world's problems with respect to diversity and inclusion, but start small in your own little ecosystem and microcosm where you can affect change. You know, if you're hosting an event, maybe you look to minority owned vendors to cater the launch or the dinner, whatever it is, these small things matter and count, and it's a way for us all to take accountability and help make change.

Brian Seaman (45:00):

I think Jamie put it perfectly. She's, it's all about, again, being intentional and thinking, are we just using the same old caterer that we've used over and over and over again? Or when we have this event for Asian Pacific American Month, are we using an Asian American caterer? I mean, these are things that really make sense and make a difference, and they're things that individuals can do themselves to move things forward.

David Grim (45:29):

Great stuff from both of you. Thanks for that. And look, there's so much more, you know, we could chat all day about this stuff. There's so much more we could cover, but we're gonna, we're gonna wrap this for now. I wanted to thank Jamie and Brian so very much for joining me today. You were both terrific. I know I learned a lot by listening to your practical ideas for how to contribute to a more inclusive environment here and how to take intentional actions to make, to, to make change. I hope our audience enjoyed it as much as I did. Thanks for listening. Hope everyone has a good day.

(46:06):

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