What the Hippocratic Oath has to do with asset management

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When we visit a doctor, we trust that our health is his or her top priority. We expect the same when we delegate the management of our investments, be they retirement plans in a pension fund or private assets. This management should focus solely on our interests. The equivalent to medical ethics, which began with the Hippocratic Oath, is the concept of fiduciary duty. Precisely like medical ethics, fiduciary duty is also affected by the passage of time.

What is fiduciary duty?

A fiduciary commissioned to carry out specific transactions has, thanks to his or her expertise, an information advantage on the client. Fiduciary duty ensures that this advantage is not exploited and that the agent acts carefully and in the client's interests. So much for the principle. But what does this mean in concrete terms? In the investment business, for years the consensus has been that the largest possible return be achieved with the lowest possible risk to the client. The emergence of sustainable investments raises the question of to what extent fiduciary duty also includes sustainability considerations. Insofar as the clients can be questioned about their preferences regarding sustainable investments, they can make this decision themselves. But what if the clients' interests are unknown? In this case is sustainable investment also a component of fiduciary duty?

Saving the world in the best interests of the clients?

Swiss consultants and international experts have concluded that the risks to the clients resulting from unsustainable business practices on the part of companies in a portfolio must be addressed. The argument is that it is a basic element of fiduciary duty to assess risks. It is undisputed that today this includes risks resulting from unsustainable activities – so-called ESG risks.

The impact of ESG risks on portfolio returns and risks is, however, merely one side of the coin. The other side of sustainable investment deals with the impacts the companies in the portfolio have on the outside world. Together these two aspects are called double materiality. Legal opinions conclude that as long as there is no adverse effect on financial goals, the impacts of the portfolio on the environment and society can but are not required to be considered. An example is when contributing client funds towards a good cause would probably have a positive impact in the world but would violate fiduciary duty. Financial instruments that have a favorable effect on the outside world are often less accessible or are accompanied by greater risks. A simpler approach is investment stewardship – pursuing dialogue with companies and exercising voting rights at general meetings.

We are the fiduciaries of future generations

Abstract concepts such as fiduciary duty or the Hippocratic Oath must constantly be renegotiated and made more concrete. In medical ethics this is most clearly demonstrated in the debate about euthanasia. For investments it is not matter of life and death, but here, too, the question of whether and how fiduciary duty implies sustainability has fueled plenty of discussions.

One thing is clear, namely that to specify the fundamental principles such as those of medical ethics or fiduciary issues, a social consensus must repeatedly be negotiated, a never-ending process. Additional food for though is a different interpretation of fiduciary responsibility that results if one includes a temporal dimension, as Ottmar Edenhofer, the director of the Potsdam Institute for Climate Impact Research, postulates: "We are the fiduciaries of future generations."

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