

# Demystifying Investments

Addressing the three big questions in the charity investment space.



## Agenda

- Introduction and welcome – Amanda Francis, Partner - Buzzacott
- The three big questions
  - A new or perennial question: is sustainable and ethical investment compatible with your responsibilities as charity trustees?  
Presented by Eddie Finch, Partner - Buzzacott
  - Is a recession looming? Protecting your assets in uncertain times.  
Presented by Adrian Maxwell, Investment Director - Rathbones
  - Cracking the Code on ESG: A guide to effective assessment  
Presented by Christophe Borysiewicz, Investments Director - Rathbone Greenbank
- Trustees' perspective from Amanda Francis, Partner - Buzzacott
- Panel discussion and Q&A – led by Julian Rathbone, Investment Director – Rathbones
- Networking lunch



A new or perennial question: is sustainable and ethical investment compatible with your responsibilities as charity trustees?

**Eddie Finch – Partner, Buzzacott**



## Background

- From “Bishop of Oxford” to “Butler-Sloss” – has the law changed?
- Policy imperatives and political noise.
- CC14 and SORP have ballooned through:
  - Rise of “ethical and responsible” investment.
  - Advent of social investment and Law Commission review.
  - 2016 Act (consolidated into Charities Act 2011 Part 14A).
- Impact investing and ESG.
- Imminent (hopefully not before today!) simplification.

### Guidance

## Charities and investment matters: a guide for trustees

Updated 1 August 2016

### Contents

1. Introduction
2. Executive summary
3. The legal framework for financial investment
4. Setting a charity's investment objectives
5. Deciding what to invest in
6. Who can manage and make decisions about investments?
7. Monitoring investments and performance
8. Other questions on financial investments
9. Cash deposits
10. Programme related investment (PRI)
11. Mixed motive investments

The Commission has published a statement regarding the 2022 High Court judgment (Butler-Sloss and others v Charity Commission) about charity financial investment.

[Read the statement.](#)

The Charities (Protection and Social Investment) Act 2016 has introduced a statutory power for charities to make social investments. The commission's [interim guidance](#) outlines the considerations for trustees when making social investment decisions. Other than the addition of this interim guidance and the removal of the definition of social investment from Annex 1, the substance of this guidance has not been changed. The existence of the power and its practical application for charities will be one of the issues the commission will consider as part of a future review of its investment guidance.



## As things stand

- “Bishop of Oxford”
  - Negative screening – Apartheid and CofE.
  - Moral grounds (but religious charity).
- Established broad principles for ethical and responsible investment.
- “Starting point” is financial return.
- Other factors may be considered:
  - Impact contrary to charity’s objects (Tobacco and Health etc.).
  - Negative impact on support, reputation, and beneficiary engagement (Comic Relief).
- **May** consider broader ethical matters (ideally not contentious moral judgements), **if** there is no significant financial detriment.

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## Social Investment

- A Government priority from the Noughties onwards.
- SORP 2005 – “Programme related investments”.
- Many trustees anxious – picked up as a thread in Law Commission review.
- Statutory power introduced in the 2016 Act.
- Current SORP (2015, 2019) addresses social investment.
  - Mirrors three categories in CC14 (originally updated 2014).
  - General power generally reflects already existing law, but;
    - Can’t override the constitution.
    - Permanent endowments may be prevented from using.
    - Charter and statutory charities excluded.

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## The Butler-Sloss case

- Testing the limits (if any) of screening.
  - Using Paris Declaration criteria.
  - Potentially excludes a large part of the market (considered very unlikely in Bishop of Oxford).
  - Extent of consideration of financial detriment/ balancing other factors.
- Applies to financial but not to social investments.
- Useful re-examination of Bishop of Oxford.
  - Direct detriment is not obligatory.
  - Status of moral concerns.
- Sought many declarations and got one.
  - But it is **“MOMENTOUS”**.

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## The Butler-Sloss decision (interpreted by the Charity Commission)

“1.Trustees’ powers of investment derive from the trust deeds or governing instruments (if any) and the Trustee Act 2000.

2.Charity trustees’ primary and overarching duty is to further the purposes of the trust. The power to invest must therefore be exercised to further the charitable purposes.

3.That is normally achieved by maximising the financial returns on the investments that are made; the standard investment criteria set out in s.4 of the Trustee Act 2000 requires trustees to consider the suitability of the investment and the need for diversification; applying those criteria and taking appropriate advice is so as to produce the best financial return at an appropriate level of risk for the benefit of the charity and its purposes.

4.Social investments or impact or programme-related investments are made using separate powers than the pure power of investment.

5.Where specific investments are prohibited from being made by the trustees under the trust deed or governing instrument, they cannot be made.

6.But where trustees are of the reasonable view that particular investments or classes of investments potentially conflict with the charitable purposes, the trustees have a discretion as to whether to exclude such investments and they should exercise that discretion by reasonably balancing all relevant factors including, in particular, the likelihood and seriousness of the potential conflict and the likelihood and seriousness of any potential financial effect from the exclusion of such investments.

7.In considering the financial effect of making or excluding certain investments, the trustees can take into account the risk of losing support from donors and damage to the reputation of the charity generally and in particular among its beneficiaries.

8.However, trustees need to be careful in relation to making decisions as to investments on purely moral grounds, recognising that among the charity’s supporters and beneficiaries there may be differing legitimate moral views on certain issues.

9.Essentially, trustees are required to act honestly, reasonably (with all due care and skill) and responsibly in formulating an appropriate investment policy for the charity that is in the best interests of the charity and its purposes. Where there are difficult decisions to be made involving potential conflicts or reputational damage, the trustees need to exercise good judgment by balancing all relevant factors in particular the extent of the potential conflict against the risk of financial detriment.

10.If that balancing exercise is properly done and a reasonable and proportionate investment policy is thereby adopted, the trustees have complied with their legal duties in such respect and cannot be criticised, even if the court or other trustees might have come to a different conclusion.”



## Where to next?

### Why revise CC14?

- Captures findings of listening exercise in 2020
- Catching up with the law and current practices
- Guidance needed around ESG and how trustees can gain assurance
- Practice has tended to concentrate on programme-related or mainly financial (“Impact” style) investments
- Terminology confusing and overlapping
- Can feel falsely prescriptive

### When will it arrive and what will it change?

- Due “Summer 2023”
- CC believes the law is clear, but guidance isn’t
- Reduced volume (less than a quarter of the word count!)
- Simpler distinctions:
  - Financial or social (following Part 14A)
  - Financial methodology:
    - Adopt “starting point”
    - Consider other factors
    - Balance benefits and harms of different “end point”
- For many charities, the answer to the framing question (is it compatible...) is “yes, but you don’t have to” and this will be clearer.





Is a recession looming?  
Protecting your assets in uncertain times

A presentation for charity trustees

**Presented by Adrian Maxwell, *Investment Director***



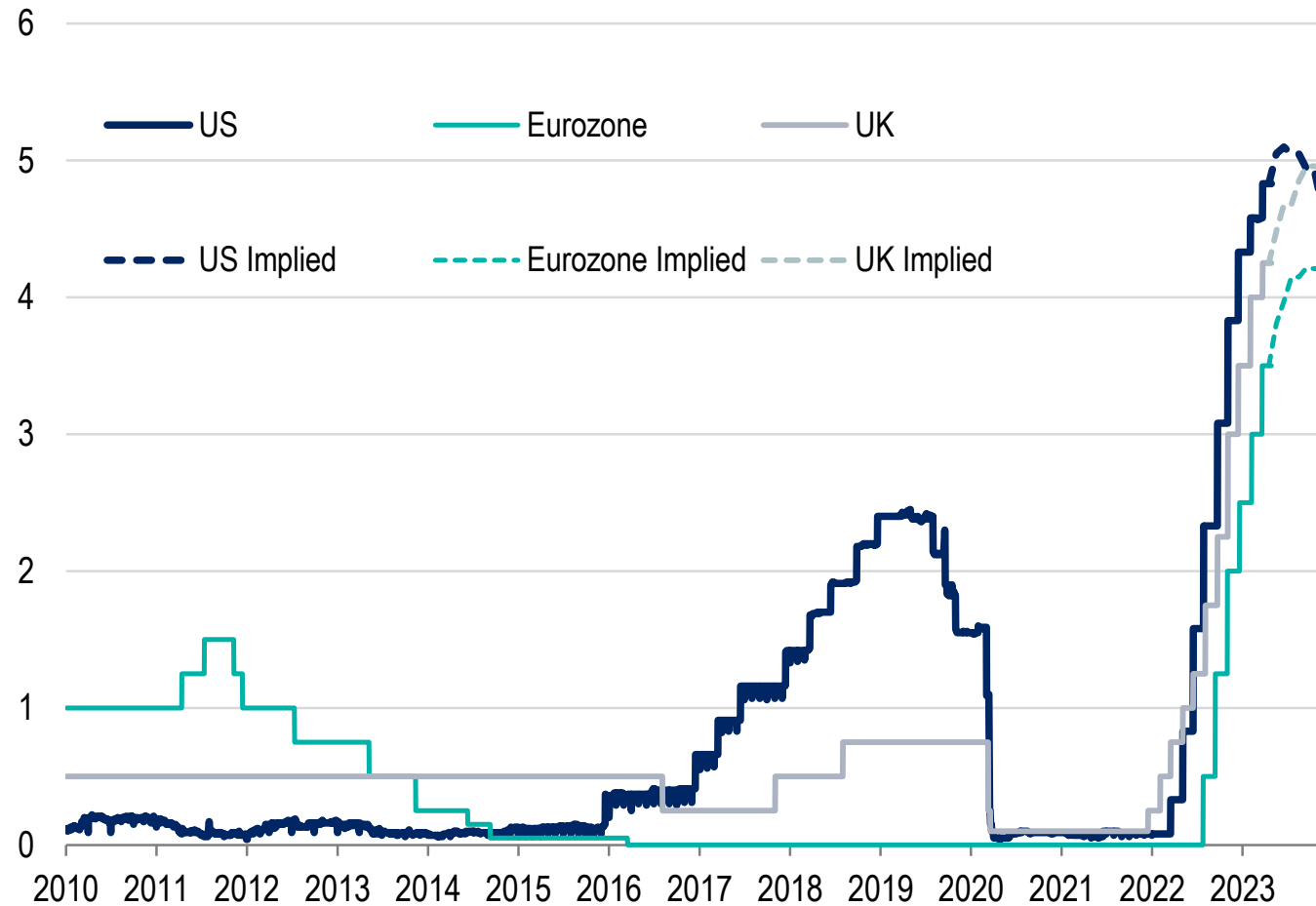
## What is a recession?

*A period of temporary economic decline during which trade and industrial activity are reduced, generally identified by a fall in GDP in two successive quarters.*



## Why might we enter recession?

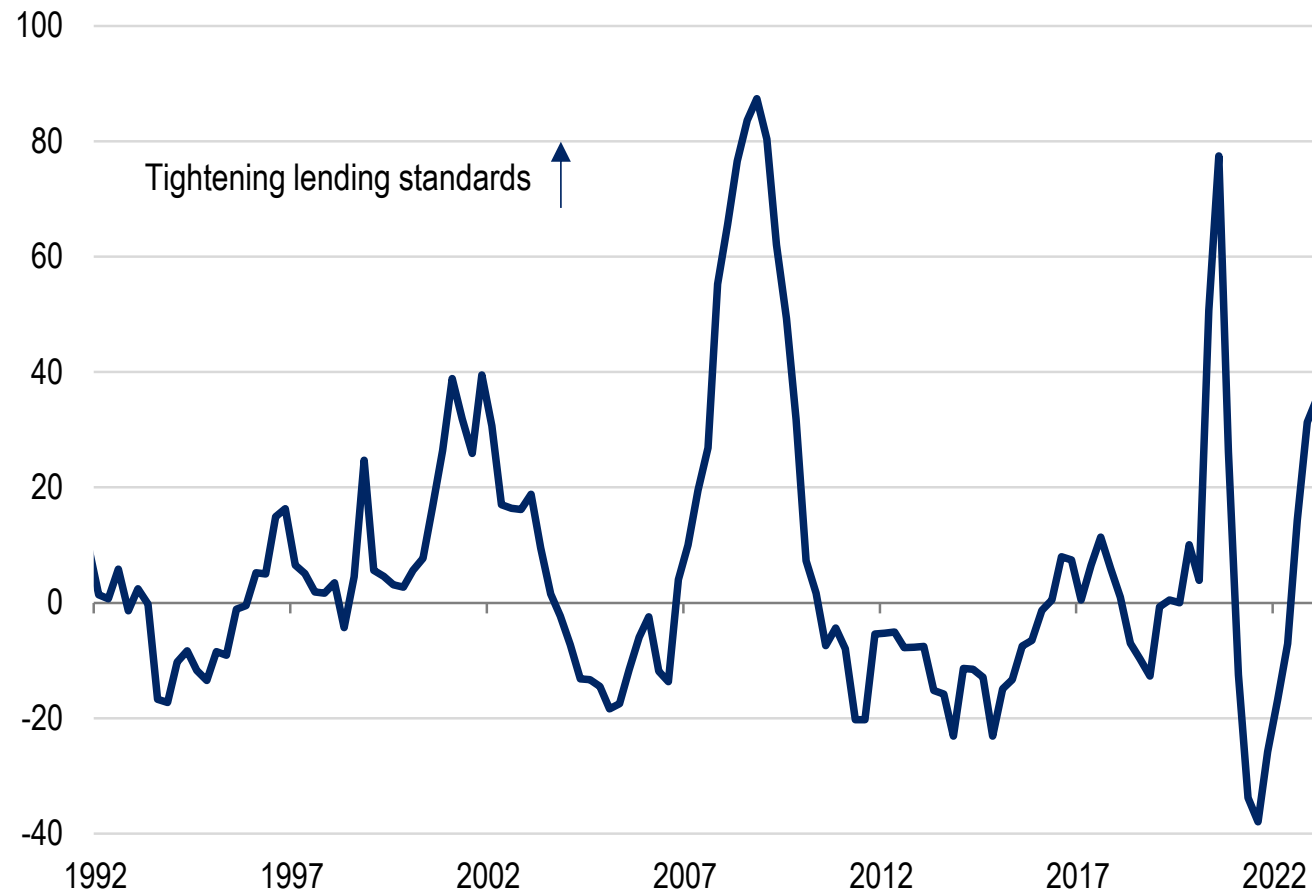
Rising interest rates – suppressing credit demand and investment





## Why might we enter recession?

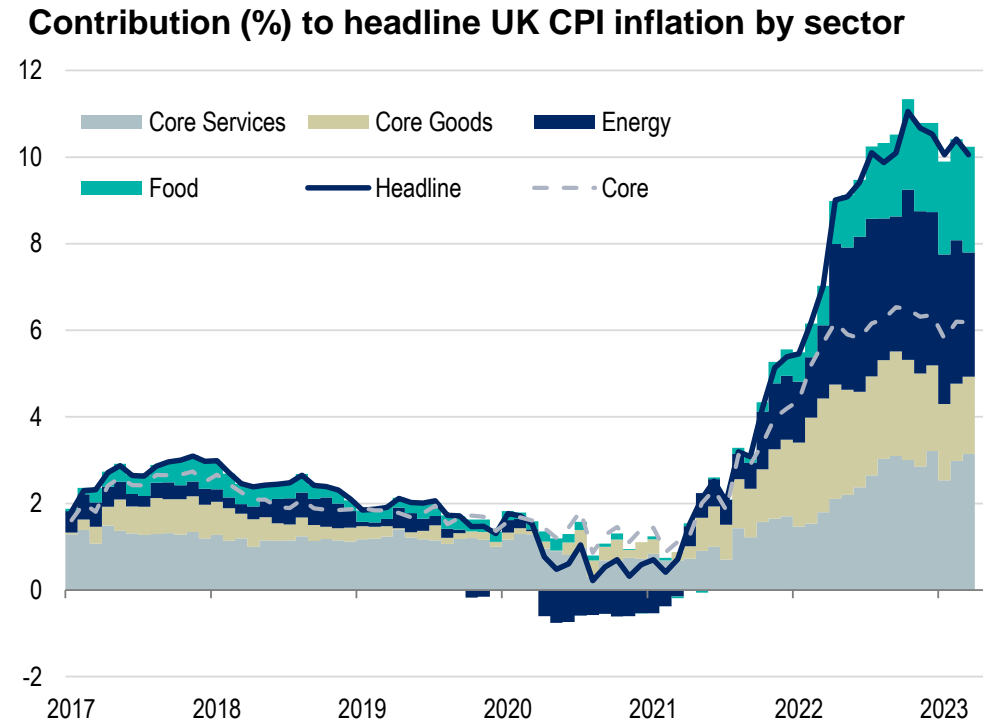
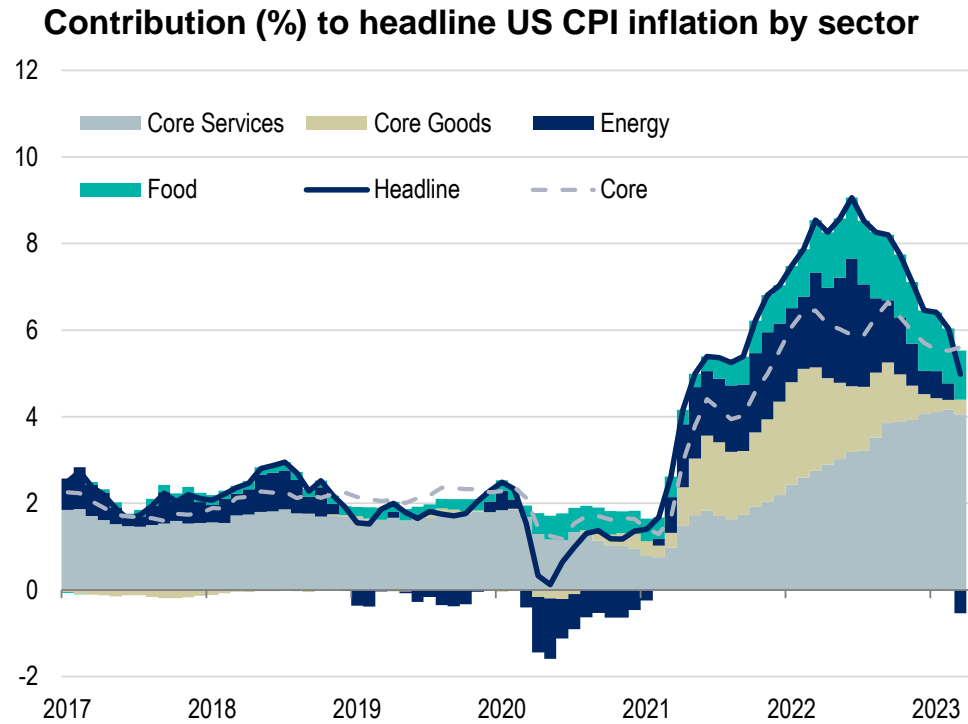
Tightening credit conditions – harder and more costly for those that want it





## Why might we enter recession?

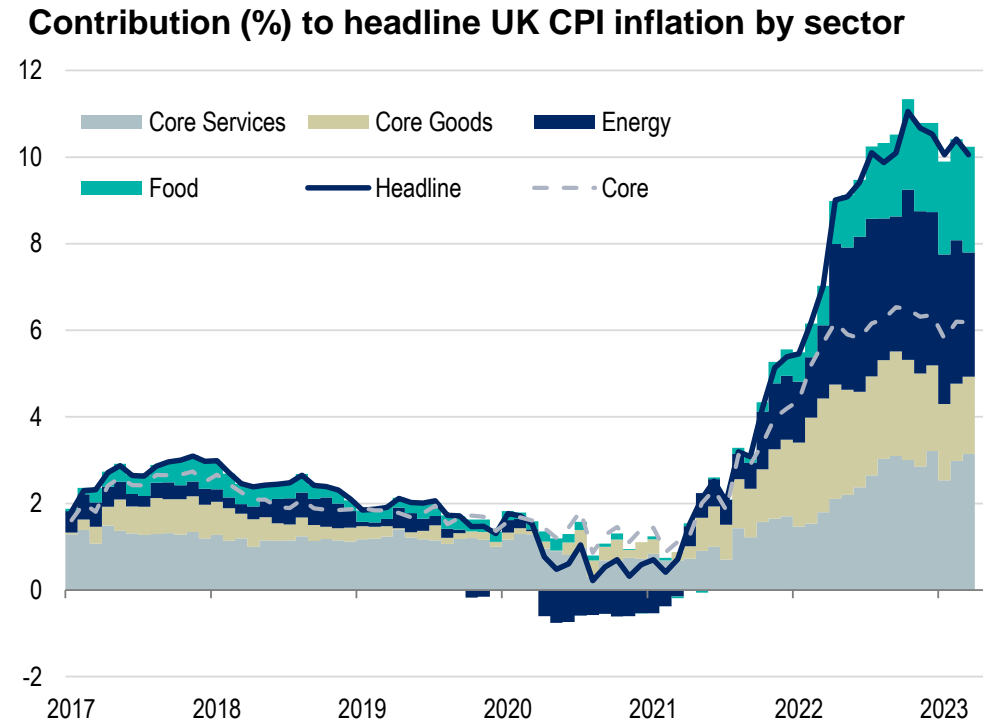
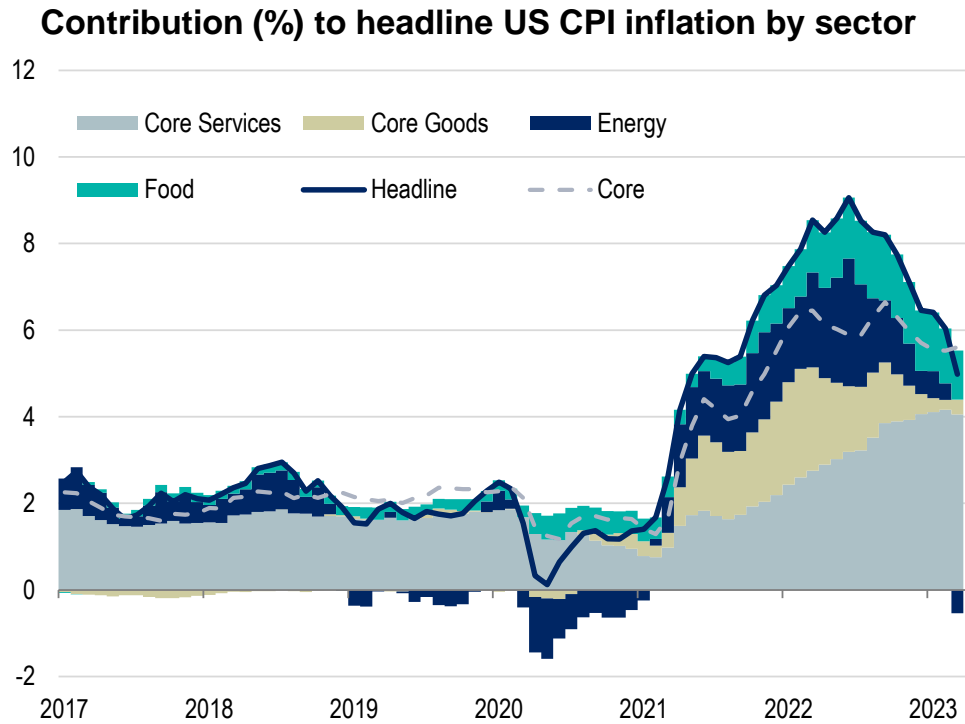
### Inflation – reducing consumer spending power





## Why might we avoid recession?

### Inflation – starting to roll over



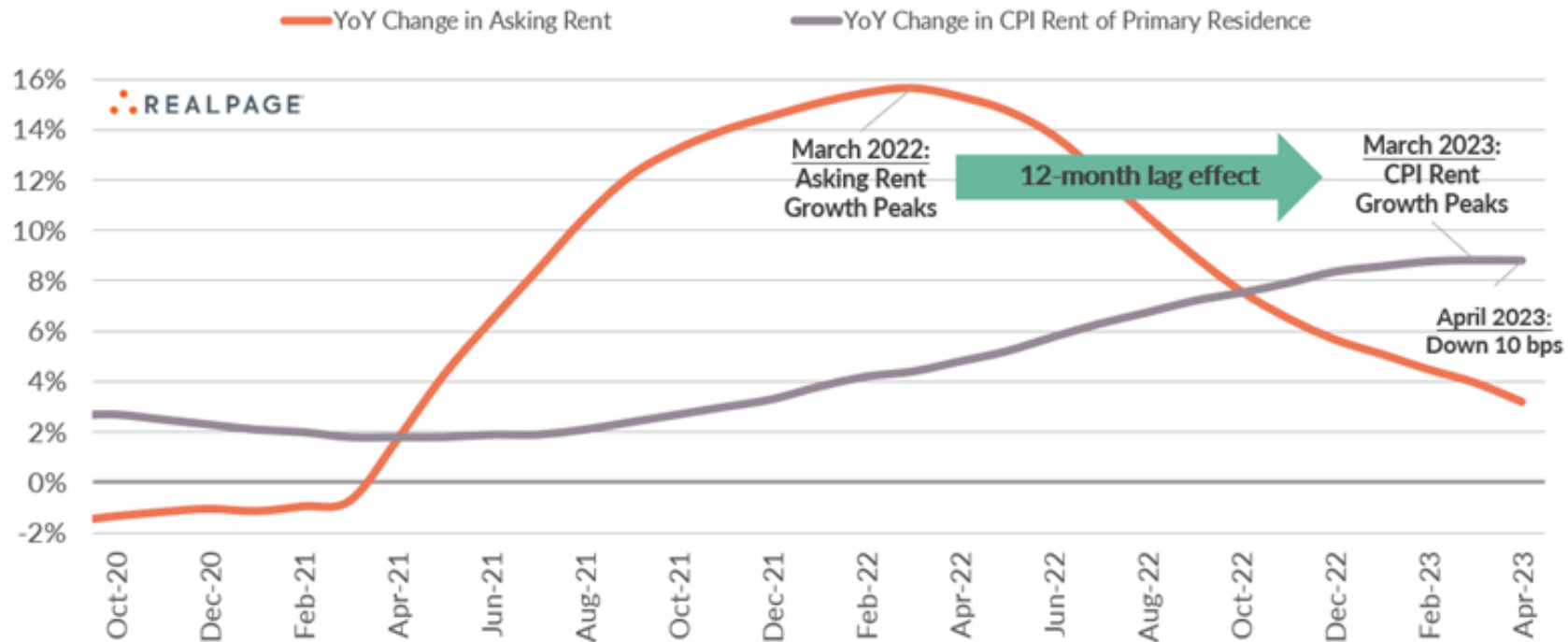


## Why might we avoid recession?

Inflation – starting to roll over

### Right on Schedule: CPI Shows Rent Growth Easing 12 Months After Peak

Comparing Different Measures for Market-Rate Apartment Rent (RealPage) vs. CPI Rent (BLS)

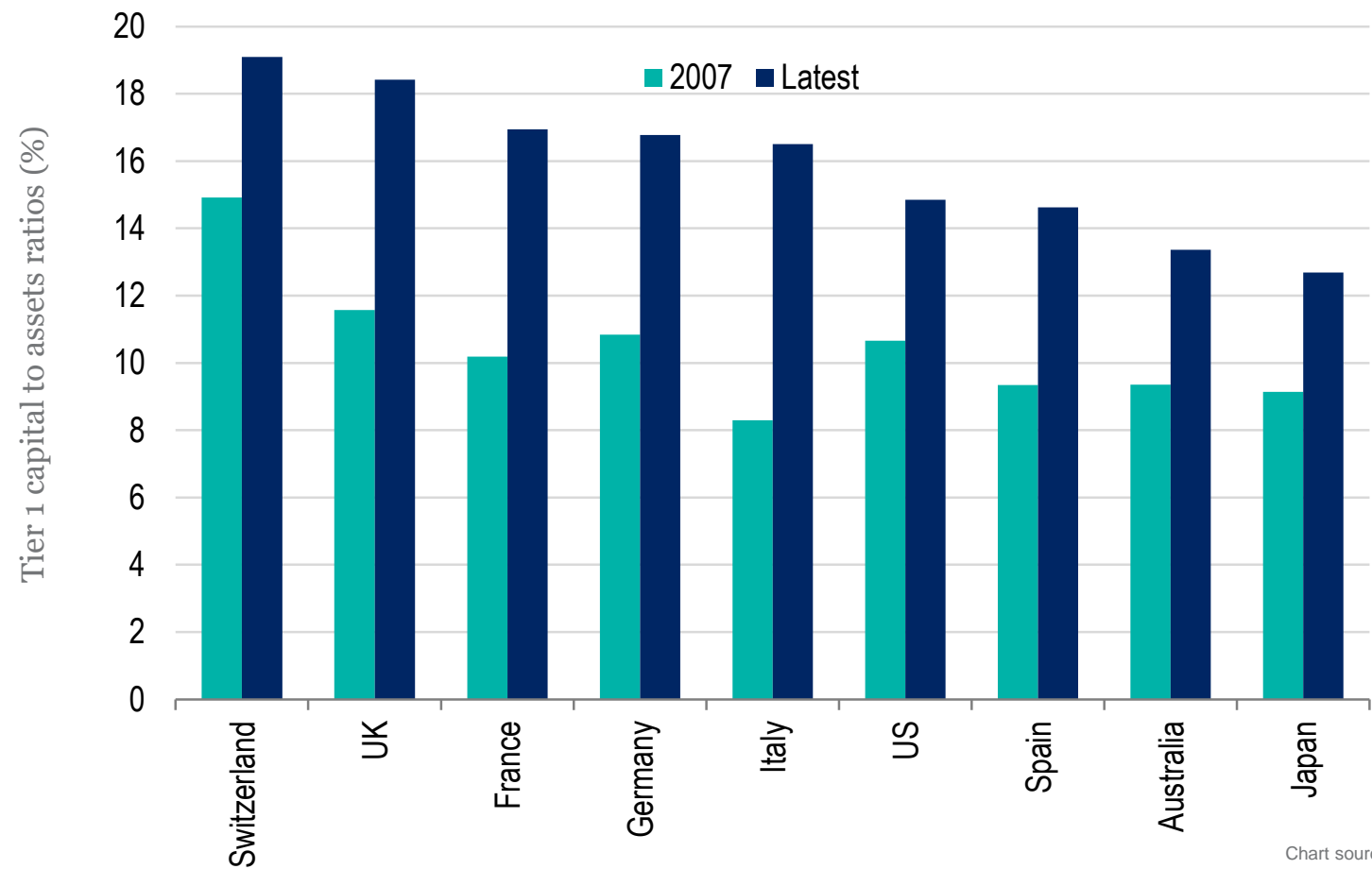


Sources: RealPage Market Analytics; Federal Reserve Economic Data (FRED) & BLS



# Why might we avoid recession?

Banks are in good health – not a re-run of 2008



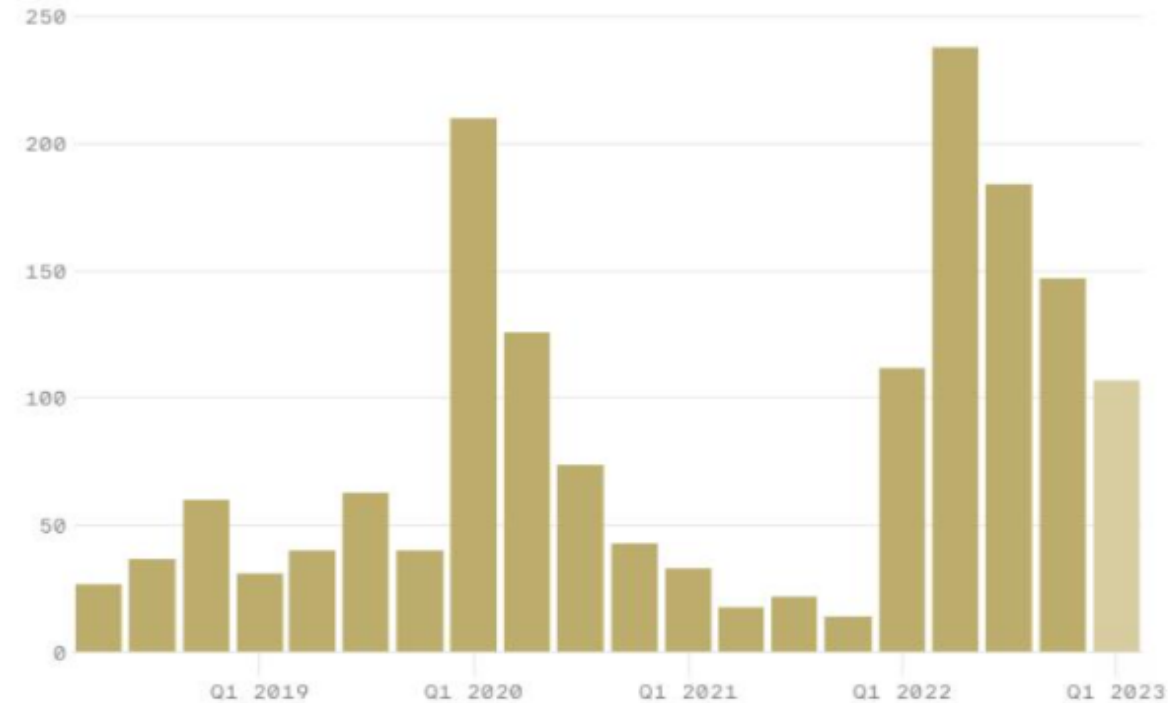


## Why might we avoid recession?

Companies are seemingly getting less concerned about recession

### S&P 500 companies citing "recession" on earnings calls

Quarterly; Q2 2018 to Q1 2023 (includes earnings calls through May 18)

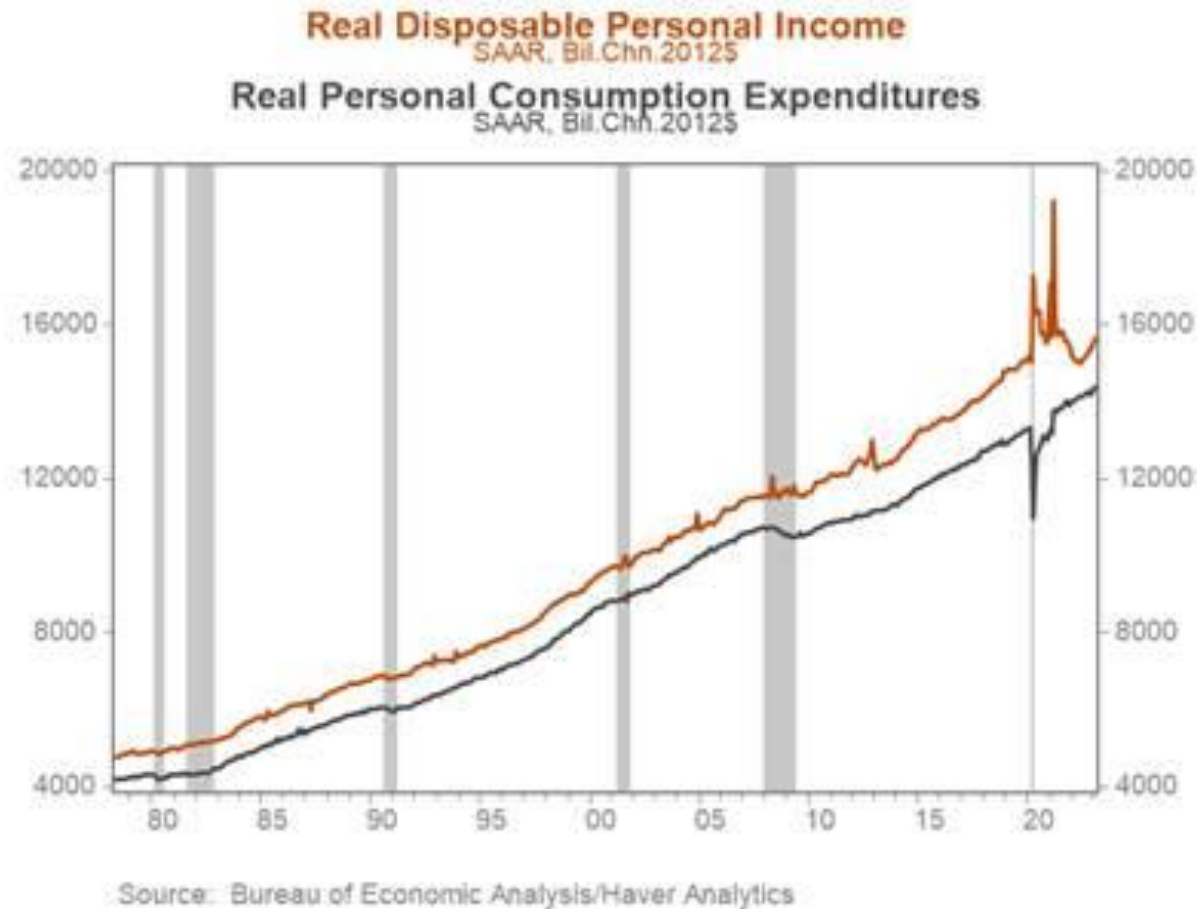


Data: FactSet; Chart: Alice Feng/Axios



## Why might we avoid recession?

Consumer spending has remained robust





# Is a recession looming?

High probably, but likely shallow

	Inflation <4% in 12m time	Inflation >4% in 12m time
Recession in next 12m	Typical recession	Stagflation
No recession in next 12m	Soft landing	Inflation resilience

US probabilities	Inflation <4% in 12m time	Inflation >4% in 12m time
Recession in next 12m	50%	25%
No recession in next 12m	25%	0%

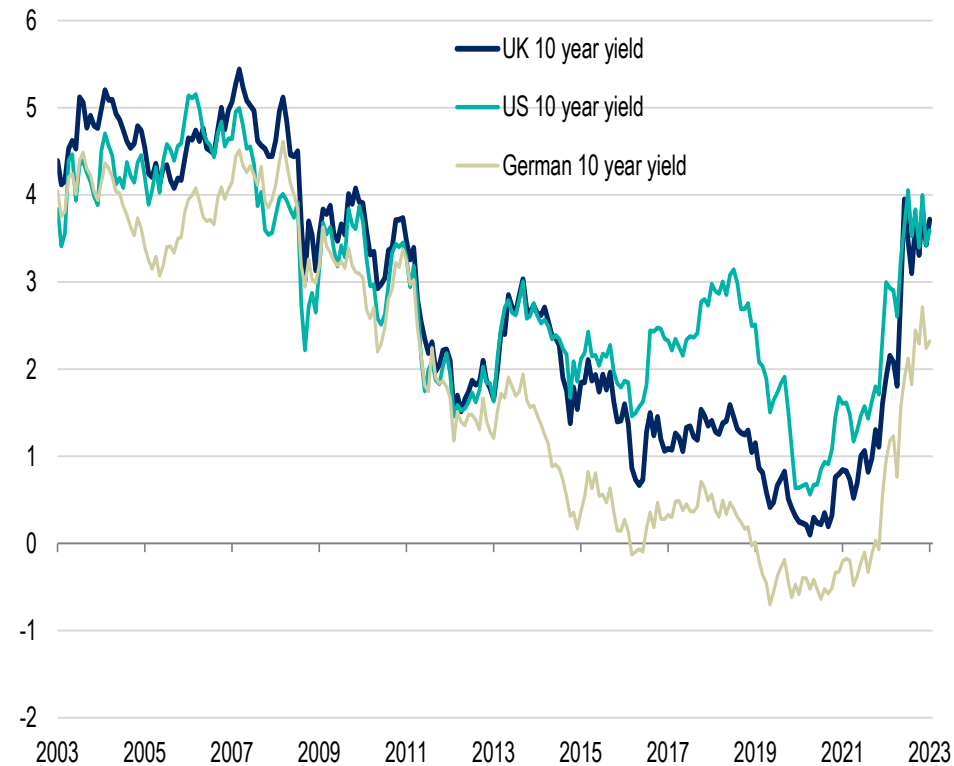
Europe (inc. UK) probabilities	Inflation <4% in 12m time	Inflation >4% in 12m time
Recession in next 12m	45%	35%
No recession in next 12m	15%	5%



## How can we protect your assets?

Bonds are now more attractive and diversifying

10 year government bond yields (%)



Inv. Grade Corporate bond yield – equity earnings yield

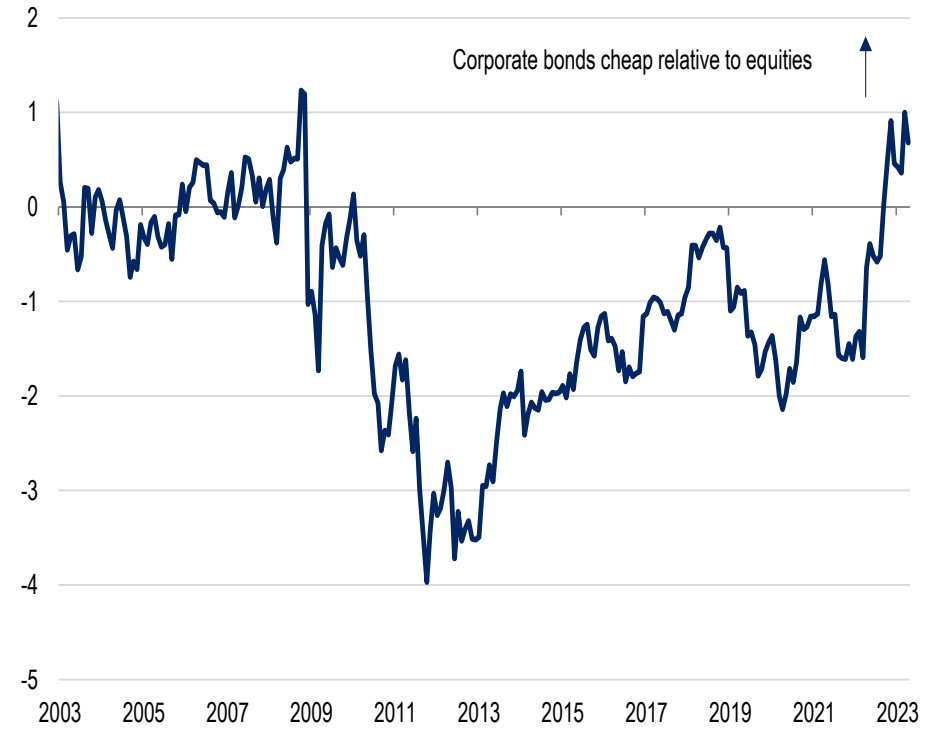


Chart sources: Refinitiv, Rathbones research

The value of investments and the income from them may go down as well as up and you may not get back your original investment.



# How can we protect your assets?

## Position equity defensively

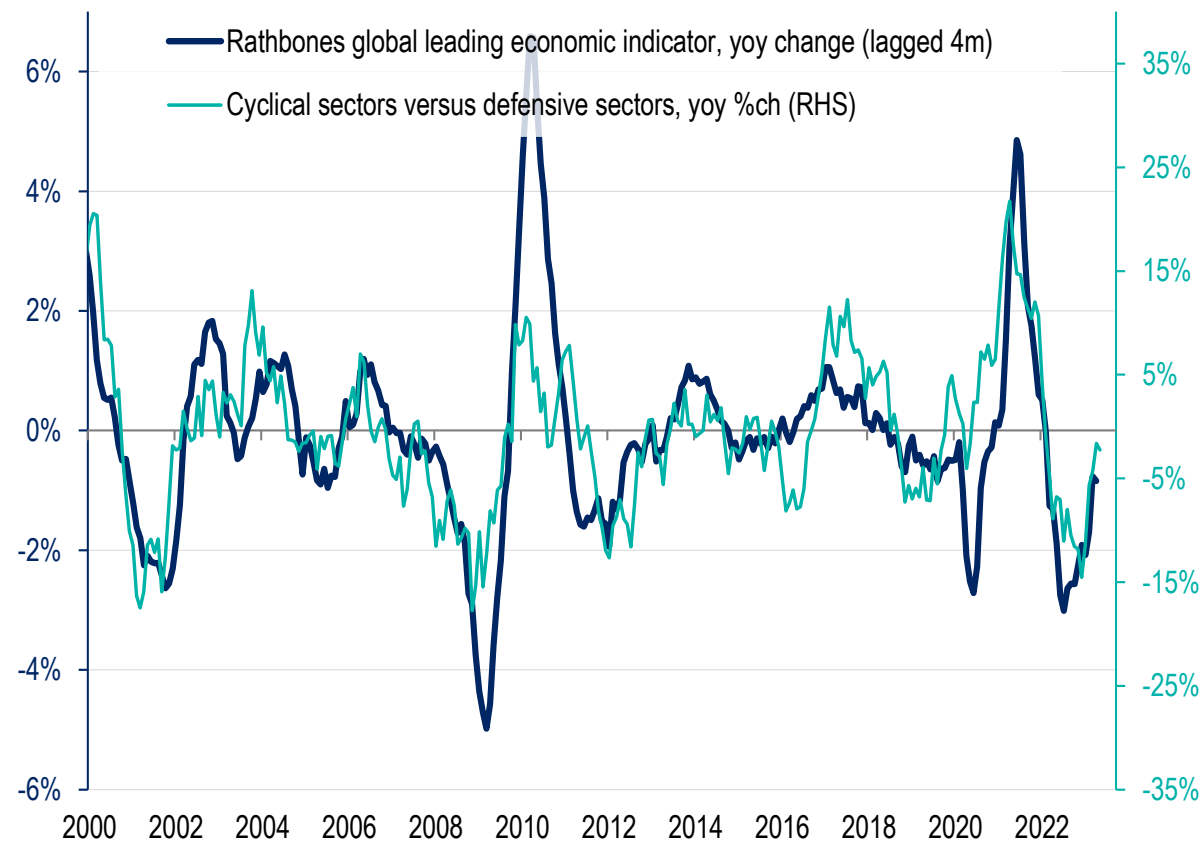


Chart sources: Refinitiv, Rathbones research; \*A year on year LEI change that is below zero tends to be a negative signal for cyclicals while above zero tends to be positive. We are currently below zero.

Defensive stocks that possess high quality earnings and demonstrate steady growth

**MERCK**

AstraZeneca

Johnson & Johnson

novo nordisk®

Unilever

**PEPSICO**

nationalgrid

P&G

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# How can we protect your assets?

## Position equity for structural growth

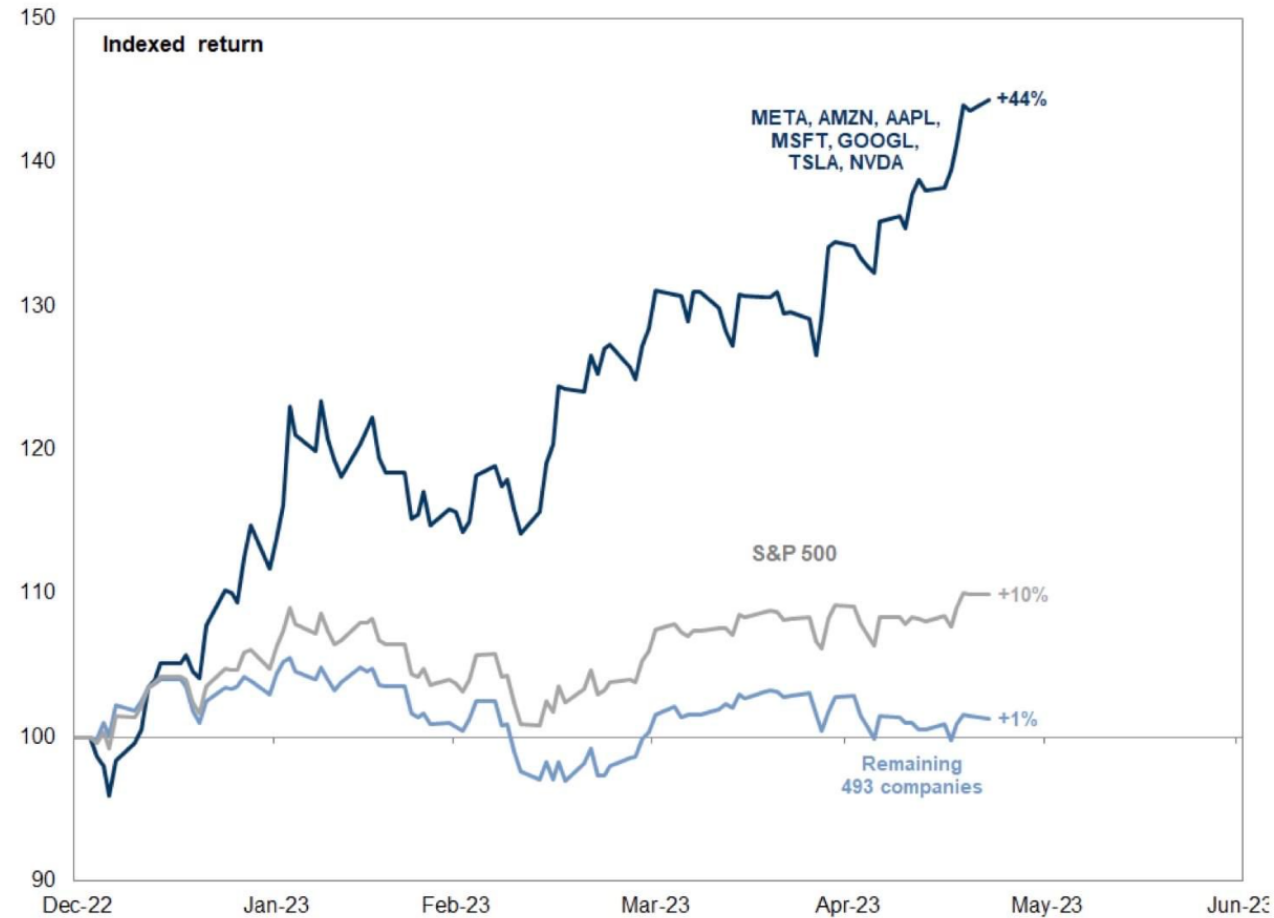


Chart sources: Atlantic Equities

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## How can we protect your assets?

Position equity for structural growth – the AI opportunity

Due to the investment scale needed the mega-cap tech companies have advantage



Data sets enhanced, AI cyber threat





How can we protect your assets?

AI in action - Adobe

The Adobe logo, consisting of the word "Adobe" in a bold, red, sans-serif typeface.



## How can we protect your assets?

Sit tight and receive dividends/dividend growth

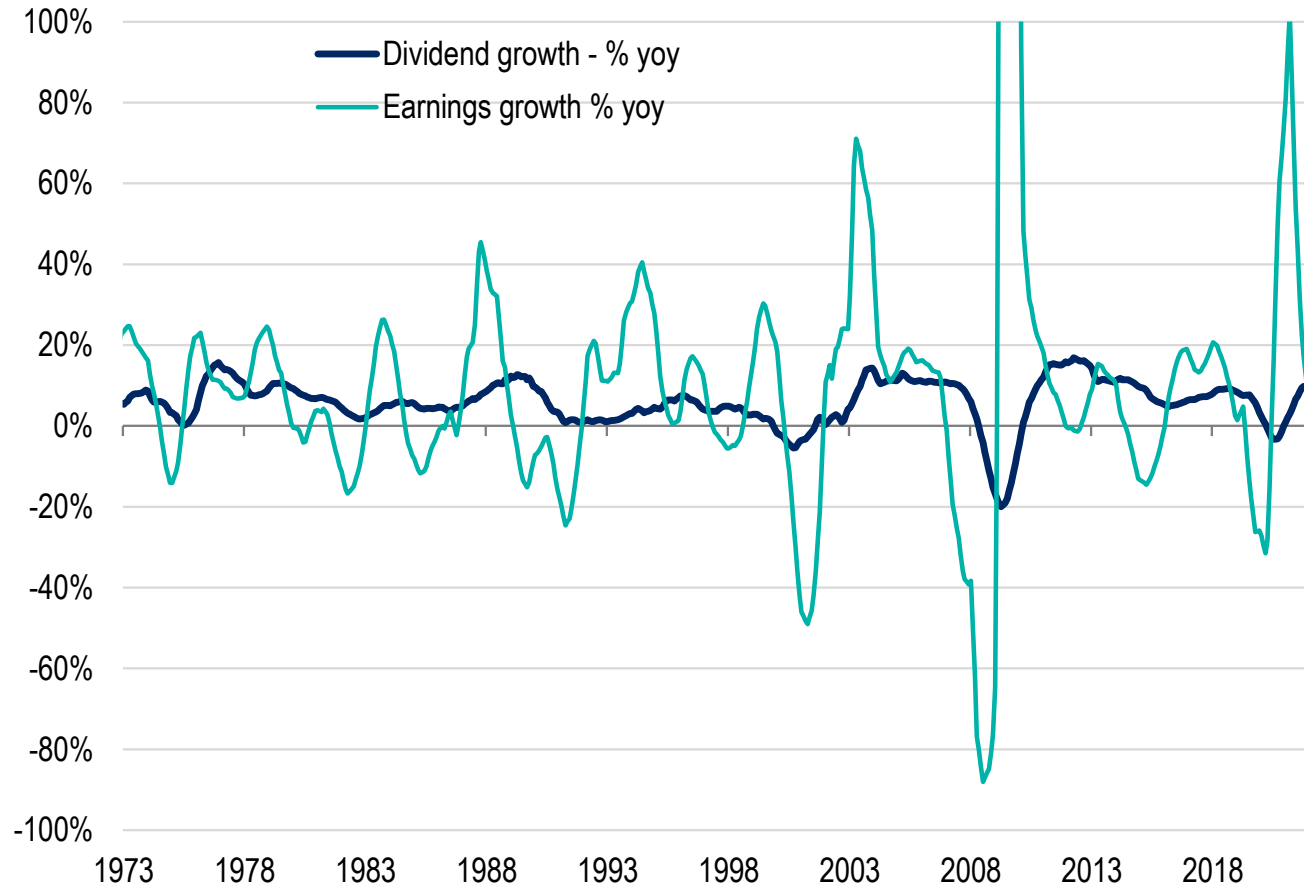


Chart sources: <http://www.econ.yale.edu/~shiller/data.htm>, Refinitiv, Rathbones research

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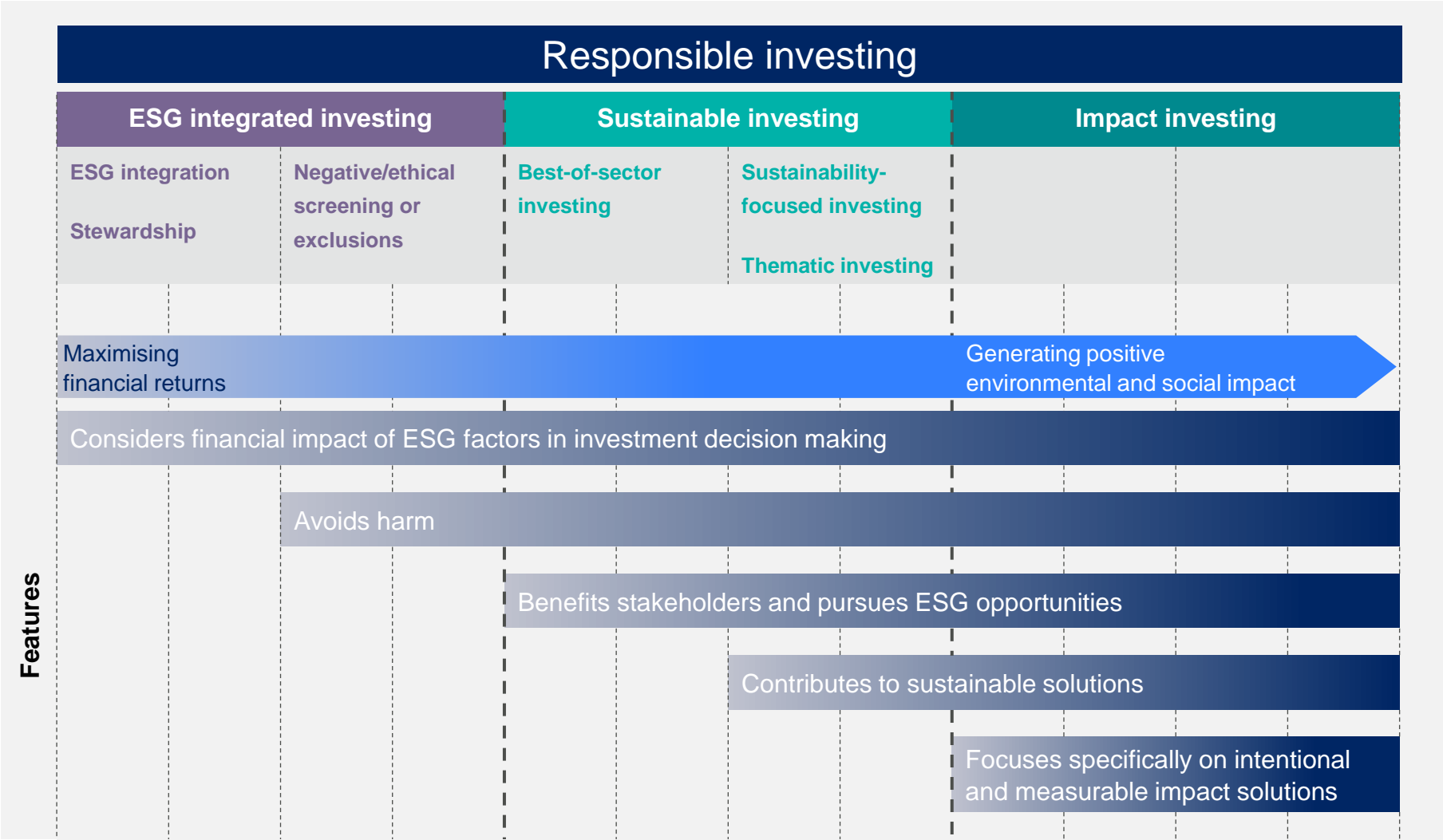


## Cracking the code on ESG: A guide to effective assessment for charity trustees

**Presented by Christophe Borysiewicz, *Investment Director***



# Responsible investment comes in many guises



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## Data quality

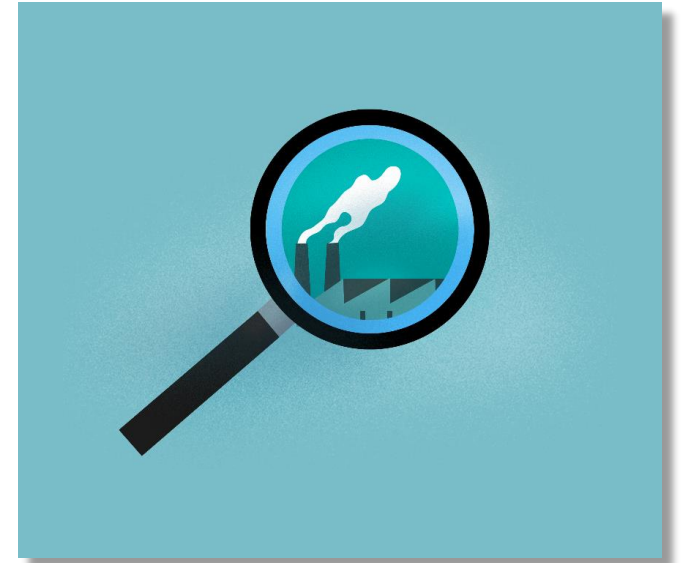
Carbon reporting ✓

Revenue to exposure to e.g. tobacco, oil, armaments etc ✓

Assessment of how a company operates (e.g. human rights etc) ?

Alignment with Paris or net zero ?

Social or environmental impact of mainstream investments ✗

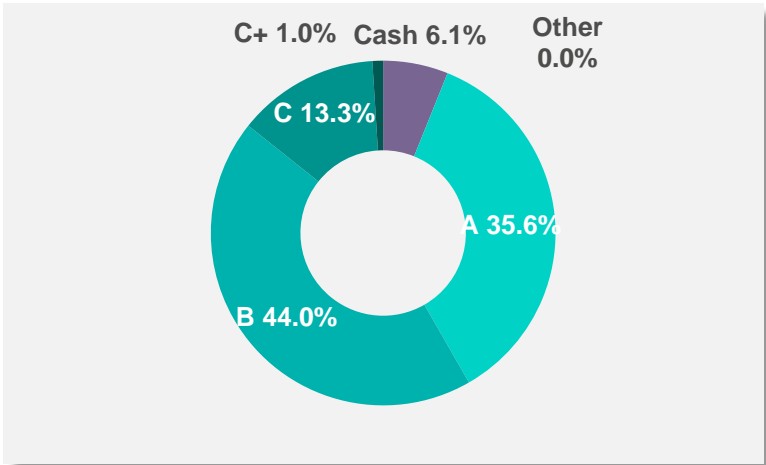




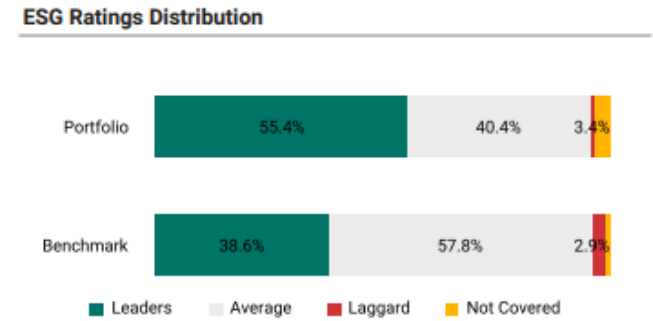
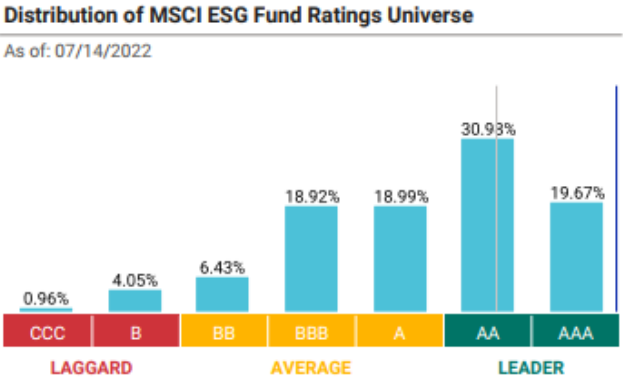
# Example ABC reporting – sustainability portfolio

## Example MSCI reporting – ESG\* integrated portfolio

\* Environmental, Social and Governance factors



Cash	6.1%
Other	0.0%
Acts to avoid harm	35.6%
Benefits people and/or planet	44.0%
Contributes to solutions	13.3%
Contributes highly to solutions	1.0%



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## An example - Shell





## An example - Shell

MSCI rating – AA (leader)

Refinitiv rating – 93 (excellent)

Sustainalytics rating – 37.6 (high risk)

MSCI implied temperature rise – 2.4°C

Widely viewed as best-in-class oil company by  
ESG investors





## Final thoughts

Responsible investment comes in many shapes. You can use a variety of shapes to meet your needs

Responsible investment is a journey, not a one-time decision

Data are improving to allow assessment

Transparency is key

Investment manager skills and experience to help guide you

Further resources:

[rathbones.com/investment-approach/responsible-investment](https://rathbones.com/investment-approach/responsible-investment)



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**Thank you for attending.**

Please join us next door for a networking lunch.