

## Kurt Gottschall Interviewed by Responsible Investor: ‘Penalties in 8-Figure Range Likely for ESG Violations’

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**PRACTICES** Environmental, Social and Governance, Investment Management

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Haynes Boone Partner Kurt Gottschall [joined the firm in 2022](#) after 22 years with the U.S. Securities & Exchange Commission, including serving as the director of the SEC’s Denver Regional Office. Kurt recently spoke with [Responsible Investor](#) about the SEC’s ESG enforcement and what he sees as the future of such regulations. An excerpt is below:

Gottschall describes the penalties seen so far for ESG violations as “very significant,” given that many of the SEC’s ESG-related cases “did not allege intentional misconduct or recklessness.”

Typically, compliance violations would result in fines for asset managers “in the low hundreds of thousands,” he says.

He is convinced that the cost of ESG-related infringements will keep rising, with more penalties in the eight-figure range likely in the U.S.

“I think penalties will be higher. This leadership team at the SEC, particularly in the enforcement division, has been very public about their desire to ratchet up penalties.”

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The SEC typically brings more than 700 enforcement actions per year, but since the ESG taskforce was established, it has brought just seven cases.

“That includes a couple that appear to have already been in the pipeline when the taskforce was launched,” says Gottschall.

He adds that the cases ... were “procedural cases” and did not necessarily require expertise by an ESG taskforce “to compare how those firms represented that they were constructing ESG portfolios versus the reality of what was or was not done.”

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Gottschall thinks there will be more of these type of cases – “lapses in exclusionary screens or other tools used for the selection of underlying investments in ESG portfolios” – as opposed to rulings by the SEC on the quality of ESG assessments by managers.

“I think for the asset management industry, it’s going to be very hard for the SEC to wade into those kinds of qualitative judgements,” he says.

[Read the full article here.](#)