

Hiding in plain sight: the concept of fiduciary duty in financial economics

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ABSTRACT

We discuss the role of fiduciary duty in financial economics. We first demonstrate that there are different levels of depth of engagement with the content of the definition of fiduciary duty in the financial literature. Most contributors tacitly presume a narrow definition of fiduciary duty or merely mention it in passing. Only some authors provide more detailed definitions. And very few authors explicitly discuss the values at play in different definitions of fiduciary duty. The concept of fiduciary duty, while a key normative assumption underlying investment practice, seems to hide in plain sight in the current debates. We argue that deeper engagement with the concept of fiduciary duty is desirable. Such deeper engagement improves conceptual clarity, comparability across analyses, and transparency about normative assumptions. Doing so also contributes to responsible financial economics understood as the obligation to make normatively consequential assumptions explicit.

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1. Introduction

Fiduciary duty is a central concept in finance practice and research. Fiduciary duty means, in broad terms, that a financial agent has the obligation to act in the best interest of their principal. Definitions of the fiduciary duty of asset managers typically involve achieving financial returns in line with the client's investment objectives and risk tolerance. In this article, we discuss the role of fiduciary duty as a concept in financial economics research. We first show that its definition is hardly explicitly discussed. The concept of fiduciary duty, while a key normative assumption underlying investment practice, seems to hide in plain sight in financial economics. We also argue that deeper engagement with the concept of fiduciary duty is desirable. Such deeper engagement improves conceptual clarity, comparability across analyses, and transparency about normative assumptions. Doing so also contributes to responsible financial economics understood as the obligation to make normatively consequential assumptions explicit.

The case of fiduciary duty can be briefly summarized as follows. The notion of fiduciary is centuries-old, and through the ages, different notions of fiduciary duty have evolved. A particularly significant milestone was the definition of fiduciary duty in terms of modern portfolio theory (MPT) in the late twentieth century. Since then, fiduciary duty has been tightly linked to principles of portfolio construction espoused by MPT (Markowitz, 1952). Simply put, a financial agent is to assemble an

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asset portfolio for their principal that maximizes expected return for a given level of risk. This MPT-driven definition of fiduciary duty has also been legally encoded in countries such as the United States and the United Kingdom. The MPT-driven definition of fiduciary duty has remained stable even in the intensifying debates on values in investing in recent years. Indeed, very few authors in current financial economics engage in detail with the definition of fiduciary duty. And so, curiously, one of the central concepts in investing remains relatively under-analyzed in the current lively debates about values in investing in financial economics.

The case of fiduciary duty in financial economics is remarkable and interesting for several reasons. First, it is an instance of ‘performativity’¹ of science: modern portfolio theory (MPT) had a fundamental and lasting, legally encoded, impact on the definition of fiduciary duty. Second, we show that there are clear differences in how deeply financial economists engage with conceptions of fiduciary duty. Most authors tacitly presume an MPT-driven definition of fiduciary duty or merely mention it in passing. Only a few authors provide more detailed definitions or explicitly discuss the values at play in different definitions of fiduciary duty and analyse the tensions between them. Third, through this case study, we argue that detailed engagement with the value content of definitions of fiduciary duty, and the careful studying of trade-offs between the different values at play, improves conceptual clarity, comparability across models, and transparency about normative assumptions. This is what we take responsible engagement with fiduciary duty in financial economics to require. In particular, we argue that explicitly specifying the conception of fiduciary duty employed in economic analysis is part of responsible practice in economic modeling, since such assumptions shape both the analytical framework and the conclusions that can be drawn. Fourth, and more generally, our discussion contributes to the increasing attention of methodology on financial economics. In particular, we add to it a specific discussion of the role of a normative concept in financial economics, which contributes to spelling out the role of non-epistemic values in this field of research.²

We proceed as follows. Section 2 introduces the case of fiduciary duty and analyses the financial literature in terms of depths of engagement with conceptions of fiduciary duty. We show that there is, by and large, little discussion of different conceptions of fiduciary duty. Section 3 argues for a more detailed and explicit engagement with conceptions of fiduciary duty. Section 4 briefly concludes.

2. The case of fiduciary duty

2.1. Definitions of fiduciary duty

Fiduciary duty is the legal obligation of a financial agent to act faithfully and effectively in the best interest of their beneficiary. It applies to financial agents such as corporate directors, asset and pension fund managers, and trustees. While both corporate managers and fund managers operate under fiduciary obligations, these involve distinct principal-agent relationships: corporate directors owe duties to shareholders, while fund and asset managers owe duties to their investor clients. This article focuses primarily on the latter, though we also engage with contributions that address the corporate governance dimension of fiduciary duty where relevant to the broader debate on values in investing. Fiduciary duties are encoded by legal principles designed to protect beneficiaries, who often lack the information and expertise needed to evaluate the effectiveness of financial services in a timely manner. The concept is flexible, allowing for different measures and applications that vary across legal, institutional, and market contexts. However, its interpretation and application are often contested.

Although the importance of fiduciary duty and their inherent complexity became most apparent in the recent decades, the concept itself is not new. The English word fiduciary has its roots in the Latin word *fiducia*, meaning trust and confidence (Johnson, 2014). According to Aikin and Fausti (2010), fiduciary duties can be traced as far as to the Code of Hammurabi (ca. 1790 BC) in

Babylon. This code established one of the first rules demanding from the agents entrusted with property pledges of good faith and trust. Different conceptions of the role of trust and expertise embedded in fiduciary duty have been present throughout the history of many different cultures and societies, for example, in the Old and New Testaments, in the writings of Confucius, Aristotle, and Cicero (Aikin & Fausti, 2010).

Over time, the legal conception of fiduciary duty, especially in the management of trusts, has shifted considerably: from constraining trustees to invest only in a narrow set of assets defined by 'legal lists' throughout the 19th and early twentieth century, to a modern fiduciary standard increasingly reflecting the 'prudent investor' rule (Friedman, 1964). Legal lists rigidly specified permissible investments, limiting trustee discretion even when broader options might have been reasonable. By contrast, the prudent investor rule allows trustees to invest flexibly, guided by the practices of prudent, knowledgeable investors, and emphasizes sound judgment over statutory prescription, reflecting growing professionalization in trust management industry.

Today, there is no universal definition of fiduciary duty. Although fiduciary duties are grounded on a relatively stable set of legal principles, including loyalty, prudence, transparency, accountability, and compliance with legal and contractual obligations, their precise definitions and interpretations vary across legal systems, cultures, and contexts (Hawley et al., 2011). Empirical studies further show that these variations manifest across different types of investment structures and jurisdictions. Stewart and Yermo (2008) demonstrate how fiduciary obligations differ across trust-based, contract-based, and institutional pension systems, each posing distinct governance and accountability challenges. Similarly, Bhattacharya et al. (2019) document significant variation across U.S. states, where some impose a strict fiduciary standard, where financial advisors are required to act in the best interests of the client, while others apply a suitability standard, a less strict obligation requiring recommendations that are suitable for the client's situation, but not necessarily the best possible choice.

Despite this variation in the interpretation of the legal conception of fiduciary duty, the prevailing view on the prudent investment standard has been heavily shaped by Modern Portfolio Theory (MPT), which has dominated investment and risk management practices since the mid-20th century. The mean-variance model of Markowitz (1952) formulated a decision rule for an investor who can choose between multiple risky assets for their portfolio, basing it on the intrinsic risk of assets and the covariance of risky assets. The resulting rule for optimal portfolio construction efficiently trades off higher expected return for lower variance of return.

The influence of MPT is clearly embedded in legal frameworks such as the Uniform Prudent Investor Act (1994) in the U.S. and the British Pensions Act (1995), both of which codify key MPT principles (Hawley et al., 2011). These acts reflect a recognition that fiduciaries' main concern should be the trade-off between risk and return, which is a key implication of MPT. Specifically, these acts stipulated that (i) fiduciaries are not legally restricted in the type of investments they are allowed to undertake; (ii) diversification is not optional but a legal obligation, (iii) risk and return must be evaluated holistically at the portfolio level, and (iv) speculative investments may be acceptable when judged in the context of the overall prudence of the portfolio.

Hawley et al. (2011) argue that such interpretation of fiduciary duty has led to an overly narrow focus on maximizing short-term, risk-adjusted financial returns. While MPT has introduced useful tools for quantifying and managing investment portfolios, which provide useful benchmarks for performance evaluations, the authors argue that their dominance leads fiduciaries to overlook broader responsibilities, often at the expense of deeper ethical and relational duties. These tools increasingly equate fiduciary performance with adherence to industry norms and peer-relative benchmarks (e.g. tracking errors that measure performance related to the benchmark), rather than acting holistically in the best long-term interests of beneficiaries. Moreover, such a narrowly framed duty has also discouraged meaningful engagement with long-term and systemic risks, such as climate change, governance failures, or economic instability, because these are difficult to measure and may not show immediate impact on returns. In this context, fiduciary obligations, such as loyalty and care, have been diminished or sidelined by the dominance of the prudent standard as defined by the MPT.

2.2. Fiduciary duty in financial economics

At the turn of the Millennium and in the early twenty-first century, new investment trends emerged, partly in the wake of corporate social responsibility (CSR) as an emerging paradigm in corporate governance. Institutional portfolio managers began to incorporate environmental and social considerations into their investment decisions. Normative concepts such as environmental, social, and governance (ESG) focused investing and socially responsible investing (SRI) gained a foothold in finance. Financial economists started to investigate these notions. The values at play in ESG and SRI investing are at conceptual odds with the MPT-driven notion of fiduciary duty as maximizing financial profits for investors. A sizeable literature in financial economics critically analyses these different kinds of values that (ought to) underlie investment behavior, such as expected returns, but also social and environmental values. Indeed, this literature often specifically analyses the tensions and trade-offs between these values. And yet, very few authors in this financial literature engage in detail with the *definition* of fiduciary duty itself. That is to say, current financial economic analysis is firmly based on the MPT-driven definition of fiduciary duty.

We identify three distinct tiers of this literature that are distinguished by their depth of engagement with the concept of fiduciary duty. The first tier – leaving fiduciary duty unanalyzed (section 2.2.1) – consists of articles that either omit the definition of fiduciary duty or tacitly presumes the MPT-driven definition. In such articles, the definition functions as a fixed background assumption: it shapes the analysis without being subject to scrutiny. In the second tier – somewhat deeper engagement (section 2.2.2) – the articles acknowledge that the definition of fiduciary duty can vary across jurisdictions, governance structure, or investor types and that it can stand in tension with other values. Such articles go beyond simple presumption, but they stop short of examining its content. In the third tier – explicit engagement (section 2.2.3) – the articles provide a substantive definition of fiduciary duty, treat that definition as revisable, and investigate the values embedded in it, the trade-offs between competing definitions, or the normative implications of adopting a particular conception. The key differentiator between the second and third tiers is therefore whether the article merely notes that fiduciary duty varies or is in tension with other values, or whether it actively examines why that matters and what alternative definitions would entail.

2.2.1. The definition of fiduciary duty is left by and large unanalyzed

Several recent empirical studies analyse how institutional investors engage with environmental, social, and governance (ESG) issues and corporate social responsibility (CSR). These articles vary in method, from analysing fund behavior and voting records to surveying investor motivations but share a common context: they seek to understand whether, how, and why investors incorporate non-financial considerations into their decisions. In doing so, they frequently invoke fiduciary duty as a justification or constraint, yet few define the term explicitly. Instead, these studies either omit a formal discussion of fiduciary duty or implicitly equate it with a mandate to maximize risk-adjusted financial returns, often grounded in modern portfolio theory (MPT). We illustrate this trend by reviewing a number of key articles in this literature. In these articles, we find detailed discussion of values in investing, juxtaposed by tacitly presuming an MPT-driven definition of fiduciary duty.

Kim and Yoon (2023) empirically assess whether U.S. active mutual funds follow through on their commitment after signing the United Nations Principles for Responsible Investment (PRI), the largest global environmental, social, and governance (ESG) initiative in the asset-management industry. Signing the PRI is a voluntary commitment to incorporate ESG factors into investment decisions, often framed as aligned with investors' long-term interest. Despite attracting significant capital inflows, PRI signatories show no meaningful improvements in ESG scores, portfolio composition, or proxy voting. The authors suggest this disconnect may reflect greenwashing or the prioritization of financial returns over ESG goals, possibly due to perceived fiduciary obligations. While the authors acknowledge disagreements over the value-relevance of ESG and provide detailed discussion of different value concepts at play, they ultimately treat fiduciary duty as simply meaning maximizing

returns. This is evident in their assertion that ‘mutual fund managers are bound by fiduciary duty to put clients’ financial interests first,’ (Kim & Yoon, 2023, p. 743) where financial interests are operationalized through the CAPM alpha, which is a measure of risk-adjusted return grounded in the MPT.

Akey and Appel (2019) study whether activist hedge fund campaigns, despite significantly increasing shareholder values, may come at the expense of other stakeholders such as employees or local communities. While their study raises fundamental questions about fiduciary duty of the corporate managers, namely whose interest corporate managers should prioritize, the authors do not explicitly engage with the concept of fiduciary duty. Instead, they align with the traditional shareholder-centric view, stating that ‘the traditional goal of corporate governance is to incentivize managers to act in the narrow interest of shareholders,’ (Akey & Appel, 2019, p. 1) implicitly equating fiduciary duty with maximizing shareholder value without consideration for broader stakeholder obligations.

Edmans et al. (2026)³ study socially responsible divestment and model a responsible investor whose objective depends on both trading profits and externalities, while tacitly relying on an MPT-driven definition of fiduciary duty that requires prioritizing financial returns and thereby constrains the extent to which asset managers can pursue environmental or social goals. In particular, they show that a moderate profit motive can enhance ESG outcomes by incentivizing investors to reward firms that take corrective actions, especially when commitment or observability is limited. This contrasts with the intuition that fiduciary duty is always an obstacle to responsible investing. Indeed, in their model ‘ensuring that funds pay attention to financial returns may support, rather than hinder, societal impact’ (Edmans et al., 2026, p. 5). At the same time, they show that the profit motive can be too strong: ‘if the profit motive is too strong, the investor barely conditions on the signal and so fails to induce reform’ (Edmans et al., 2026, p. 5). Even though this article models investors who care about a dual objective: trading profits and environmental/social goals, they maintain an implicit MPT-driven definition of fiduciary duty, treated as a constraint prohibiting investors from making losses while pursuing environmental/social goals. They do not question or relax this narrowly defined fiduciary duty and hence do not engage with its value content but only analyse the impact of such narrowly defined fiduciary duty on value tensions in responsible investment.

Several studies use survey methods to elicit how institutional investors themselves interpret their responsibilities. Edmans et al. (2024) survey financial investors about their motives to incorporate environmental and social aspects into their investment decisions. They find that financial investors often state fiduciary duties as a constraint in undertaking social and environmental investments if they sacrifice financial returns. Specifically, 33% of managers, even among sustainable funds, have admitted that they would not accept any return sacrifice, as evidenced by survey responses: ‘I’m a fiduciary, with clear investment directives’; ‘we are fiduciaries and cannot deviate from our mandate unless so instructed’; ‘we have a fiduciary duty to our clients. We could never accept lower risk-adjusted returns out of the goodness of our hearts’; and ‘I manage a mutual fund. A mutual fund is an investment vehicle designed for the public. Its purpose is to maximize risk-adjusted returns for the public. It would be unethical and illegal if I deviated from that purpose. It is my fiduciary duty.’ (Edmans et al., 2024, p. 34) These responses reveal a dominant understanding of fiduciary duty as maximizing financial performance, particularly risk-adjusted returns.

Similarly, Krueger et al. (2020) survey institutional investors on whether and how they incorporate climate risks into portfolio decisions. They acknowledge that investors’ motivations to consider climate risks can be driven by non-mutually exclusive financial or nonfinancial (nonpecuniary) concerns. Financial motives, they state, reflect ‘a quest for higher returns (possibly through mitigating the costs of climate change), or lower risks (e.g. lower portfolio and tail risk)’ (Krueger et al., 2020, p. 19) whereas nonfinancial motivations ‘may reflect the investment managers’ personal preferences or their perceived moral or ethical obligations.’ (Krueger et al., 2020, p. 20) They find that the strongest reported motives are: (i) the protection of the investor’s reputation; (ii) moral/ethical obligation; (iii) legal obligation/fiduciary duty; (iv) the belief that it is beneficial to returns; and (v) the belief that

it reduces overall portfolio risk. While motives (iv) and (v) are purely financial, and (ii) is purely non-financial, motives (i) and (iii): protecting investors reputation and fiduciary duty, can arise from both financial and non-financial concerns. However, the authors neither define fiduciary duty nor ask respondents to do so.

In summary, while these studies examine ESG practices, CSR allocations, and investor attitudes, they either leave fiduciary duty undefined or adopt the prevailing financial interpretation grounded in MPT. None of the studies explore fiduciary duty as a contested or evolving concept, nor do they consider alternative formulations that might legitimize ESG considerations beyond their financial materiality.

2.2.2. Somewhat deeper engagement with the value content of fiduciary duty

Despite the prevailing trend of not engaging with the definition of fiduciary duty in financial economics, some authors pay some attention to it. They study variations between different legal frameworks, or they investigate different kinds of investor preferences and link them to the notion of fiduciary duty.

Stewart and Yermo (2008) show how fiduciary duties are distributed across the stakeholders in the governing bodies across the three categories of pension fund governance structures, namely trust-based fund (common in Anglo-Saxon countries), contract-based funds (e.g. Mexico, Czech Republic, Poland), and institutional structures (e.g. Netherlands, Germany, Denmark). They find that trust-based pension systems place the strongest and most explicit fiduciary obligations on trustees, while contract-based models rely more on regulation and institutional oversight, and institutional models distribute fiduciary-like responsibilities across boards with varying degrees of legal accountability. They emphasize that each model presents distinct governance challenges related to expertise, accountability, and potential conflicts of interest. They focus on analysing how the duties are allocated across the governing body, and what governance mechanisms are available to ensure that fiduciary duties are being met. However, the article does not engage in defining what those fiduciary duties precisely are under each of the governance structure and across countries. They just state that fiduciary duty is a practical, institutionally embedded obligation grounded in national law and corporate mandates.

Bolton et al. (2020) analyse institutional investors' voting behavior on environmental and compensation-related shareholder proposals. They argue that fiduciary duty obligates asset managers to vote in investors' interest, yet the article does not define what this entails. Instead, they empirically classify investors along an ideological spectrum: some vote in favor of pro-social and pro-environmental proposals ('socially responsible' investors), while others oppose such proposals if they impose financial costs ('money-conscious' investors). (Bolton et al., 2020, p. 321) The variation in voting behavior suggests that fiduciary duty is interpreted differently across investors. Although the authors do not claim that support for ESG goals violates fiduciary duty, their framing highlights the tension between ESG objectives and return maximization.

Nofsinger et al. (2019) investigate institutional investors' revealed preferences by studying how portfolio allocations respond to firms' CSR performance. Empirically, they show that institutional investors systematically underweight firms with negative CSR indicators due to their association with downside risks such as litigation, reputational damage, and financial underperformance. In contrast, investors show little consistent preference for positive CSR firms. This pattern suggests that institutional investors interpret fiduciary responsibility primarily as an obligation to maximize risk-adjusted returns, aligning CSR considerations with financial prudence rather than ethical or normative objectives. They position their findings within two theoretical perspectives: one that supports CSR only if it enhances shareholder value, and another that permits CSR even at a financial cost. They note that institutional behavior likely reflects a mix of the two perspectives, recognizing that 'following social norms may sometimes be in conflict with prevailing economic incentives.' (Nofsinger et al., 2019, p. 701) However, they do not take a stance on whether any of the perspectives adhere to regulatory framework for fiduciary duty of institutional investors. They do not explicitly

define fiduciary duty themselves but refer to the evolving stance of the U.S. Department of Labor's (DOL) as part of the regulatory backdrop that influences institutional investors behavior regarding CSR considerations. They highlight a shift from the 2008 guidance to incorporate social and environmental factors only insofar as they are financially material that is 'compliant with ERISA's rigorous fiduciary standards', to the 2015 bulletin that relaxed that interpretation by noting the following: 'The U.S. Department of Labor (DOL) noted in its recent bulletin (IB 2015-01) that its prior interpretation may have unduly discouraged fiduciaries from considering social factors unless they were viewed as economic factors.' (Nofsinger et al., 2019, p. 700)

To sum up, these articles do engage somewhat more deeply with fiduciary duty – mentioning that its definition can vary and contrasting the values they suppose are inherent in fiduciary duty with other values that are at play in investing. Yet, their engagement remains relatively superficial, at least when compared to the following articles.

2.2.3. Engaging with the value content of fiduciary duty

The following three articles really do engage explicitly with the definition of fiduciary duty, openly acknowledge that it can vary, and investigate the advantages and disadvantages of the different definitions and values at play.

Bhattacharya et al. (2019) unpack the content of fiduciary duty by empirically documenting differences in the interpretation of fiduciary duties across U.S. states. They define fiduciary duty of financial advisors as 'a duty of care to exert effort on behalf of principals and a duty of loyalty to put aside any opportunities for private benefit.' (Bhattacharya et al., 2019, p. 1) They show that some states impose fiduciary standards, where financial advisors are required to act in the best interests of the client. In contrast, other states apply a suitability standard (a less strict obligation), where financial advisors are required to recommend investments that are suitable for the client's situation, but not necessarily the best possible choice. They show that legal fiduciary standards influence how financial advice is delivered. In states that adopt fiduciary duty rules, advisors recommend products with higher risk-adjusted returns and lower fees. However, these regulations reduce the number of advisors entering the market. They, thus, create a trade-off: enhance the quality of advice but narrow the supply of advisors. This tension is central to current debates on the regulation of financial advice in the U.S. (e.g. Department of Labor (DOL) fiduciary rule, Security Exchange Commission (SEC) best interest standard).

The article engages with the content of the definition of fiduciary duty by showing how its interpretation varies across states and what consequences this variation has for advisors' behavior. While the article engages with the value content of the definition by defining fiduciary duty as a duty of care and loyalty, they do not specify what exactly this means beyond that advisors must act in the clients' best interest, which can be interpreted in different ways. Instead of discussing whether that means maximizing clients' profits, the article empirically investigates whether fiduciary duty leads to better financial outcomes, such as lower fees and better-performing products.

Oehmke and Opp (2025) advance a formal theory of socially responsible investing that internalizes environmental externalities and embeds normative assumptions about investor objectives. They model two fundamental investor types: purely financial investors and socially responsible (SR) investors with varying mandates. Financial investors operate under a single mandate, maximizing financial returns without regard for social costs. In contrast, SR investors have a dual mandate, balancing financial returns with social impact. The impact-oriented SR investor is modeled as willing to sacrifice returns in order to induce reductions in externalities, because 'impact does not come for free' (Oehmke & Opp, 2025, p. 1197) achieving it requires that 'investors in an SR fund make financial sacrifices.' (Oehmke & Opp, 2025, p. 1197) This approach 'violates a traditional notion of fiduciary duty' (Oehmke & Opp, 2025, p. 1213) which the authors define as requiring the fund to prioritize financial performance. The article thus conceptualizes fiduciary duty as flexible or mandate-dependent, emphasizing that 'rather than following a traditional notion of

fiduciary duty, an SR fund with an impact mandate must explicitly specify its desired trade-off between impact and financial performance.’ (Oehmke & Opp, 2025, p. 1194)

The authors develop a theoretical model comparing direct and delegated investment approaches and show that when investors are explicitly mandated to pursue social objectives beyond pure return maximization, delegation to asset managers can lead to distortions unless the mandate is clearly specified. From a normative perspective, the authors argue that ‘if society wants SR funds to have impact, then their mandate needs to violate a traditional notion of fiduciary duty’ (Oehmke & Opp, 2025, p. 1213) and incorporate the social objective directly. The article emphasizes that vague or conflicting mandates can undermine both financial efficiency and environmental goals, and it highlights the importance of aligning investor preferences, managerial incentives, and contract design in impact-oriented investing. They thus engage more deeply with the value content of fiduciary duty by exploring its alternatives and consequences for both institutional investors (their behavior, effectiveness, and mandates) and firm behavior (investment, production, and environmental impact). Indeed, they link the value content of fiduciary duty to the discussions about the role of different values in investing, unlike the articles that we have reviewed above.

Hart and Zingales (2022), working at the level of corporate rather than fund manager fiduciary duty, propose a theory of corporate governance in which fiduciary responsibility should be redefined to reflect the full spectrum of shareholder preferences, including social and moral concerns. They challenge the traditional interpretation of fiduciary duty that equates shareholder interest solely with value maximization. As they explain, ‘shareholder value maximization (SVM) became the norm as a way to protect against the abuses of majority shareholders in a world in which economists and lawyers did not recognize the non-separability between social goals and business goals’ (Hart & Zingales, 2022, p. 12). This norm was reinforced over time, particularly by the evolution of fiduciary rules for trusts: ‘law required that a fiduciary should discharge his duties ‘for the exclusive purpose of: (i) providing benefits to participants and their beneficiaries.’ The law did not specify whether these benefits can also be nonpecuniary’ (Hart & Zingales, 2022, p. 12). While Hart and Zingales acknowledge that the original concern behind SVM (to protect investors from managerial abuse) was valid, they argue that ‘the fix had the effect of making the business world more amoral’ (Hart & Zingales, 2022, p. 13). Instead, they propose that when shareholders care about issues such as climate change or labor standards, managers should have a fiduciary obligation to incorporate those preferences into corporate decision-making. In their formal model, they compare outcomes under two governance regimes: one focused on maximizing market value, and another on maximizing shareholder welfare, which includes non-pecuniary components. They show that under certain conditions, maximizing shareholder welfare can lead to different corporate choices than maximizing market value. Their analysis implies that redefining fiduciary duty to incorporate broader shareholder interests is not only possible but desirable, and that doing so aligns corporate governance more closely with democratic principles.

This concludes our introduction of the case of fiduciary duty in financial economics. We have shown that the MPT-driven definition of fiduciary duty has been very influential in financial economics. Its influence has been so strong that it has resulted in most of the financial literature presuming the MPT-driven definition. Interestingly, this also holds for debates about values in investing, which investigate the role of different values in investing which we have reviewed here in some detail.

3. Examining the case of fiduciary duty

3.1. The fiduciary duty case in context

The case of fiduciary duty as we have reviewed it above is embedded in a sizeable literature in financial economics concerned with the role of different kinds of values as relevant for investments and firm behavior. In particular, there is a literature on ESG and socially responsible investing (SRI),

research on corporate social responsibility (CSR) and shareholder engagement, and the growing field of climate finance analysing how financial markets respond to climate-related risks and policies. We will refer to the family of these debates as ‘the literature on values in investing’.

Within this broad literature, a central point of debate concerns the relationship between financial returns and social or environmental objectives in investment practice. Specifically, scholars examine whether incorporating social or environmental considerations affects portfolio performance, risk diversification, and corporate outcomes, and whether investors and firms may legitimately pursue environmental and social objectives alongside financial ones. This tension is often described as one between ‘value’- and ‘values’-based investing (Starks, 2023). Here, *value*-based investing refers to maximizing expected financial returns (or shareholder value). *Values*-based investing refers to ESG, socially responsible, and impact investing (Starks, 2023, Figure 1, p. 1840). This tension is typically framed as a question of whether and under what conditions such values-based investment strategies can be pursued without compromising financial performance.

The case discussed in Section 2 allows us to examine how the tension between value- and values-based investing is conceptualized in the literature. It highlights the role played by underlying assumptions about fiduciary duty in shaping how the relationship between financial returns and broader values is understood. We now underline two more specific observations about the role that the definition of fiduciary duty plays (or, rather: does not play) in these discussions.

Observation One: The scant attention paid to the definition of fiduciary duty in the financial literature calls for further analysis

Our case study provides evidence for relatively little engagement with the definition of fiduciary duty in the financial literature. As we have shown in Section 2.2.1, most contributions handle a ‘tacit’ understanding of fiduciary duty, or at most include perfunctory or short mentions of a fiduciary duty definition (which is profit maximizing and/or MPT-driven and/or adhering to ‘investor preferences’). That is, these contributions take the MPT-driven definition of fiduciary duty as given and place the emphasis on their investigation elsewhere. Other contributions, reviewed in Section 2.2.2, pay somewhat more attention to the value content of the definition of fiduciary duty, while yet others, reviewed in Section 2.2.3, really engage with the value content of fiduciary duty. They ask what the concept of fiduciary duty means, is taken to mean by investors, or what it should mean. These contributions thus consider different ways in which investor preferences can be filled in or consider potentially ‘rivalling’ values in detail. The contributions that do so, are however few and far between.

The sparse engagement with fiduciary duty is curious. It calls for analysis for two reasons: first, the discussions in financial economics themselves, as we have partly reviewed in Section 2, debate the very role of values in investing. And yet, they leave out discussing the definition of a central value concept of investing. Second, the MPT-driven definition of fiduciary duty has had an undeniably critical impact on the role of values in investments.

Observation Two: The MPT-driven definition of fiduciary duty was performative

Indeed, as remarked in Section 2.1, the MPT-driven definition of fiduciary duty was highly influential in financial practice. It was encoded in, for example, US and British law and has become so much the standard that the literature reviewed in Section 2.2.1 often does not even mention the definition of fiduciary duty, as it is tacitly presumed to be the MPT-driven one.

It is important to appreciate the significance of this development. Up until the MPT-driven narrow definition, there were different fiduciary duty definitions at play. Moreover, these different definitions harbored a number of distinct values, as briefly discussed above. That comes to a halt with the MPT-driven narrow definition of fiduciary duty taking over.⁴ As such, this is a clear instance of scientific ‘performativity’, where the science in question (MPT) changes the world (the notion of fiduciary encoded legally and hence operative for finance practice). Performativity of science poses a vexing problem to both scientists as well as to methodologists analysing science: the science that is

supposed to study the phenomena in the world now impacts upon them. Performativity of financial economics has been studied in sociology of science which takes mostly a descriptive stance (see, e.g. MacKenzie (2006)). There is also some attention paid to performativity in history and philosophy of science, which takes a more evaluative stance (see Marchionni et al. (2024), Vergara-Fernández et al. (2023a)).

The case of fiduciary duty is especially interesting because it operates in the normative domain – hence it is a case of ‘normative performativity’. The distinctively *normative* character of the performativity is twofold. First, it is normative in a substantive sense, that is terms of its content. Fiduciary duty is a value concept and gets specific meaning by relating it to theoretical concepts from MPT. Second, it is normative in a formal and prescriptive sense, since the MPT-driven fiduciary duty definition was legally encoded, and thus became a legal norm that anyone active in the financial market has to contend with.

In summary, fiduciary duty is a central concept in the literature on values in investing in financial economics. A specific definition of fiduciary driven by a theory from financial economics has had a major influence on how the concept was used in investing. The literature on values in investing in financial economics contains many detailed investigations about the role of different values. And yet, there are only a few contributors who investigate the role of the fiduciary duty definition. And to our knowledge, no contribution in this literature acknowledges the performativity of the MPT-driven notion of fiduciary duty. It thus seems to us safe to conclude that in the financial economics literature on values in investing, the concept ‘fiduciary duty’ has been hiding in plain sight for some time now.

3.2. Dismissing a deflationary response

Our analysis so far has revealed an ambiguous picture. Fiduciary duty is at the heart of many current discussions on values in investing in the financial literature, but under-analyzed itself (observation one), while also being highly consequential (observation two). How should the financial literature deal with this ambiguity? We first dismiss a deflationary response and then propose an avenue for more explicit conceptual engagement with conceptions of fiduciary duty. Furthermore, we will also argue that such a more explicit conceptual discussion about fiduciary duty can contribute to financial economics becoming a more responsible science.

A potential response to this ambiguity is deflationary: why not just accept that it so happened that ‘fiduciary duty’ has come to mean ‘maximise financial returns for a given level of risk’? After all, doing so did not seem to hinder financial scholars to debate the role of various values in investing. Our response is as follows: there are a number of underlying obstacles with this strategy.

The deflationary response is a non-starter if one wants to cover the whole scholarly debate on values in investing in financial economics. As we have shown, there is already *some* fruitful attention being paid to engaging with the definition of fiduciary duty. Indeed, the debates about the role of values in investing are not only about which values investors should pursue, but also about how fiduciary duty itself is understood, as reviewed in 2.2.3. That part of the literature is already outside the scope any deflationary stance one could take. While this is already enough to dismiss the deflationary response, we think it is helpful to illustrate the critical role of the definition of fiduciary duty in the literature.

The case suggests that different assessments of ESG-oriented or socially responsible investment often depend on whether fiduciary duty is interpreted narrowly in MPT-based, return-maximizing terms or more broadly in light of beneficiaries’ wider interests. This underscores the implicit normative assumptions about fiduciary duty that shape how arguments for and against responsible investment are framed.

As a result, the literature on investing struggles with conceptual ambiguities when describing the value trade-offs it analyses. The conclusions of this literature do not merely reflect empirical findings about values-based investments or investor behavior; they also depend on how fiduciary duty is

specified. The definition therefore determines both the question being asked and the space of admissible conclusions. We substantiate these claims in the following.

Where fiduciary duty is interpreted narrowly, ESG considerations are typically evaluated through their effects on financial performance or risk. For example, Kim and Yoon (2023) examine whether mutual funds incorporate ESG considerations after signing the UN Principles for Responsible Investment (PRI). They find no improvement in the ESG scores of PRI signatories' portfolios and no increase in support for pro-ESG shareholder proposals following adoption. Interpreting these findings through a narrow definition of mutual fund managers' fiduciary duty to prioritize their clients' financial interests, the authors evaluate PRI adoption through financial performance and document lower risk-adjusted returns – results that are difficult to reconcile with the return-maximizing benchmark underlying the analysis. This illustrates how the assumed definition of fiduciary duty structures empirical analysis and creates an interpretive ambiguity. Similarly, Akey and Appel (2019) study whether activist hedge fund campaigns that increase shareholder value impose costs on other stakeholders such as employees or local communities. Their analysis evaluates outcomes through a narrow interpretation of the fiduciary duty of corporate managers, namely shareholder value maximization, implicitly framing the issue as a trade-off between shareholder returns and stakeholders welfare, thereby influencing the scope of admissible conclusions.

When fiduciary duty is interpreted more broadly, social and environmental objectives can enter the analysis as legitimate components of fiduciary responsibility itself. Oehmke and Opp (2025) explicitly distinguish purely financial investors from socially responsible investors with dual mandates. This allows them to conclude that if society wants socially responsible funds to have a real impact, the mandate must depart from the traditional notion of fiduciary duty and incorporate the social objective directly. Thereby they are explicitly linking the value content of fiduciary duty to the discussions about the role of different values in investing. Hart and Zingales (2022) go further by arguing that fiduciary responsibility should reflect the full spectrum of shareholder preferences, including moral and social concerns, and conclude that redefining fiduciary duty more broadly is both possible and desirable.

The kind of definition of fiduciary duty adopted thus shapes the analytical framework and hence predetermines the conclusions: when it is understood narrowly as return maximization, values-based considerations appear as potential constraints or deviations from optimal behavior and can generate conceptual ambiguities, whereas broader conceptions allow them to be seen as compatible with, or even required by, fiduciary responsibility. Debates about responsible investment are simultaneously debates about the meaning and scope of fiduciary duty – and so they should also be explicitly framed and conducted as such. But how?

3.3. The advantages of an explicit engagement with the definition of fiduciary duty

In order to forge a constructive path, let us first go back to the idea of defining the notion of fiduciary duty. To do so, one has to give stable and substantive meaning to the idea that the financial agent pursues the 'best interests of the investor'.

Why has the MPT-driven definition of fiduciary duty been so enduring in theory and practice? There are a number of methodological advantages that might explain its sustained popularity and success. Using MPT to define a 'prudent investor' offers simultaneously both a close connection to economic theory and a value notion that can be used as the normative foundation for spelling out what is meant by the 'best interests of the investor'. There is a slight paternalism in presupposing that any and all investors' best interests coincide with the prescriptions of MPT. That is, the subjective perspective of each investor is interpreted (and prescribed) to cohere with financial theory. At the same time, this presupposition coincides with the idea of a self-interested utility maximizing investor whose preferences center on financial motives. The comprehensiveness and cohesion the MPT-driven definition of fiduciary duty offers has no doubt been part of its attraction. The MPT-driven

definition of fiduciary duty has also been legally encoded. As reviewed in the case, the MPT-driven definition of fiduciary duty has thus been quite successful in different respects.

In recent years, however, the MPT-driven definition of fiduciary duty has not kept up with the complexities and intricacies of the debates about values in investing.

First, there are now very different strategies in the literature regarding where to 'locate' different investor preferences. Articles differ very much in where they locate value conflicts (between profitability and caring for the environment, for example), and this leads to cases where similar positions are conceptualized as if there is disagreement between them. We illustrate this by contrasting Edmans et al. (2026), introduced in Section 2.2.1, with Oehmke and Opp (2025), introduced in Section 2.2.3.

Edmans et al. (2026) allow the responsible investor to have non-pecuniary preferences (i.e. to care for externalities). Specifically, non-pecuniary preferences are admitted at the level of investor motivations, but the MPT-driven notion of fiduciary duty they use constrains how these preferences can translate into investment decisions. On their account, the firm's manager is assumed to be maximizing a weighted average of the stock price and firm value. That means that the social preference of investors can influence firm behavior only if it affects market valuation. In the model, this occurs because the responsible investor trades in ways that make the externality relevant for firm value. Once social concerns are reflected in firm value, fiduciary duty, defined as the requirement to prioritize financial returns, does not oppose them and may even support ESG outcomes. Edmans et al. (2026) thus depart from applying the MPT-driven fiduciary duty in the standard manner. They do assume that the responsible investor has non-pecuniary preferences (externalities). But the decision criterion facing the firm is financial (stock price, firm value, and a fiduciary duty that prioritizes financial return). The latter implies that non-pecuniary preferences cannot enter directly. Therefore, the social preferences must be converted into financial signals, otherwise they do not matter. Notably, this MPT-driven notion of fiduciary duty is not stated as a model primitive but only invoked when the authors interpret their comparative statics.

Oehmke and Opp (2025) have similar goals. But their strategy is very different. They incorporate subjective preferences directly into the investment objective through mandate-based investing, allowing investors to trade off financial return against impact directly. So, the social preferences here are not translated into pecuniary metrics. The comparison shows that once the scientific benchmark of fiduciary duty is defined as profit maximization, then the only admissible preferences are pecuniary so any non-pecuniary preferences can only affect decisions indirectly through their implications for financial value.

Edmans et al. (2026) and Oehmke and Opp (2025) both work within an MPT-driven definition of fiduciary duty but embed it in their models in different (and implicit) ways. Edmans et al. do not build fiduciary duty into their model as a primitive; rather, they invoke it when interpreting their results, reading their model as showing that investors must prioritize financial returns. This has the implication that, in their model, investors cannot sacrifice return for social goals. Oehmke and Opp (2025) also embark from an MPT-driven definition, but they model two types of mandates that describe how a socially responsible fund should invest. A so-called narrow mandate aligns with MPT, and a so-called impact mandate explicitly allows return sacrifice to achieve real-world impact.

Comparing articles such as Edmans et al. (2026) with Oehmke and Opp (2025) illustrates that there are contributions in the values in investing literature that have similar aims (both articles identify similar 'fault lines' between the values of financial profits and other motives). At the same time, they deal differently with conceptualizing the 'best interests of the investor', especially when these are assumed to include non-pecuniary preferences. It would be desirable to make these kinds of differences explicit in the definition of fiduciary duty. Diverse preferences of investors, which have featured in many of the articles reviewed in our case study, thus put additional tasks in front of financial economists: that of laying out more clearly where the values are located in their models and theories.

Second, the complexities are not only limited to diverse preferences of investors. Relevant values in investing might not only be linked to investor preferences: social and environmental goals might also be discussed as a matter of the broader responsibility of corporate managers. As discussed in Section 2.2.3, Hart and Zingales (2022), building on Hart and Zingales (2017), explicitly reconsider the definition of fiduciary duty and the objective of the firm. They argue that the traditional focus on shareholder wealth maximization should be replaced by shareholder welfare maximization, which allows shareholders' moral and social preferences to be taken into account alongside financial returns. In this framework, concerns about employees, communities, or the environment can influence corporate decisions not because firms owe direct duties to stakeholders, but because shareholders themselves may value these outcomes. In this sense, their proposal provides a bridge between the shareholder and stakeholder views: it retains shareholder primacy while allowing stakeholder interests to enter the firm's objective through shareholders' broader preferences. An alternative approach would be to assign fiduciary duties directly to stakeholders themselves, as proposed in parts of the stakeholder governance literature, but such approaches are rarely discussed in the financial economics literature on responsible investment. By making the definition of fiduciary duty explicit, their framework clarifies how different values can enter investment decisions and makes the resulting trade-offs transparent.

We think financial economists should give up their *silent* endorsement of the MPT-driven notion of fiduciary duty. The MPT-driven definition of fiduciary has a number of methodological advantages, and so we do not recommend abandoning it. The main advantage of the MPT-driven notion of fiduciary duty is that it has fixed the content of fiduciary duty from three perspectives: the investor, economic theory, and the legal encoding. We have shown that these methodological advantages have however become a liability in some areas: particularly, the debates on values in investing are more complex than the MPT-driven definition is useful for.

Financial economists should replace the *silent* endorsement of the MPT-driven notion of fiduciary duty with more explicit attention to how fiduciary duty can and should be defined, like some contributors are already engaging in. This will likely help the values in investing debate becoming more attuned to the conceptual issues that underlie it. Indeed, fiduciary duty is the central notion of responsibility in finance – being explicit and careful about its definition is a matter of identifying the phenomena accurately, but it is also a matter of responsibility of science itself.

The analysis above suggests a broader methodological point. The definition of fiduciary duty should not be treated as an implicit background assumption but as a substantive modeling choice that shapes the analytical framework and its conclusions. Making such assumptions explicit is part of responsible practice in economic modeling. When fiduciary duty is left implicit, normative commitments become embedded in analytical frameworks without being subject to critical scrutiny, potentially leading to conceptual ambiguities such as those illustrated above. Finally, engaging more explicitly with the definition of fiduciary duty would also allow financial economists to engage with the performativity of the MPT-driven definition. Particularly, it would allow them to carefully study how the fact that the MPT-driven notion of fiduciary has changed real-world investing may have a feedback effect on financial economics.⁵

4. Conclusions

We have analyzed the case of the definition of fiduciary duty in financial economics. We have shown that most contributions silently adopt a definition that is driven by modern portfolio theory. What is more, the literature mostly ignores the value content of the definition of fiduciary duty. That is problematic, as the definition of fiduciary duty is a central aspect of the debates about values in investing.

We have spelled out three different kinds of engagement with the definition of fiduciary duty in the financial literature. The first tier of contributions leaves the notion of fiduciary duty unanalyzed. In the second tier of contributions, the authors go beyond simple presumption, but they stop short of examining its content. In the third tier of contributions, we see explicit engagement. Here, the

articles provide a substantive definition of fiduciary duty, treat that definition as revisable, and investigate the values embedded in it, the trade-offs between competing definitions, or the normative implications of adopting a particular conception. The articles therefore actively examine why tensions between different values matter and what kind of trade-offs would be entailed by alternative definitions of fiduciary duty.

Researchers in financial economics should follow the example of those that engage more with the value content of the definition of fiduciary duty. Such deeper engagement improves conceptual clarity, comparability across analyses, and transparency about normative assumptions. Doing so would help overcome the current conceptual ambiguities in the literature. Doing so also contributes to responsible financial economics understood as the obligation to make normatively consequential assumptions explicit.

Notes

1. See the recent topical collection on 'reactivity' of science in the *European Journal for Philosophy of Science* (Marchionni et al., 2024), and especially on performativity of financial economics, see Vergara-Fernández et al. (2023a).
2. de Bruin et al. (2023) and Claveau et al. (2025, Figure 5, 'Attention shares toward specialities in economics') show that there has been relatively little attention to finance in philosophy of science and methodology, which is gradually changing, see Vergara-Fernández et al. (2023b) and Heilmann et al. (2024).
3. We cite the version that is dated July 11, 2026 on SSRN.
4. To be precise, we are talking about the academic literature in financial economics being quasi-uniform with regards to how they define fiduciary duty. In actual finance practice, there are still some variations, also within the US and UK jurisdictions, as analysed empirically by Bhattacharya et al. (2019).
5. See Marchionni et al. (2024) for a review of recent contributions that conceptualise reactivity in the social sciences.

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