THE IMPACT SECURITY

A Novel Financial Product That Links
Financial Returns With
Social & Environmental Impact

WRITTEN BY

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BACKGROUND

Impact investing is a fast-growing asset class that represents a radical new approach to investing in companies, organizations, financial products, and funds that strive to generate measurable social or environmental impact alongside financial returns.

Despite tremendous interest among impact investors in achieving both market-rate financial returns and social or environmental impact, there has not been a financial product to date that explicitly links financial returns with impact.

Moreover, nonprofit organizations have largely been left out of the impact investing movement. Despite their inherent mandate to achieve social impact, there are very few ways to invest in nonprofit organizations and earn financial returns, thereby limiting nonprofit access to this growing pool of investment capital.

Other than loans or loan funds, the vehicles that have been developed to invest in the work of nonprofit organizations are bespoke and entail significant limitations, including the inability to replicate quickly and scale.

The Impact Security represents a unique solution to these challenges. The Impact Security is an innovative, proprietary financial product that explicitly links financial returns with impact. The Impact Security offers donors a new way to give that maximizes impact; provides impact investors with a streamlined financial product that pays financial returns based on impact; and enables nonprofit organizations to access new sources of capital with a focus on impact.

A NEW WAY TO FUND IMPACT

- ***Donors*** – a new way to donate that maximizes impact
- ***Impact Investors*** – a standardized financial product that explicitly links financial returns with impact
- ***Nonprofit Organizations*** – a new fundraising tool that enables access to new sources of capital tied to impact performance

DEFINITION

The Impact Security is a debt security issued by a nonprofit organization, foundation, government, or supranational entity, featuring variable returns that are contingent on the achievement of predetermined impact metrics.

Because the Impact Security is issued by a nonprofit organization, foundation, government, or supranational entity, the offering is exempt from SEC registration requirements.

The Impact Security combines the contingent returns concept found in pay-for-success financings with an established, scalable and tradable capital markets structure, a debt security.

THE IMPACT SECURITY

The Impact Security must have the following five characteristics:

1. The proceeds of issuance, excluding transaction fees, are deployed exclusively to advance an entity's charitable mission
2. The terms of the instrument specify a predetermined set of impact outcome(s)
3. The terms of the instrument include the public reporting of an objective, predetermined process for third-party measurement and/or evaluation of impact outcome(s)
4. A predetermined outcome payor(s) undertakes responsibility either to guarantee the issuer's obligation to repay investors, or to make payments of the contingent returns to the investors on behalf of the issuer
5. An investor's financial return is variable based upon predetermined impact outcome(s)

A NEW FINANCIAL PRODUCT

- Issued by a nonprofit organization, foundation, government, or supranational entity
- Established, scalable, tradable debt security structure
- Offering exempt from SEC registration requirements
- Variable returns tied to impact

DONATE VS. INVEST

The words "donate" and "invest" are often used interchangeably in the nonprofit sector. For purposes of this paper, the terms will be used as defined here:

Donation – a tax-deductible financial contribution to a nonprofit organization.

Investment – the purchase of an asset with the expectation of future financial returns.

PARTICIPANTS

The Impact Security brings together donors, impact investors, and nonprofit organizations.

DONORS

Donors may include foundations, family offices, corporations, and individuals who want to make tax-deductible donations and/or qualifying distributions directly or through vehicles, such as Donor Advised Funds (DAFs). Governments may participate as donors, or grant-makers, at the federal, state, county, and city levels. Supranational entities that include the United States as a member may participate as donors as well.

INVESTORS

Investors may include anyone interested in impact investing opportunities that have the potential to yield both social and financial returns. Because the Impact Security is an "exempt security," investments may be accepted from non-accredited and accredited investors, including, but not limited to, individuals, retail investors, institutional investors, family offices, endowments, and foundations making program related investments (PRIs) or mission related investments (MRIs).

NONPROFIT ORGANIZATIONS

Nonprofit organizations include IRS approved 501(c)(3) charities, private foundations and private operating foundations, as well as entities established or organized and operated exclusively for charitable purposes and not for pecuniary profit, including a special purpose entity formed for the sole purpose of investing in a nonprofit organization.

INTERMEDIARIES

The assistance of several intermediaries is required to structure and offer an Impact Security. These may include structuring advisors, attorneys, fiscal agents, intermediaries, evaluators, placement agents, and impact auditors.

INVESTING IN A NONPROFIT ORGANIZATION

A nonprofit organization must exist for a charitable purpose and cannot engage in for-profit activities. Pursuant to IRS regulations, nonprofit executives and/or board members cannot profit from a transaction, but debt can be repaid with interest. The debt repayment component of the Impact Security is similar to loans that nonprofit organizations commonly receive from traditional lenders. In both cases, the debt is repaid using donations or earned revenue.

MECHANICS

The Impact Security enables a nonprofit organization, foundation, government entity, or supranational entity to issue debt with conditional payments associated with the achievement of predetermined impact metrics by the service provider.

The following is a summary of the functions, roles and eligible participants in an Impact Security.

FUNCTION	ROLE	ELIGIBLE PARTICIPANTS
Issuer	An issuing entity issues the Impact Security	• 501(c)(3) or 501(c)(4) entity, including a public charity, private foundation, or private operating foundation • Pooled nonprofit vehicle • Another entity established or organized and operated exclusively for charitable purposes and not for pecuniary profit • A special purpose entity formed for the sole purpose of investing in a nonprofit • A governmental entity (federal, state, county, or city) • Supranational (e.g., World Bank) that includes the United States as a member
Investor	An interested investor will purchase an Impact Security; the investor buys the Impact Security as an investment and not as a donation. The investor invests upfront risk capital and may realize financial returns contingent on the achievement of the specified impact metrics.	• Accredited and non-accredited individual investors • Institutional investors • Corporations • Foundations making PRIs/MRIs

FUNCTION	ROLE	ELIGIBLE PARTICIPANTS
Donor (or Outcome Payor)	The donor (or outcome payor) commits to make a tax-deductible or qualifying donation, or government grant, payable contingent on the achievement of predetermined impact metrics.	• Government (federal, state, county, or city) • Foundation • Corporation • Individual • Supranational entity • Donor Advised Fund
Service Provider	An implementing agency utilizes the proceeds to undertake activities to achieve the predetermined impact outcomes.	• 501(c)(3) entity, including a public charity, private foundation, or private operating foundation • Pooled nonprofit vehicle • Another entity established or organized and operated exclusively for charitable purposes and not for pecuniary profit
Intermediaries	Intermediaries assist with offering; sales, transfers and/or exchanges; and auditing of an Impact Security.	• Structuring Advisors • Attorneys • Fiscal agents (or trustees) • Intermediaries • Evaluators • Placement agents • Impact auditors

FLOW OF FUNDS

The following is a possible offering structure involving the issuance of an Impact Security.
For additional offering structure alternatives, please see the Appendix.

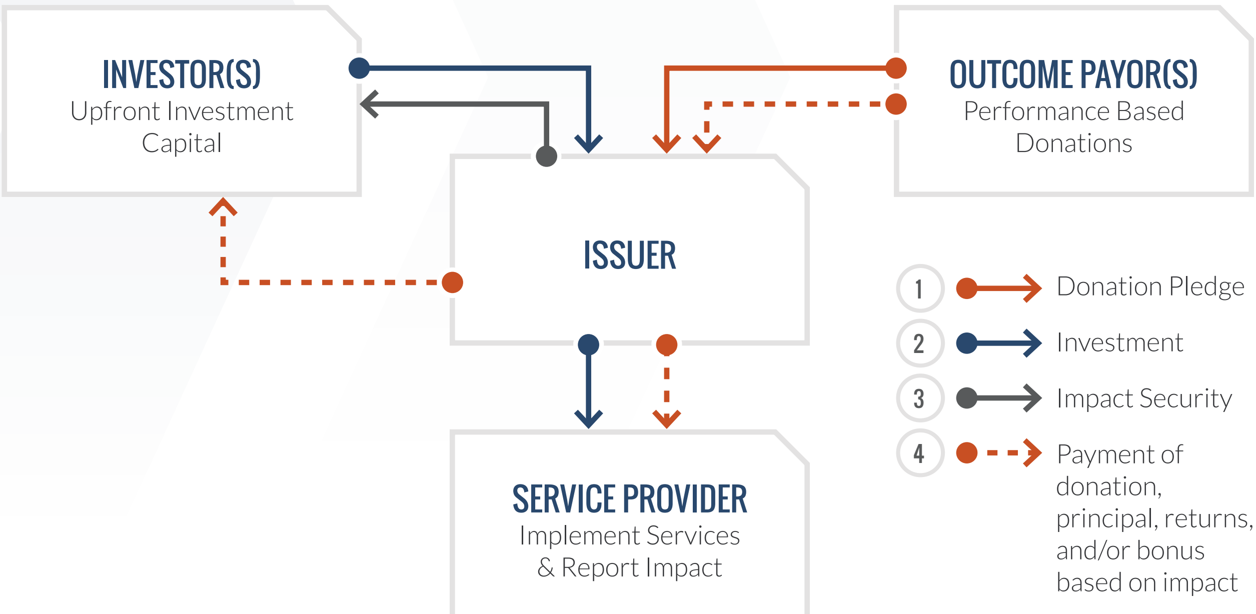

Diagram 1 – Standard Flow of Funds

EXAMPLE TRANSACTION

IMPACT GOALS

- Empower 10,00 people to lift themselves out of poverty through employment
- Achieve organizational self-sustainability

DEAL TERMS

ISSUER	Nonprofit Organization	**INVESTMENT AMOUNT**	$8 million USD
TERM	5 years	**MAXIMUM INVESTOR REPAYMENT**	$10 million USD
IMPACT METRIC	Audited worker earnings		

FLOW OF FUNDS

PRIVATE DONORS	IMPACT INVESTORS	NONPROFIT ORGANIZATION	PRIVATE DONORS	IMPACT INVESTORS
Pledge to donate $10 million to the nonprofit organization if the impact metric is achieved.	Commit $8 million in upfront risk capital by purchasing the Impact Security.	Uses the $8 million to achieve the impact goals as verified by an independent third-party auditor.	Fulfill their donation pledge of $8 million to the nonprofit organization over years 2-5 as impact is achieved.	Are paid up to $10 million, principal plus interest, over years 2-5 as impact is achieved.

STRUCTURE

In order to promote and achieve standardization, transparency and disclosure, an Impact Security should meet the following criteria:

1. ISSUER

The issuer should be: (i) a 501(c)(3), 501(c)(4) or a "pooled nonprofit vehicle," (ii) another entity established or organized and operated exclusively for charitable purposes and not for pecuniary profit, (iii) a special purpose entity formed for the sole purpose of investing in a nonprofit, or (iv) a governmental entity.

2. OUTCOME PAYOR

The issuer or a third-party payor or guarantor may undertake the obligation, on behalf of the issuer, to make payments to the holders of the Impact Security to the extent that the specified contingencies (i.e., the achievement of impact performance targets) are met.

3. USE OF PROCEEDS

The use of the proceeds raised through the issuance of the security must be clearly disclosed in the offering materials, and the proceeds, excluding transaction costs, must be deployed exclusively to further the social purpose of the service provider.

The issuer should make certain representations and warranties relating to its intended use of proceeds and will covenant not to use the proceeds for any purpose other than the specified uses.

The terms of the security should require the issuer or independent third party to provide an attestation or report regarding deployment of funds.

Disclosures of relevant audited financial statements should be made and the terms of the Impact Security should outline where and how such reports will be made available to investors and interested market participants.

4. DEBT STRUCTURE

The Impact Security should be structured as a contingent payment debt obligation of the issuer. The security should incorporate a contingent repayment component whereby certain payments, which may be interest payments and/or principal amounts (or both), are tied to, or contingent upon, the achievement of specified impact performance targets.

In order to be characterized as a "debt security," the Impact Security must evidence a promise to pay the certain (non-contingent) payments on the security and the holder of the debt security must have the recourse or remedies typically available to a debt holder.

As is the case with debt securities issued by corporate obligors, the Impact Security may be issued pursuant to the terms of a "note purchase agreement," a "fiscal agency agreement," or an "indenture."

All disclosures relating to the Impact Security should identify the security as a debt security. The terms should make clear that the debt security is transferable.

5. FISCAL AGENT OR TRUSTEE

There should be a fiscal agent, issuing and paying agent or indenture trustee independent of the issuer. Such entity also will act as "registrar" (in the event that the securities are not issued and cleared through a central depository, like The Depository Trust Company, Euroclear, or Clearstream) for the securities and will facilitate sales, transfers or exchanges of the securities, as well as payments on the securities.

6. DEBT SECURITY IDENTIFIER

To the extent that the issuer of the Impact Security or the financial intermediary assisting the issuer (whether acting as a placement agent or an underwriter) obtains a security identifier (i.e., a CUSIP number, an ISIN or similar), so that the security can be held in a brokerage account, it will obtain a "debt" identifier.

7. IMPACT EVALUATION & REPORTING

At issuance, the terms of the Impact Security must declare the predetermined desired impact outcome(s) as well as the evaluative tools(s), process(es) and/or statistical method(s) by which impact outcome(s) will be measured.

An independent, third party impact auditor should be appointed to verify the impact outcomes.

The security should identify a predetermined reporting schedule over the lifetime of the security appropriate to the impact outcome(s) being measured and resulting investor payments. The security should identify where the reports will be made publicly available.

8. INVESTOR REPAYMENT TERMS

The documentation should clearly disclose all investor repayment terms, rates and schedules.

SECURITY QUALIFICATIONS

An Impact Security qualifies as a "security" as defined in Section 2(a)(1) of the Securities Act, which includes traditional instruments such as notes, stock, bonds and similar instruments. Although the Impact Security may be considered novel, the instrument fits within the concept of a "note" or an "investment contract."

An "investment contract" is defined as any contract or transaction whereby a person (i) invests money, (ii) with the expectation of profits, that (iii) depends on the efforts of others to realize the benefit of its investment. The Impact Security involves a monetary investment (not a donation) from investors. Investors will be aware of the potential for profit. And, lastly, the return on the Impact Security depends exclusively on the efforts of the nonprofit service provider, not the donor or investor.

REGISTRATION REQUIREMENTS

The Impact Security is exempt from SEC registration.

NONPROFIT ISSUER

In the United States, a nonprofit issuer can offer its securities publicly in reliance on the exemption provided by Section 3(a)(4) of the Securities Act of 1933, as amended.

Section 3(a)(4) of the Securities Act exempts from the registration requirement "any security issued by a person organized and operated exclusively for religious, educational, benevolent, fraternal, charitable, or reformatory purposes and not for pecuniary profit."

An IRS tax ruling as to 501(c)(3) status does not guarantee that the issuer qualifies for the Section 3(a)(4) exemption. If the issuer, despite its tax-exempt status, serves a substantial non-charitable purpose, or if any part of its net earnings "inures to the benefit of any person, private stockholder or individual," it will not be able to avail itself of the Section 3(a)(4) exemption.

GOVERNMENT ISSUER

In the United States, a US government issuer can offer securities in a public offering in reliance on the exemption provided by Section 3(a)(2) of the Securities Act of 1933, as amended.

An Impact Security can also be issued by international governments, international organizations, and supranational entities.

PRACTICAL IMPLICATIONS

In practical terms, the exemption from the registration requirements is helpful in that it means:

- The issuer does not have to prepare and file a registration statement, which would require substantial time, effort and expense
- The issuer and its financial intermediary may use general solicitation and offer the securities publicly, reaching a potentially larger audience of interested impact investors
- The offering would not be required to be structured as a private placement (where communications about the offering would be limited or where the offering would be open only to certain types of investors)
- Certain notice and other filings will be required to be made in states that do not have exemptions from Blue Sky registration requirements for the securities of nonprofits
- The securities can settle through a depository, like DTC, and can be held through a brokerage account
- The securities would not be subject to transfer restrictions

STATE REGISTRATIONS

Whereas the Securities Act regulates the offer and sale of securities at the federal level, each individual state has its own set of securities laws. These state laws are known as "Blue Sky laws." While Blue Sky laws vary from state to state, these laws generally require that securities be registered with state securities commissioners prior to their offer or sale within the state. As such, a single class of securities may need to be registered in several states (in addition to any federal registration requirement). As is the case under the Securities Act, the majority of Blue Sky laws include exemptions from registration. These exemptions vary from state to state.

Federal law also creates a category of securities that are exempt from all state registration requirements ("Covered Securities"). Unfortunately, securities issued by nonprofits are not included in the list of Covered Securities.

In summary, before offering or selling securities in a particular state, and unless the Impact Security can otherwise be structured as a Covered Security, the state's Blue Sky laws must be analyzed to determine whether registration, filings or fees are required. Most states provide for exemptions for 501(c)(3) entities.

ANTI-FRAUD PROVISIONS

Regardless of whether a security is exempt from certain requirements under the Securities Act, the Exchange Act or state securities laws, the anti-fraud provisions of the securities laws will continue to apply. While the specific anti-fraud provisions may differ, they all generally prohibit the use of any scheme to obtain money by means of an untrue statement or omission of a material fact, or by any manipulative or deceptive device, in connection with the purchase or sale of securities. A violation of these anti-fraud provisions can result in civil liability. As a result, disclosures and offering materials used in connection with the offer and sale of any Impact Securities should be vetted carefully.

COMPARISON

The Impact Security is distinct from existing impact investing vehicles.

USE OF PROCEEDS BONDS

The Impact Security has a different return profile than traditional Use of Proceeds Bonds that seek to have a social impact, such as Social Bonds, Health Bonds, or Green Bonds. The Impact Security features a variable or contingent return tied to impact achievement whereas Use of Proceeds Bonds have a fixed return independent of impact outcomes. In a Use of Proceeds Bond, impact reporting is voluntary, although encouraged. Like the Impact Security, Use of Proceeds Bonds are also structured as debt securities.

PRACTICAL IMPLICATIONS

Returns on a Use of Proceeds Bond are paid regardless of whether impact is achieved. Conversely, payments on the Impact Security are contingent upon the impact achieved by the service provider. Impact reporting is required under an Impact Security, meaning that impact results are transparent to investors, donors, and the general public. Learnings from which approaches are successful in having impact, and which are not, will be more readily available to drive future investment and service provider decisions.

IMPACT BONDS

The primary difference between Impact Bonds – such as Social Impact Bonds, Development Impact Bonds, and Healthcare Impact Bonds – and the Impact Security is structure. To date, Impact Bonds, despite their name, have not been structured as bonds – the term is a misnomer. Instead, they have historically been structured through investments in limited liability companies or in partnerships, which are not financial products. A limited liability company or partnership is established for purposes of funding a particular mission-based initiative. Generally, LLC interests or partnership interests are offered and sold in private placement transactions, made pursuant to Securities Act exemptions, such as Section 4(a)(2) and/or Regulation D (Rule 506) solely to accredited investors or qualified purchasers.

PRACTICAL IMPLICATIONS

Structuring an Impact Bond investment through an investment in a limited liability company or a partnership means that offers may not be made using general solicitation (unless the participants want to undertake special efforts to verify investor status) and offers are limited to high net worth or institutional investors only. The interests sold in these transactions are considered "restricted securities," and are not readily transferable. An investor that seeks to transfer the LLC or partnership interest would be bound by the terms of the LLC operating agreement or the partnership agreement, as the case may be. Moreover, the restricted securities cannot be held in a brokerage account. Conversely, the Impact Security can be offered using a general solicitation or through a private offering. Impact Securities are readily transferable and can be held in a brokerage account.

PRIVATE EQUITY IMPACT INVESTING

“Double bottom line” private equity funds that concurrently seek market-rate financial returns and social impact have historically measured these financial and social returns independently. Private equity investment is limited to institutional accredited investors, qualified purchasers or qualified institutional buyers.

PRACTICAL IMPLICATIONS

Private Equity Impact Investing explicitly focuses on financial returns and social impact, but financial returns are not reliant upon impact. An investment could foreseeably generate financial returns, while not delivering on the social impact metrics set forth. Alternatively, social impact metrics could be achieved, but in the absence of a viable business model investors may not benefit financially. The Impact Security has contingent payments associated with the impact achieved, meaning the level of financial return is linked to the level of social impact.

Private equity investors generally are prohibited from taking an ownership stake in a nonprofit organization. Conversely, the Impact Security allows investment in a nonprofit organization.

LOANS OR LOAN FUNDS

Nonprofit organizations currently access capital using traditional loans where a lender, which may be a financial institution, or a multilateral or quasi-sovereign, governmental entity, a municipality, or a combination of these, will extend a loan or other credit facility to a nonprofit organization.

Traditional loans differ from the Impact Security in several ways. First, the repayment of the loan is not contingent upon the achievement of predetermined impact outcomes. Second, while the loan may have loss guarantors who agree to repay the loan, if the nonprofit organization defaults, it does not have a predetermined donor or outcome payor in place to repay the outstanding amount. Third, a loan is not readily transferable. Fourth, it may be difficult for a broad base of impact investors to participate through a loan.

PRACTICAL IMPLICATIONS

With a loan or loan fund, investors must be repaid whether or not impact is achieved. With an Impact Security, investors returns are explicitly linked to impact performance.

RISKS

Like other investment products, the Impact Security is not without risk. An investment in Impact Securities may not be appropriate for or suitable for all investors. Before investing, you should carefully read the disclosure or offering materials related to the specific Impact Security offering.

ISSUER

With the Impact Security, an outcome payor, which may not be the issuer, will donate the funds to meet the contingent payment obligation. If the outcome payor defaults, the issuer is liable for repayment. The holder of the Impact Security has the recourse and remedies typically available to a debt holder.

INVESTOR

Impact investing is new and can involve a risk of capital loss. If impact is not achieved at the levels required to trigger repayment of principal and/or interest, the investor may lose all or a substantial amount of the capital invested. The specific terms of an individual Impact Security may allow for substantial or total loss of capital in which case, the loss can be written off as a capital loss against capital gains.

BENEFITS

The Impact Security offers a new way to fund impact with significant benefits to all participants.

DONOR

The Impact Security empowers donors with a new way to make donations that applies incentives to outcomes. Using the Impact Security, donations are success-based and deferred, maximizing impact over time. The unique structure catalyzes new sources of capital and unlocks impact data thereby promoting a more efficient, impact-focused sector.

INVESTORS

The Impact Security provides a broad range of investors with a new way to invest in nonprofit organizations. Investors gain the opportunity to earn financial returns based on impact outcomes. In addition, as a standardized financial instrument, the Impact Security eases the transaction and transferability processes.

NONPROFIT ORGANIZATIONS

The Impact Security opens up access to new, different sources of capital for nonprofit organizations, including investment capital. It provides flexible, long-term financing that is aligned with impact goals.

INTERMEDIARIES

The Impact Security provides intermediaries with new sources of business growth.

IMPACT SECURITY SUMMARY

	FEATURES	BENEFITS
Investor	Pay for Success	Performance driven structures that link funding with impact
Financial Instrument	Standardized Deal Structure: • SEC-Exempt Debt Security	• Standardized, familiar documentation • Easy replication • Transaction speed
Use of Proceeds	Nonprofit organization	Opportunity to invest in nonprofit organizations – the major drivers of impact in the world
Financial Returns	• Variable • Contingent upon achievement of pre-determined and independently verified impact outcomes	Investor returns increase as impact increases
Marketing & Investor Access	Public offering open to all investors	Increased access by broader group of investors
Transferability & Liquidity	• Easily held in a brokerage account and transferable • Tradable	• Broader investor market • Increased potential for liquidity
Reporting	Enables public disclosures and reporting	• Increased transparency • Efficient pricing
Tax Reporting	1099	Investor preferred

CONCLUSION

The Impact Security represents a powerful new way to fund impact using a standardized financial product that explicitly links capital with impact.

The standardization and transparency inherent in the Impact Security structure fosters integrity and promotes broader participation in the emerging impact investing and pay-for-success sectors.

By expanding the options of donors, investors and nonprofit organizations in an efficient, performance-focused way, the Impact Security will accelerate the growth of the impact market and market infrastructure, further transforming the way the world finances impact.

APPENDIX

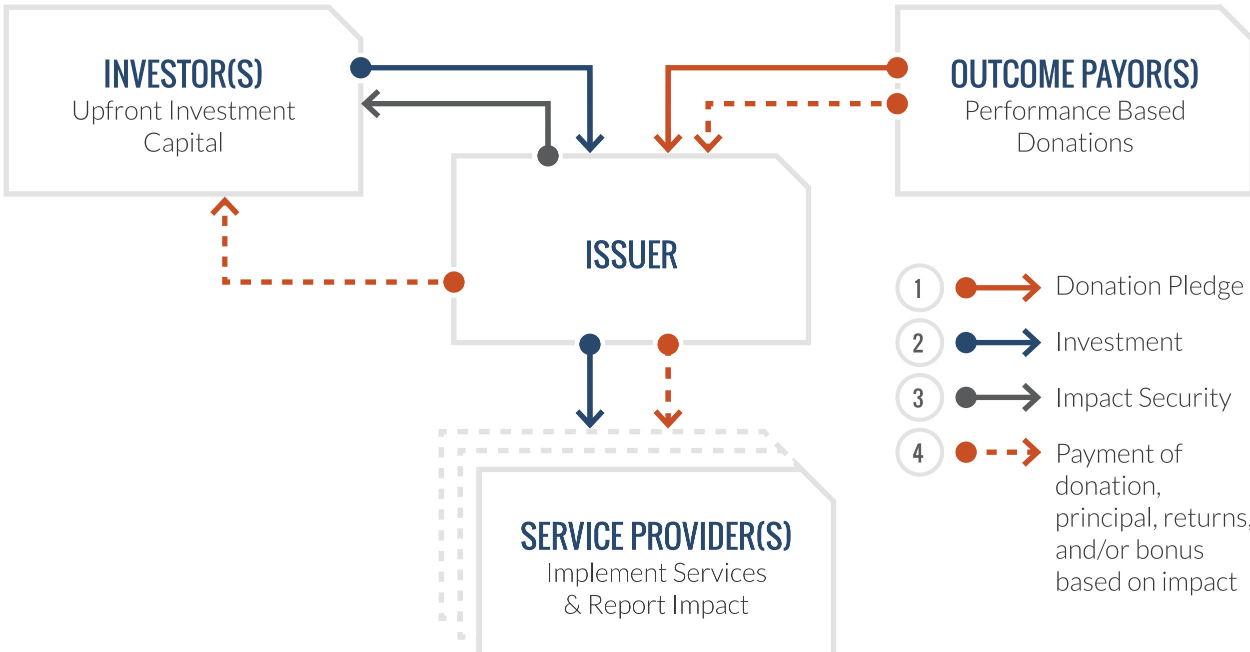

Diagram 2 – Alternate Flow of Funds (Multiple Service Providers)

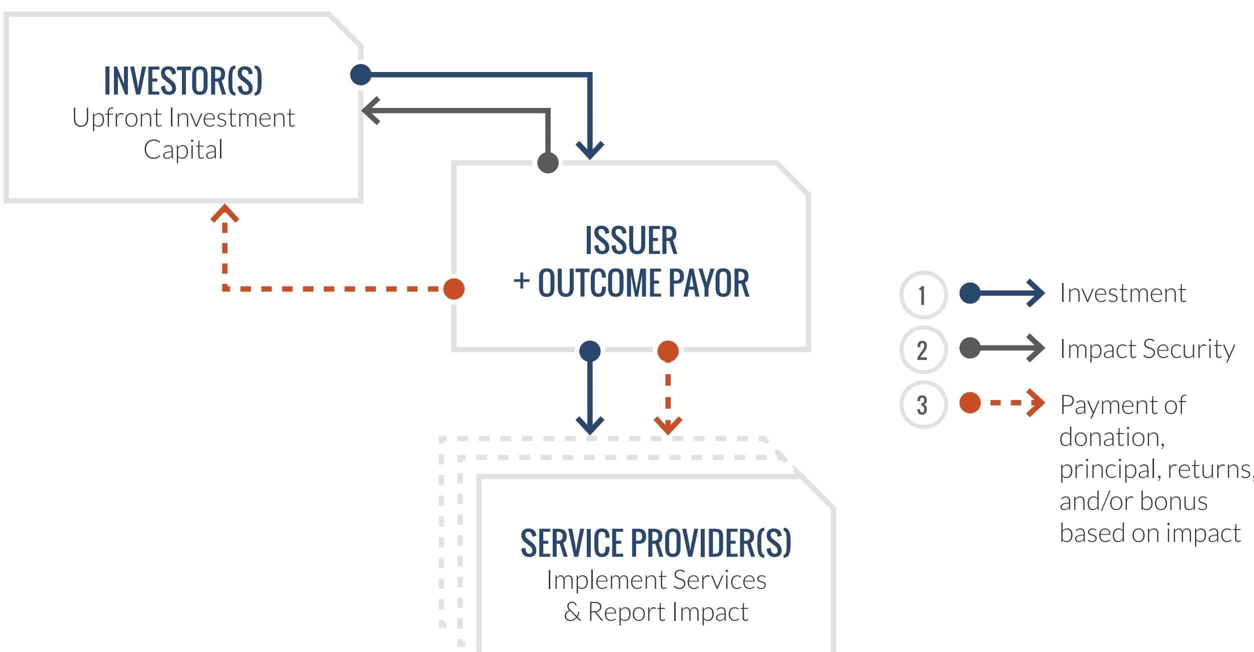

Diagram 3 – Alternate Flow of Funds (Issuer Is Outcome Payor)

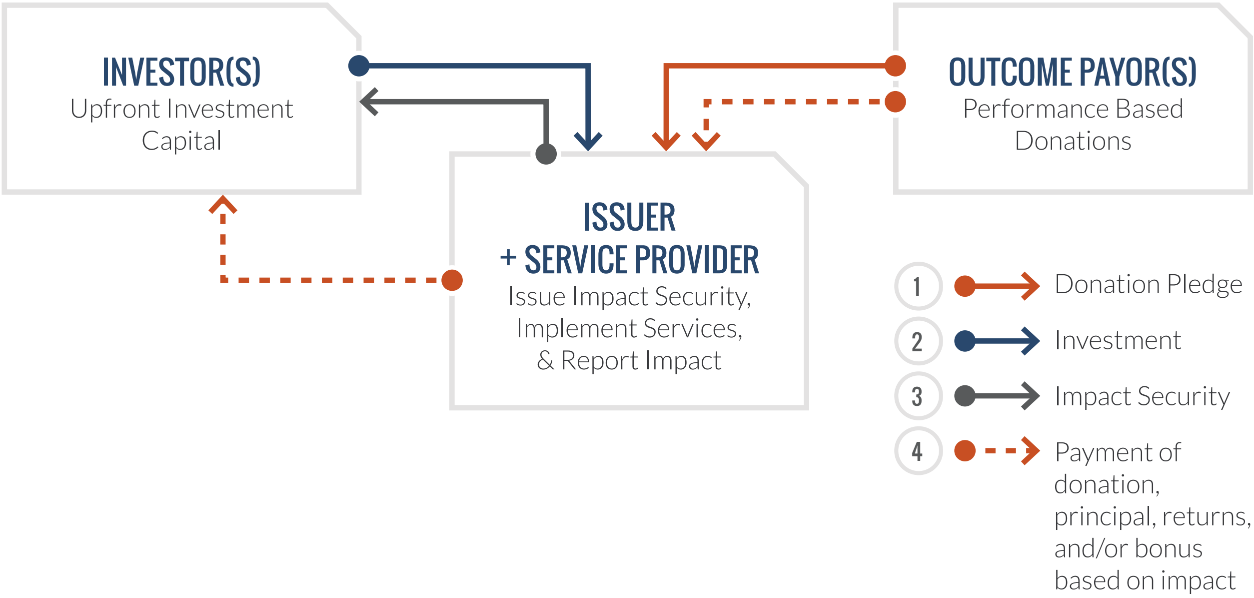

Diagram 4 – Alternate Flow of Funds (Issuer Is Service Provider)

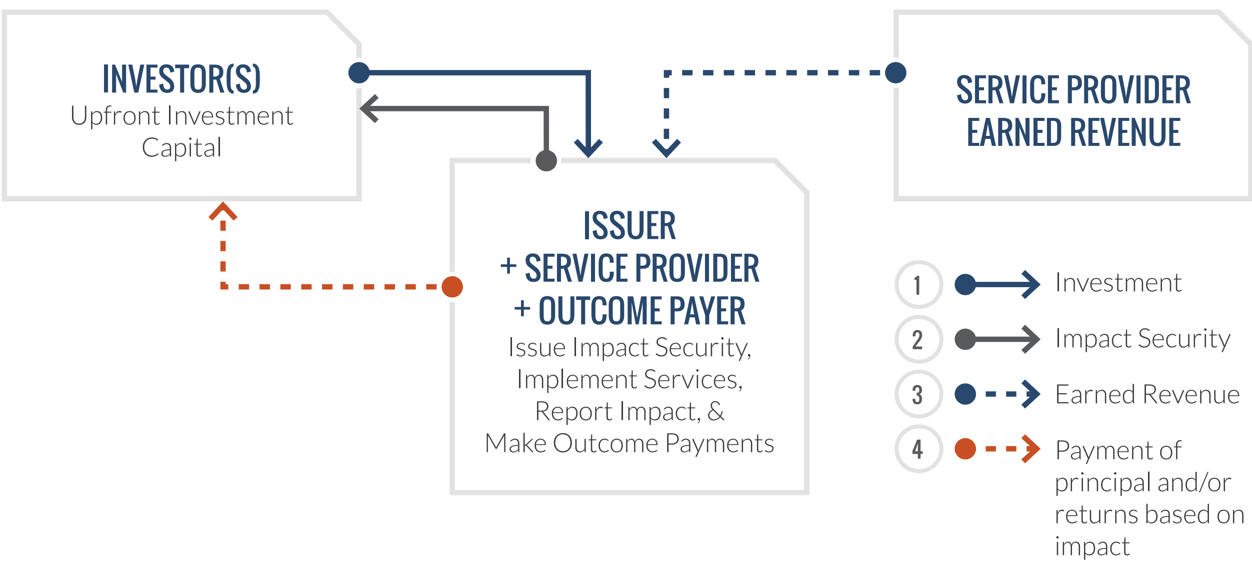

Diagram 5 – Alternate Flow of Funds (Earned Revenue)

DISCLAIMER

This summary is intended to provide an overview regarding a proprietary, novel financial instrument, an Impact Security. This summary does not provide the terms of any specific series of or offering of Impact Securities. The terms of any offering of Impact Securities will differ. Prior to any decision to invest in a specific series of Impact Securities, investors should carefully review the disclosure document, which will contain a detailed explanation of the terms of that offering, as well as the risks, tax treatment, and other relevant information about such Impact Securities. Additionally, investors should consult their accounting, legal, and tax advisors before investing in any Impact Securities.

Impact Securities may be issued as principal-protected or as non-principal protected securities. Impact Securities will feature contingent payment characteristics. The terms of any issuance of Impact Securities will be specific to that offering and will be designed to meet specific objectives. The return on Impact Securities comes from the achievement of specified impact objectives. An investment in Impact Securities may not be appropriate for or suitable for all investors. Before investing, you should carefully read the disclosure or offering materials related to the specific Impact Security offering.

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