



**COMMENT&ANALYSIS**

**THE LONG VIEW**

**ALAN FLANAGAN**

explains how three new regulatory practices will affect the alternatives sector



**“CLIENTS WILL EXPECT THEIR CUSTODIANS TO ASSUME MORE RESPONSIBILITY AROUND RISK AND TRANSPARENCY”**

In the ongoing evolution of the alternatives universe, few factors have had the potential to impact the industry as greatly as recent developments in the global regulatory environment. There are three pieces of global legislation that are causing the most change.

**(I) THE ALTERNATIVE INVESTMENT FUND MANAGERS DIRECTIVE (AIFMD)**

For depositary institutions, a key issue will be managing costs for clients versus the additional risk that depositaries will be required to take on. Many depositaries will likely need to enhance their capabilities to meet their obligations, thus restructuring in the depositary space. Some depositaries will rethink the scope of their commitment to alternatives; as a result, the larger service providers should be best placed to adapt due to their economies of scale.

Of course, depositaries must demonstrate real added value and not duplicate work carried out by other providers. Efficient information exchange with the administrator will reduce duplication.

Moreover, effective document and workflow management capabilities will become more important. The depositary may offer value-added services to differentiate itself, and clients will expect their custodians to assume more responsibility around risk and transparency.

**(II) DODD FRANK ACT**

While this Act affects the whole US financial industry, SEC-registered investment advisors will have to report detailed information under Form PF. It will be used to provide information to the Financial Stability Oversight Council to assist in its monitoring of 'systemic risk'. Those funds with over \$150m in AuM will be subject to new reporting requirements on a range of business activities including AuM, use of leverage, counterparty credit risk exposure, trading and investment positions. Private fund advisers may aggregate data on all their hedge funds in scope for filing, including: hedge fund exposure by asset type, turnover, duration and geographical concentration. Data that is being requested spans the

gamut from identifying each fund's strategy and exposure to each asset class and NAV to investor concentration and categorisation. BNY Mellon is working with key strategic clients to assist with their data aggregation. Additionally, we have engaged consultants to assist in the data definitions and are working with technology vendors to develop more strategic solutions.

**(III) THE FOREIGN ACCOUNT TAX COMPLIANCE ACT (FATCA)**

The Act requires non-US financial institutions to review all investor information and report to the US IRS information on US account holders. The definition of financial institution has been broadly drafted, to include not only offshore banks and broker/dealers but also hedge funds, private equity funds and other vehicles.

Fatca's purpose is to highlight the identity of US investors that may be trying to avoid paying US taxes. A failure to comply with Fatca could subject those entities to a 30% US withholding tax. Fund managers and administrators are assessing what information gaps exist, determining what system changes will need to be made, and are preparing to make the necessary system enhancements. These changes will allow for the enhanced due diligence required under Fatca. Funds will also have an additional year to review records of pre-existing accounts to determine their status.

This year is shaping up to be another challenging one for the alternative investment management industry. However, BNY Mellon views these challenges as opportunities to serve our clients better. ■

**ALAN FLANAGAN** is head of product management for alternative investment services at BNY Mellon. The views expressed herein are those of the author only and may not reflect the views of BNY Mellon. This does not constitute alternative investment advice, or any other business or legal advice, and it should not be relied upon as such.

**THE WEEK IN QUOTES**

**“EVERYBODY’S TALKING TO EVERYBODY”**

Stephen Ardizzone, global chief of Cantor Fitzgerald's investment advisors division, describes the activity in the FoHF space, as the US bank closes in on its second acquisition

**“[WE WOULD] ALWAYS CONSIDER AN ACQUISITION UNDER THE RIGHT CIRCUMSTANCES”**

BNY Mellon's Mark Mannion says his bank's admin unit, which has seen hedge fund business grow organically more than 20%, would consider a tie-up

**“WE WANTED TO EXPOSE HOW MISINFORMED THE RECEIVED WISDOM ABOUT THE ECONOMY IS”**

"Dour" opinion on the state of the UK economy is wide of the mark, according to Savvas Savouri, chief economist at Toscafund, one of Europe's leading hedge fund firms