asset servicing times
The primary source of global asset servicing news and analysis
ISSUE 343 26 June 2024

The evolving landscape of global class actions

NRW Consulting's Noah Wortman looks at group claim lawsuits, ESG regulations and jurisdictional variations

Panel Discussion

The challenges and future developments facing fund services in Europe

AML Watchdog

Firms across the industry share their thoughts on the new regulatory body

Broadridge

Ready for Next

Drive forward. With Broadridge.

Next-generation proxy and corporate actions solutions.

Technology is changing the business world at a rapid pace – and with it, client expectations continually rise. We're committed to helping you drive your business forward, enhancing the client experience, accelerating digital adoption, reducing costs and gaining actionable insights – all while enabling you to satisfy your regulatory obligations.

You can count on us to anticipate your evolving needs and prepare for the opportunity around every curve, using innovation and advanced technology with the rigorous attention to security we bring to every solution.

WINNER 2022 assetservicingtimes INDUSTRY EXCELLENCE AWARDS
Corporate Actions Technology Award Of The Year

WINNER 2022 assetservicingtimes INDUSTRY EXCELLENCE AWARDS
Best Asset Servicing Technology Product Of The Year

CONNECT WITH US
+44 020 7551 3000
Global@Broadridge.com

Broadridge.com

Lead news story

ESAs propose improvements to SFDR

The three European Supervisory Authorities (EBA, EIOPA and ESMA – ESAs) have published a joint opinion on the assessment of the Sustainable Finance Disclosure Regulation (SFDR).

The ESAs have called for a coherent sustainable finance framework that caters for both the green transition and enhanced consumer protection, taking into account the lessons learned from the functioning of the SFDR.

The ESAs focus on ways to introduce simple and clear categories for financial products. The simplifications consist of two voluntary product categories, 'sustainable' and 'transition', that financial market participants should use to ensure consumers understand the purpose of the products.

The ESAs recommended that the European Commission consider the introduction of a sustainability indicator that would grade financial products such as investment funds, life insurance, and pension products.

The opinion also called for improvements to the definition of sustainable investments and simplification to the way disclosures are presented to investors, along with many more. ■

asset servicing times

Karl Loomes
Group editor
karlloomes@blackknightmedialtd.com
020 3617 1722

Carmella Haswell
Deputy editor
carmellahaswell@securitiesfinancetimes.com
020 3617 1722

Jack McRae
Reporter
jackmcrae@assetservicingtimes.com

Klea Neza
Junior reporter
kleaneza@blackknightmedialtd.com

James Hickman
Lead designer
jameshickman@blackknightmedialtd.com

John Savage
Associate publisher
johnsavage@assetservicingtimes.com

Simon Holloway
Deputy publisher
simonholloway@assetservicingtimes.com
020 3372 5997

Justin Lawson
Publisher
justinlawson@blackknightmedialtd.com
020 3667 3244

Published by Black Knight Media Ltd

Contents


smartstream-stp.com
REGULATORY FINES!
Searches:
intraday reporting
accurate data
internal controls
post trade settlement
risk mitigation
WE'VE GOT YOUR BACK.
SMARTSTREAM

GDF, ANNA, and DTI Foundation announce partnership

Global Digital Finance (GDF), Association of National Numbering Agencies (ANNA), and the Digital Token Identifier (DTI) Foundation have announced they have entered into a partnership to support the development of standards and practices in the digital asset space.

The partnership aims to improve transparency through the creation of a core reference data set based on open data principles and made available as a public good.

Madeleine Boys, GDF head of Programmes and Innovation says: “Standards are key to unlocking efficiencies and driving transparency in financial markets. For regulators, global identification standards help bring consistency and transparency into new DLT markets. For market participants, this standard supports better effective risk management and has been commended by industry as a strong foundation for better interlinking digital finance and traditional finance.”

In 2021, a joint ANNA-DTI Foundation task force was established to ensure a complementary relationship between ISIN and DTI ISO standards. ■

SmartStream updates APC solution

SmartStream has upgraded its Advanced Payment Control (APC) solution.

The company says the update aims to streamline and optimise payment investigations by accommodating any number of disparate payment rails to improve resolution times and reduce costs in the era of instant payments.

The enhanced solution provides a single, integrated system to track, monitor, and investigate transactions across the payments corridor.

Christophe Vastesaeger, senior solutions architect at SmartStream, states: “We are now able to handle exceptions as they arise.

“This functionality not only provides financial institutions with an accurate view of payments for better funding decisions, but also limits risk exposure.

“Additionally, managing payment rails across different geographies is essential for the industry. We are continuously working with our clients to make sure they meet local standards and regulatory requirements.” ■

BNP Paribas' Securities Services unveils next generation of NeoLink

BNP Paribas' Securities Services has unveiled the next generation of its NeoLink client platform.

The update brings a redesigned user interface, an extended digital portfolio of solutions, embedded fintech services, an API store, and AI.

Jean-Marc Friess, chief digital services officer for Securities Services at BNP Paribas, says: "Amidst a market environment of increasing complexity, NeoLink streamlines business transactions, workflows, controls, and reporting processes to support operational efficiency and decision making.

"The next generation of NeoLink underscores our drive to deliver innovations that enable clients to optimise their connectivity with Securities Services. Leveraging the strengths of BNP Paribas' diversified and integrated model, we are committed to continuously enriching our digital platform for a growing number of clients." ■

SNB announces continuation of wCBDC Pilot on SDX

Swiss National Bank (SNB) has announced the continuation of the Helvetia Pilot focusing on tokenised securities settlement on SIX Digital Exchange (SDX) in Swiss franc digital central bank money for financial market participants, known as wholesale central bank digital currency (wCBDC). The next stage of the pilot aims to gradually include additional financial institutions and to serve a broader range of financial market transactions.

Jos Dijsselhof, CEO of SIX, says: "Pioneering the use of wholesale central bank digital currency goes beyond enhancing the efficiency and security of financial transactions, it is the groundwork for the future of finance."

David Newns, head of SIX Digital Exchange, adds: "Robust and scalable financial market infrastructure requires that wholesale transactions be settled in central bank money, the safest form of money.

"To fully utilise blockchain's potential, both the tokenised investment and the settlement asset must be on the same chain.

"Project Helvetia III demonstrated that SDX can meet these requirements. The participation of leading financial institutions and the issuance of seven digital bonds to date, totalling more than CHF 750 million, settled in wCBDC, highlights market confidence in our digital asset infrastructure." ■

NAB Ventures invests in Zodia Custody

The National Australia Bank's (NAB) ventures arm has invested in Zodia Custody, building on previous investment from Standard Chartered, Northern Trust and SBI Holdings.

After this investment, a key, immediate priority for Zodia Custody includes onboarding Australia's ecosystem of home-grown digital asset exchanges. Ahead of anticipated stricter regulatory requirements, many of these exchanges are moving assets onto Zodia Custody's platform.

Kate Cooper, CEO of Zodia Custody Australia, says: "The investment from NAB is another great endorsement of our mission and vision. But more than that, it signifies a turning point, with institutions and infrastructure providers jointly building the mainstream future of digital assets, without compromise."

Amanda Angelini, managing director at NAB Ventures, adds: "As a trusted financial institution, NAB is focused on ensuring the finance sector continues to provide simple, safe and secure services for Australians.

"This is particularly important in newer fields where technology continues to evolve quickly." ■

SteelEye partner with Intelligent Voice

SteelEye has partnered with Intelligent Voice to transform voice surveillance.

The firms say that the partnership will improve accuracy, intelligence, and automation.

This will allow financial firms to integrate voice into their compliance frameworks.

SteelEye explains that the partnership responds to increasing pressure to store and monitor all forms of communication to meet regulatory requirements.

SteelEye's chief product officer, Matt Storey, explains: "Firms cannot afford to ignore voice surveillance.

"By incorporating advanced voice transcription and analytics into their surveillance frameworks, firms can proactively address the compliance threats posed by voice communications."

Nigel Cannings, CEO of Intelligent Voice, adds: "By leveraging the strengths of both companies, we aim to deliver the finance industry's most advanced and comprehensive voice compliance solution." ■


ANTICIPATING
ENERGY
DEMANDS
FOR THE NEXT
~~WINTER~~
decade
Fuelling innovation, we bring your transformative energy projects to life. With our expertise in financing, strategic advice, and market activities, BNP Paribas is not just your bank; we're your partner in realising major projects that define the future of energy across Europe.
DISCOVER OUR BUSINESS STORIES
FOR THOSE WHO MOVE THE WORLD

QPLIX partners with Canoe Intelligence

QPLIX has partnered with Canoe Intelligence to use machine learning and AI to streamline private equity fund-related workflows.

The companies say this collaboration enables alternative investors to directly route and map data from their private equity fund documents in Canoe to the QPLIX wealth management platform.

Philipp Besser, head of Business Development at QPLIX, says: “Private equity assets are key investment instruments for a variety of investors ranging from accredited individuals to insurance companies and institutional investors like pension funds.”

Oliver Wedlake, senior director of EMEA Wealth Management at Canoe Intelligence, comments: “Canoe streamlines tasks, providing accurate, high-quality data, enabling our partners to then confidently pass that trusted information on to their customers. Our partnership with QPLIX extends this solution to a broader audience, offering leading technologies and services for optimal performance in managing private equity investments.” ■

SS&C expands fund administration business in India

SS&C has expanded its global footprint with a new office in India’s Gujarat International Finance Tec-City (GIFT City). Arun Baldwa, senior director, will lead the new office.

The International Financial Services Centres Authority has licensed SS&C GlobeOp to provide fund administration and compliance services to alternative investment funds (AIFs) and other funds domiciled in the economic opportunity zone.

Bhagesh Malde, head of SS&C GlobeOp, says: “[The company] has experienced handling all operational needs for various intricate fund structures across domiciles and regulatory and tax regimes.

“An on-the-ground presence in GIFT City further cements our deep commitment to India. We look forward to working even closer with our clients as they set up funds in this exciting new epicentre of global finance and IT.” ■

SDC Jordan and KDPW Poland elected to ANNA board

The Securities Depository Center (SDC) Jordan and Grupa KDPW have been elected to the Association of National Numbering Agencies (ANNA) board.

SDC will be represented by Sarah Tarawneh, CEO of the group. Tarawneh was previously an ANNA board member between 2018 and 2021.

She comments: "I am excited to be involved in advancing ANNA's activities as the individual and collective work of the NNAs is so important to ensuring the harmonisation of data standards."

Grupa KDPW, re-elected to the board, are represented by Slawomir Zajac —- an existing director in the ANNA Management Body.

He adds: "With NNA's working collaboratively to continually evolve global financial standards, market interoperability and better data quality will be enabled. Better quality and greater availability of data means reduced business costs and operational risk for the market."

These appointments come amid the India International Depository IFSC and Depósito Centralizado de Compensación y Liquidación de Valores, Ecuador, being approved to transition to become full ANNA members.

This total number of ANNA full members has now risen to 103.

Stephan Dreyer, managing director at ANNA, says: "Active NNA participation is both valued and essential and I am always incredibly proud of our members who collectively bring their experiences and knowledge together to promote the development and understanding of global identifiers." ■

Ocorian launches Bovill Newgate

Ocorian has launched Bovill Newgate, a global regulatory and compliance business.

The new business offers advisory services on regulatory change and preventing financial crime, applications to regulators, building or enhancing regulatory frameworks, conducting compliance investigations or diagnostics, training and fulfilling prescribed roles.

The launch follows the fund administrator services firm's acquisition of Bovill in February, which was combined with Ocorian's subsidiary, Newgate Compliance.

Aron Brown, global head of Regulatory and Compliance Services at Ocorian, comments: "Growth for our regulatory and compliance team has been transformational.

"With the newly combined team we are a formidable player in the market, with world-class expertise, scale, and global reach."

Bovill Newgate will consist of more than 120 professionals and former regulators, and covers six jurisdictions — the UK, Channel Islands, Singapore, Hong Kong, Mauritius and the Americas. ■

asset servicing times

Miss the last issue?

We’ve got you covered!

Click here to catch up

Noah Wortman *founder, CEO of NRW Consulting*

Noah is founder and CEO of NRW Consulting which supports, recommends, and creates pathways to recovery for global investors and consumers harmed by corporate misconduct, including securities fraud, market manipulation, and violations of global regulatory requirements

The evolving landscape of global class actions

Looking at the trends in corporate governance, ESG regulations, and jurisdictional legislative variations, Noah Wortman, founder and CEO of NRW Consulting, talks to Justin Lawson about group claim lawsuits

What role do third-party litigation funders play in the evolution and expansion of global class actions?

Litigation finance, in its modern form, originated in Australia in the 1990s following legislative reform which recognised legal claims as corporate assets and funding companies emerged to service this market. The rise of litigation funding in Australia also followed the legalisation of class actions in 1992 as an efficient way to deal with group claims.

Litigation funding has since become an integral part of mainstream civil justice systems to facilitate access to justice. Litigation funders finance the cost of proceedings in exchange for a portion of the recovery, and frequently coordinate investor-claimants, provide access to legal resources, and (in some cases) underwrite the risk of 'adverse costs'. While litigation funding is now an international phenomenon, financing activity has concentrated in common law jurisdictions which contend with high costs of litigation that impede access to justice. Litigation funding has the potential to equalise the power of litigants and provide new risk reallocation products to corporations and institutional investors.

Historically, well-resourced parties had advantages in litigation — they could afford the best lawyers and experts and overwhelm less resourced parties. Institutional investors realise third-party funding can be a sensible way of managing risk. Sharing some equity in a successful outcome provides certainty instead of exposure, and partnering with specialists can save internal resources, while increasing the prospects of a favourable outcome. As the English Court of Appeal held in its 2016 decision in Excalibur Ventures LLC v Texas Keystone Inc & Ors: "Litigation funding is an accepted and judicially sanctioned activity perceived to be in the public interest."

In July 2023, the litigation funding industry faced significant upheaval following the UK Supreme Court's ruling in PACCAR. The Supreme Court decided that litigation funding agreements (LFA), under which funders are entitled to recover a percentage of damages, amount to damage based agreements (DBAs) within section 58AA of the Courts and Legal Services Act 1990 (CLSA). This classification arises from the Court's interpretation of litigation funders as providers of 'claims management services' within the context of that section. Consequently, litigation funding agreements of this nature must adhere to the Damages Based Regulations 2013, and a failure to comply with those regulations renders them unenforceable.

Earlier this year, during the spotlight on the Post Office's Horizon scandal, Alan Bates, the former sub-postmaster leading the Justice for Subpostmasters Alliance, emphasised the significance of litigation funding in his battle against the Post Office. Following this, Justice Secretary Alex Chalk MP pledged to prioritise addressing the funding issue, aiming to reverse the 'damaging effects' of the UK Supreme Court ruling in PACCAR at the earliest legislative opportunity. Chalk mentioned that the new legislation would simplify the process for individuals to obtain funding for their legal battles against influential corporations, such as those implicated in the Horizon scandal, a case that underscored the importance of litigation funding in levelling the legal playing field.

The Litigation Funding Agreements (Enforceability) Bill aims to rectify the fallout from the PACCAR case by clarifying that litigation funding agreements are not damage based agreements, thus making them enforceable. It proposes amendments to the definition of damages based agreements in the Courts and Legal Services Act 1990, specifically in Section 58AA(3)(a). With two clauses, Clause 1 modifies the damages based

"The past few years have shown that the current social justice zeitgeist has increased market and shareholder attention to company environmental, social and governance policies"

agreement definition, while Clause 2 outlines the bill's scope, commencement, and title. The bill retroactively ensures litigation funding agreements' enforceability, as pre-PACCAR, safeguarding contractual rights and reducing uncertainty. Additionally, it initiates a review of the third-party litigation funding market by the Civil Justice Council, focusing on regulation, claimant protections, and potential funder return caps.

At the end of the day, legal finance comes in many forms as the industry continues to grow and evolve, but ultimately, by promoting and safeguarding access to justice, and helping to uphold the rule of law, litigation funding plays an often crucial role in supporting the functioning of our legal systems.

How have recent trends in corporate governance influenced the frequency and outcomes of global class actions?

The past few years have shown that the current social justice zeitgeist has increased market and shareholder attention to company environmental, social and governance (ESG) policies. Indeed, global class actions, ESG and investor stewardship principles have been developing on parallel tracks, but in the months and years to come, they are likely to intersect with increasing frequency. Empowered by evolving collective redress regimes, classes of claimants may bring a wide range of new cases against defendants who have acted unlawfully in matters related to environmental, social and corporate governance issues.

A growing number of lawsuits on the basis of ESG statements in securities filings, including bond offering documents, have been filed against corporations and governments. A stakeholder's right to pursue civil remedies varies depending on jurisdiction, but the scope of information that can form the basis of a lawsuit is expanding with greater inclusion of ESG. ESG disclosures have historically been governed mostly by voluntary frameworks. But the voluntary nature of ESG reporting is on the wane, as evidenced for example, by the requirement (since March 2021) for banks, private equity firms, pension funds, hedge funds and other asset managers to comply with sweeping new European rules set forth in Regulation 2019/2088 on sustainability-related disclosures in the financial services sector — EU Sustainable Finance Disclosure Regulation (SFDR). As ESG standards and disclosure become not just best practice, but mandated by various cross-cutting regulations, the opportunity for claims based on alleged negligent misstatement, misrepresentation or omissions in these disclosures has opened. Such claims have built on an existing body of case law establishing the clear liability of businesses for providing misleading information about their business practices.

As countries increasingly mandate disclosures through legislation such as the SFDR, the Modern Slavery Act 2015 (UK), Transparency in Supply Chains Act 2010 (California), and the Duty of Vigilance Act (France), the publicly available information about companies' ESG practices is likely to only increase. Investor stewardship principles and practices are being adopted in many markets around the world, as the development of stewardship codes for investors complements the similar development of codes of corporate governance that have been established for companies. Indeed, the International Corporate Governance Network (ICGN) defines stewardship as: "the responsible management of something entrusted to one's care. This suggests a fiduciary duty of care on the part of those agents entrusted with management responsibility to act on behalf of the end beneficiaries." The growing importance of social factors within corporate sustainability frameworks may continue to create new areas where investors or consumers identify gaps between disclosures and practices.

Nicolai Tangen, CEO of Norges Bank Investment Management which manages Norway's Government Pension Fund Global, was quoted in *The Wall Street Journal* in a 27 February 2024 article as saying, "not everyone can just be passive" and investors should not "free ride on a well-functioning market". Mr. Tangen explained that taking an active approach in corporate governance is not based on trying to be a "global policeman", but rather a "shrewd capitalist" investor that aims to "enhance future long-term returns".

Moreover, the same article also discusses the philosophy held by Nick Moakes, chief investment officer (CIO) of the UK's Wellcome Trust, one of the world's largest charity endowments. He said: "If you're going to own things for the long term you want to be in companies that are going to be around for the long term. That means both selecting stocks and engaging with management."

How has the rise of technology and data analytics impacted the management and resolution of global class actions?

Global class action litigation poses distinct challenges and opportunities. These legal proceedings typically encompass numerous individuals or entities, substantial financial interests, and intricate legal complexities. While conventional legal methods are invaluable, incorporating data-driven insights can significantly enhance their effectiveness. This is where litigation analytics becomes crucial, providing a fresh perspective on navigating the legal terrain.

Additionally, massive consumer, environmental, human rights and product liability group claims have been increasing in recent years. Effectively handling and engaging with sizable client groups is crucial for group claims firms, and artificial intelligence (AI) is propelling law firms forward in this endeavour.

It is essential that the automation of legal tasks does not compromise the accuracy, fairness, and integrity of the justice system. While AI holds immense potential to streamline class action lawsuits, its implementation must be carefully managed to prevent undermining the very principles it aims to uphold.

The future of global class actions appears to be closely intertwined with technological advancements. As artificial intelligence continues to evolve, so too will the strategies and tools employed in litigation processes. The challenge lies in responsibly harnessing this potential, maintaining a delicate balance between efficiency and ethical standards.

What are the implications of recent landmark settlements in global class actions for corporate compliance and risk management?

One of the prime examples in recent years of major corporate compliance and risk management failures to be subject to shareholder derivative actions and securities class action litigation in the US stemmed from the #MeToo movement. The significance of addressing sexual harassment and advancing board diversity has markedly increased for both investors and regulators.

"The corporate boardroom is not the only place where recent landmark class action settlements have a lasting impact on compliance and risk management"

Over the past several years, since #MeToo gained widespread attention, investors have effectively utilised securities litigation to drive essential corporate governance reforms multiple times.

In one of the first successful cases of its kind, investors brought a shareholder derivative lawsuit against the board of directors of Twenty-First Century Fox in the Delaware Court of Chancery to address allegations of sexual harassment perpetrated by Fox News' long-time CEO, Roger Ailes. Following a year of legal proceedings, shareholders settled the case for US$90 million and collaborated with the company to implement governance reforms aimed directly at addressing the culture of sexual harassment at Fox News. A significant initiative was the establishment of the Fox News Workplace Professionalism and Inclusion Council, comprising industry experts alongside company insiders, tasked with identifying and resolving internal issues. Notably, the council issues biannual reports that Fox must publish on its website for investors and the public, including minority reports if necessary. With its extensive authority and mandate, the council ensures that reforms at the company are substantive and minimise the risk of regression. It has since become a benchmark for other corporate boards grappling with similar challenges and striving for meaningful change.

The corporate boardroom is not the only place where recent landmark class action settlements have a lasting impact on compliance and risk management. For example, in 2022 thirteen children and teens took the State of Hawaii to court over the threat posed by climate change. It was alleged the Hawaii Department of Transportation (HDOT) operation of a transportation system resulting in high levels of greenhouse gas emissions violates their state constitutional rights, impacting their ability to "live healthful lives in Hawaii now and into the future".

The case was settled in June 2024. A key term of the settlement requires Hawaii to achieve zero greenhouse gas emissions across all transportation modes, including ground transportation and sea and air interisland transportation, no later than 2045. Additionally, the state must also come up with a greenhouse gas reduction plan within a year. Moreover, HDOT must complete pedestrian, bicycle and transit networks in coordination with Hawaii counties within five years, while dedicating at least US$40 million to expanding the public electric vehicle charging network by 2030.

How do differences in discovery processes across jurisdictions affect the strategy and outcome of global class action litigations?

There are wide varying rules of discovery, or sometimes known as disclosure, across global jurisdictions. On one end of the spectrum, you have the US, where the trial courts have considerable discretion over whether to bifurcate discovery between class discovery and merits discovery. Most courts set a schedule that provides for both an initial period of discovery leading up to briefing and a decision on class certification, and a subsequent period of discovery following the class certification decision and prior to trial. The initial period of discovery may or may not be expressly limited to class certification issues, but certification issues are usually the parties' focus during this initial period regardless.

On the opposite end of the spectrum, you have a jurisdiction like Germany where discovery proceedings do not exist. In Germany, parties are generally not required to disclose evidence. While a few statutory provisions allow courts to order the production of documents, they are often interpreted narrowly and rarely used in practice. Another example is Japan where pre-trial discovery is limited, and it is not a signatory to the Hague Evidence Convention.

Considering the fundamental purpose of plaintiffs or claimants obtaining discovery is to aid in the investigative phase of obtaining evidence to substantiate their claims and determining what defendants knew, who knew it, when they knew it, and how far up the corporate ladder the knowledge of the alleged wrongdoing was known. When faced with hurdles in jurisdictions such as Germany, where there is a lack of discovery, then that will impact litigation strategy. Claimants may be able to make use of tools such as 28 US Code § 1782 (Section 1782). Section 1782 is a US federal statute that allows US district courts to compel a person or entity "found" in the US to produce discovery in connection with a foreign proceeding.

The procedure for making a Section 1782 application is relatively simple. There is no need to commence a separate lawsuit in the US. Instead, a foreign litigant may make an immediate application to a US federal court. Further, the application may be made ex parte, which means that prior notice does not have to be given to the person from whom the discovery is sought.

Once the application is filed, the US court decides whether to grant, deny or limit the requested discovery based on certain factors. A court analyses a Section 1782 application in two phases:

First, the applicant must meet three statutory prerequisites: (i) the discovery must be sought from a person or entity that resides in the district where the application is made; (ii) the discovery must be "for use" in a foreign litigation; and (iii) the applicant needs to be an "interested party" to the foreign case.

Next, the court weighs four discretionary factors: (i) whether the discovery is sought from a "nonparticipant in the matter arising abroad"; (ii) whether the foreign court is likely to be receptive to US judicial assistance; (iii) whether the request attempts to "circumvent foreign proof-gathering restrictions"; and (iv) whether the request is "unduly intrusive or burdensome".

Once the US court grants the application, the foreign litigant may then proceed to seek the requested discovery — for example, by serving document requests or deposition notices on the person from whom the discovery is sought.

Section 1782 has been widely used in class and group litigation across the world to aid in securities, consumer and intellectual property/patent litigation, and also has been used extensively in international arbitration proceedings, as well.

In what ways have global economic conditions and geopolitical events shaped the landscape of class action litigation in recent years?

Regulatory and consumer conflicts have surged due to the uptick in cybersecurity breaches and privacy regulations. Climate-related litigation, including cases of greenwashing, is intensifying under mounting investor and regulatory scrutiny of environmental, social responsibility, and corporate governance practices. Geopolitical turmoil and supply chain challenges heighten the likelihood of disputes. The use of various collective redress regimes across the world has become instrumental in pursuing these claims. ■


How do we fix
a problem with
no boundaries
by pushing
our own?
HSBC
Opening up a world of opportunity
Issued by HSBC Bank plc, 8 Canada Square, London. E14 5HQ

The dog days

Following the creation of an EU AML watchdog, Jack McRae speaks to a number of firms across the industry about their thoughts on the new regulatory body

The challenges the financial services industry has faced when tackling money laundering and the financing of terrorism has changed over time. As technologies shift to defend against financial crime, the criminals have also adapted to continue their operations.

As criminals continue to find ways to innovate and circumvent the law, the regulatory bodies are now establishing a base for their defence, and adding a new player to the industrial game of cat and mouse — a watchdog.

The European Union (EU) is introducing new anti-money laundering (AML) and combating the financing of terrorism (CFT) measures by establishing a central watchdog.

The Authority for Anti-Money Laundering and Countering the Financing of Terrorism, better known as AMLA, has found a home in Frankfurt, Germany.

The watchdog has set itself the goal to "monitor risks and threats within and outside the EU, coordinate national supervisors and financial intelligence units (FIU), and directly supervise specific financial institutions depending on their risk level," according to Mairead McGuinness, commissioner for Financial Services, Financial Stability and Capital Markets Union at the European Commission.

But how has AMLA been received by the industry?

A logical step

The move from the European Commission to introduce a central watchdog has been greeted with optimism from members of the asset servicing industry.

Steve Marshall, director of advisory services at FinScan, explained that having the watchdog will "ensure the consistent application of the new EU AML rulebook across the member states. Also, under its mandate to directly supervise those high-risk institutions that have operations spanning multiple member states, it will ensure consistency in the approach to and conduct of supervisory activities."

images by yuniar20/stock.adobe.com

"If money laundering were a nation, and funds laundered were its GDP, money laundering would be a top 10 economy, placing it on par with Italy on the low end, and greater than Japan at the high end"

Marshall continues to add that, "the new authority will facilitate information sharing across FIUs in the member states thereby ensuring more effective law enforcement in the bloc."

John Bedford, partner at Dechert, shares the optimism for the new authority. Bedford is pleased that there will be a degree of consistency in the application of EU AML standards across the union.

He says: "It is beneficial for the industry to have a good idea of the expectations of their supervisors so that the industry can calibrate their policies, procedures and resources accordingly.

"In addition, AMLA will facilitate cooperation between Member State financial intelligence units and the identification of best practices. That should inevitably trickle down across the industry such that there is better information sharing and use of information across the EU."

He continues to explain the importance of AMLA choosing Frankfurt as its centre. There were nine different cities — Brussels, Dublin, Madrid, Paris, Riga, Rome, Vilnius, Vienna, and Frankfurt — in the running to host AMLA and it took two years to come to the decision of Frankfurt.

Bedford believes it was the right choice, saying: "The selection of Frankfurt was apparently the first time that EU co-legislators jointly agreed on where the seat of a decentralised agency should be located.

It should be beneficial for AMLA to be based in a city which is a strong financial centre where there will already be a large number of professionals with industry knowledge and AML compliance expertise."

For Andy Schmidt, global lead for banking at CGI, the benefits are clear and obvious.

He says simply: "The creation of a central AML watchdog is the next logical step in helping the European Union operate as a common bloc by harmonising efforts between country-level regulators and rolling out a common AML rulebook."

Fighting back

Despite this optimism, there are a multitude of challenges the new watchdog will have to overcome.

For CGI's Schmidt, the magnitude of AML and CFT globally will make the task of AMLA difficult, at least initially.

"The first is that money laundering is a global concern, amounting to somewhere between two and five per cent of global GDP, as per the UN Office on Drugs and Crime (UNODC)," he explains.

"For context, if money laundering were a nation, and funds laundered were its GDP, money laundering would be a top 10 economy of between US$2 trillion and US$5 trillion, placing it on par with Italy on the low end, and greater than Japan at the high end."

Dechert's Bedford believes that the reason why the financial services industry is on the frontline of anti-money laundering is because of the "volume and value of transactions that are processed on a daily basis."

He continues: "Given the significant increase in sanctions activity since February 2022, there is likely to be more crossover between AML and sanctions issues and, in particular, the financial services industry will need to focus on potential circumvention of sanctions."

With the scale of the task at hand, the issue of manpower comes to the fore. As the endeavour of stamping out AML and CFT ever-growing with the development of technology, the number of capable people required to execute that task grows greater still.

This is the key challenge highlighted by Rory Doyle, head of Financial Crime Policy at Fenergo, who states: "One of the most significant challenges facing financial institutions in AML compliance is addressing the growing skills gap and shortage of qualified financial crime professionals needed for effective client due diligence."

One approach to bridging that burden comes in the form of outsourcing. Jonathan Perkins, global director of AML at Carne Group, believes that as the AML regulation becomes increasingly complex and difficult to understand, firms will have to rely on external legal expertise.

He argues that "compliance with this regulation is a challenge and non-compliance can lead to fines which can bring not only financial damages, but reputational damages too."

Perkins adds that this has meant that, "we're increasingly seeing financial services turn to AML specialists to help them navigate this landscape. Ensuring that financial institutions are requesting the same level and standard of AML/KYC documents for customers across all EU member states in line with AMLA expectations.".

The other approach suggested is to remove the man from the issue of manpower.

Tech tactics

"As EU regulators increasingly look for more quantitative information and reporting from the entities they supervise, the industry needs to ensure that they have the required tools to easily obtain and assess large volumes of customer data in a quick and flexible fashion, whilst still adhering to GDPR requirements." Perkins explains, before instructing: "the use of AI will be key to adapting to these developing requirements."

AI is identified across the industry as one of the best defences against financial crime. Yet, while the new watchdog will be able to use the latest, cutting-edge technology, so will the criminals.

Dechert's Bedford comments: "The financial services industry continues to grapple with the challenges and opportunities posed by AI. There will inevitably be an increase in criminals using AI tools in money laundering schemes but there will also be opportunities for banks and financial institutions to use AI to improve their AML compliance programmes."

Fenergo's Doyle considers AI as key to overcoming the issues faced with man power and sees automation as integral to bringing money laundering under the industry's thumb. He states: "To tackle the challenges of growing workloads and fewer skilled professionals, using technologies like machine learning and artificial intelligence in a cloud-based AML ecosystem which automates processes for compliance and onboarding is essential."

The importance of technology is reinforced by FinScan's Marshall who suggests that, "technology will continue to differentiate how organisations detect, prevent, and report on AML and CFT crimes".

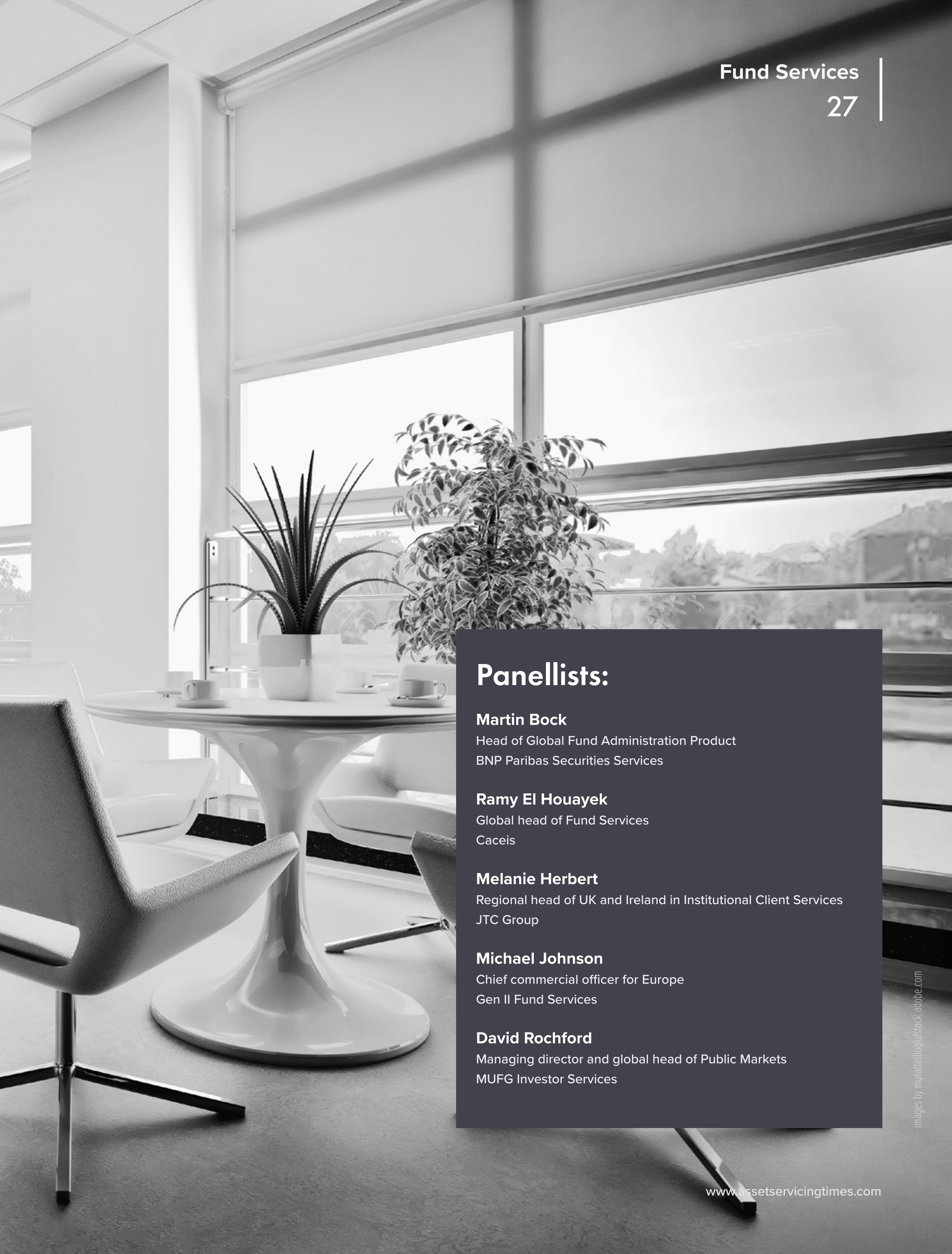
Marshall accepts AI will be important but is hesitant to throw unequivocal support behind the use of the technology for AML. He explains: "While AI is often touted as a solution, only AI that clearly illustrates its screening logic will be acceptable to the regulators. Beneficial ownership and financial instrument sanctions detection will gain focus, especially with ongoing Russian sanctions. Stricter enforcement, greater scrutiny, and higher penalties are expected."

Yet, he concludes that should the watchdog bring "increased collaboration among regulators, financial institutions, and other stakeholders will enhance efforts to combat money laundering", AI could be a powerful tool to combat money laundering and financing of terrorism.

The watchdog is aiming to start the majority of its oversight activities by mid-2025 and, as the industry players have suggested, represents an opportunity to truly tackle one of the industry's greatest challenges. ■

Fund services in European markets

As the sector continues to innovate Martin Bock, Ramy El Houayek, Melanie Herbert, Michael Johnson, and David Rochford discuss the challenges and future developments facing fund services in Europe



Panellists:

Martin Bock
Head of Global Fund Administration Product
BNP Paribas Securities Services

Ramy El Houayek
Global head of Fund Services
Caceis

Melanie Herbert
Regional head of UK and Ireland in Institutional Client Services
JTC Group

Michael Johnson
Chief commercial officer for Europe
Gen II Fund Services

David Rochford
Managing director and global head of Public Markets
MUFG Investor Services

In light of the recent regulatory changes in Europe, how do you foresee fund administrators adapting their compliance strategies to ensure alignment with evolving regulatory standards such as MiFID II and AIFMD?

> "In terms of service strategy, fund administrators need to move away from offering standardised services by offering customised services that bring added value to each client, and yet work as efficiently, as integrated, and as robust as any standardised service does"
>
> **Martin Bock, BNP Paribas Securities Services**

Michael Johnson: Gen II is continually enhancing its compliance strategies through increased investment in technology and expertise. This includes regulatory technology solutions to streamline compliance processes, improve data accuracy and ensure timely reporting. Training programs are also continuously rolled out to keep staff abreast of regulations and their implications, ensuring a proactive approach to compliance, whilst horizon scanning for new legislation that can then be fed back into Gen II's training and RegTech solutions.

David Rochford: It is critical that fund administrators and their trusted partners closely monitor the shifting regulatory standards.

That means staying abreast of the regulatory updates and court rulings, having a clear idea of the ramifications internally and to clients, and developing solutions to support their needs.

Martin Bock: Fund administrators need to constantly adapt their services to evolving market needs in order to manage the complexities that managers of AIFs and UCITS are facing. For instance, offering a full range of expert solutions to manage liquidity at fund level through a range of Liquidity Management Tools (LMTs), or ensure fully transparent fair value pricing and price selection scrutiny for each asset held on the portfolio, including OTCs.

Furthermore, clients require an easily accessible yet very holistic oversight of every aspect of the services that are delegated to us, which in turn calls for enhanced oversight reporting solutions ranging from drill-down dashboards to data solutions that include APIs. Likewise, increasingly complex regulatory reporting requirements call for a full range of regulatory reporting solutions that can be easily adapted to changing requirements.

In terms of service strategy, fund administrators need to move away from offering standardised services by offering customised services that bring added value to each client, and yet work as efficiently, as integrated, and as robust as any standardised service does.

Especially for AIFMs, a perfect example of this is BNP Paribas' loan solutions, which enable AIFMs to close their deals, monitor their loan portfolios and provide detailed reports. This solution is fully embedded within a broader private debt offer, spanning across fund servicing and financing.

"Fund administrators will adapt to evolving European regulations by enhancing reporting and transparency, upgrading technology, and strengthening data management"

Ramy El Houayek: Fund administrators will adapt to evolving European regulations by enhancing reporting and transparency, upgrading technology, and strengthening data management.

They will focus on continuous staff training, collaboration with legal experts and improving risk management practices. It will require stronger governance structures and prioritise investor protection to ensure compliance with new regulatory standards.

Digital transformation is reshaping the financial services landscape. How are fund administrators leveraging emerging technologies like blockchain and AI to enhance operational efficiency and improve client service delivery?

> "Tokenisation will enhance operational efficiency, transparency, and global competitiveness by automating key processes like transaction settlements and record-keeping"
>
> **Michael Johnson, Gen II Fund Services**

Johnson: Fund tokenisation at asset level, and digitised ledgers at investor level are largely expected to be phased into existing regulatory frameworks around the world. Tokenisation will enhance operational efficiency, transparency, and global competitiveness by automating key processes like transaction settlements and record-keeping. It also promises greater data transparency, which could revolutionise investor relations and fund governance by providing better access to investment data and simplifying voting processes. Combined with digital ledgers this could accelerate more secondary transactions within private capital. By digitising such processes, the administrative burden and associated costs can also be reduced.

Gen II has recently introduced AI into its quality control processes, which not only improves efficiency at peak periods but is also leading to even greater levels of accuracy in identifying accounting and clerical errors.

Rochford: AI shows great promise, but it is still very early days regarding how it will shape the industry. We are testing AI with internal solutions to better understand its capability, and we're working with tested large language models and more readily available end user tools.

We have launched Clarity, our own AI-powered bot for operational teams, that helps users with day-to-day questions relating to operational processes or internal policies and procedures. Security of data also is critical when developing AI solutions and we've adopted a secure-by-design approach. One of our core principles is ensuring that client and business data does not leave our environment, ensuring that we remain in control of our data.

In addition, we are working with fund managers to transform their operating models by implementing 'golden sources of data' and developing improved workflows to help better service clients. We have created workflows to help clean and capture data accurately as it enters our ecosystem and is tagged for its entire lifecycle to provide traceability. We can then make this data available to our clients or investors through APIs, dedicated investment manager and investor portals, directly in their data warehouse to provide on-demand, real-time access in their platforms or even an investment manager's SharePoint.

El Houayek: Fund administrators are leveraging emerging technologies like blockchain and AI to enhance operational efficiency and improve client service delivery by automating processes, reducing errors, and improving data accuracy.

"Digital transformation from a fund administrator perspective is all about driving operational efficiencies and enhancing service delivery – and that is being driven from both the manager and the investor side"

Blockchain enables a transparent and secure transaction process, while AI can play a role in predictive analytics and personalised client interactions.

Even though it is still at an early stage, blockchain enabling asset tokenisation projects could, for the fund administrator, lead the way to an instant NAV by leveraging its instant settlement benefits. On the subject of AI, most projects focus on efficiency gains, and initial results are really promising, not only for fund administrators but also for all our business lines. We should keep in mind that AI goes hand in hand with data, and that the real challenge is probably mostly related to the quality and availability of the data rather than the AI algorithm.

Melanie Herbert: Digital transformation from a fund administrator perspective is all about driving operational efficiencies and enhancing service delivery – and that is being driven from both the manager and the investor side. Managers, for example, are looking to be able to access real-time information, while investors are increasingly hungry for data – and they do not want to have to log in to multiple portals, they want singular, easy access.

Fund administrators need to be alive to that challenge – it is about integrating systems. In the past, it has been a sector that has been somewhat fragmented in terms of its implementation of technology. Bringing new and different systems together to work seamlessly with each other and with what is already in place is really important.

With the rise of digital assets and cryptocurrencies, what challenges and opportunities do you anticipate for European fund administrators in terms of custody, valuation, and regulatory compliance?

> "For fund administrators, there is certainly considerable opportunity in this space – the fact that the Boston Consulting Group estimates that the size of the tokenised illiquid asset market could reach US$16 trillion by 2030 gives some indication of the potential in this sector"
>
> **Melanie Herbert, JTC Group**

Herbert: The rise of virtual assets should, overall, be seen as an opportunity, and not just a challenge. For fund administrators, there is certainly considerable opportunity in this space – the fact that the Boston Consulting Group estimates that the size of the tokenised illiquid asset market could reach US$16 trillion by 2030 gives some indication of the potential in this sector.

But it is not just the size of the virtual assets landscape that is interesting, it is also the impact on the overall shape of the sector.

One of the main selling points of tokenisation is that it allows for assets to be split up into much smaller units, breaking down some of the entry barriers investors typically face, and making the private markets more accessible to a broader group of investors.

That is an interesting proposition for a fund administrator, opening up a number of new avenues in terms of the custody, valuation and regulatory compliance services we offer – in particular as the sector continues to evolve rapidly and as regulators tighten up their frameworks.

El Houayek: The rise of digital assets and cryptocurrencies presents challenges in terms of custody, valuation, and regulatory compliance for European fund administrators.

They must navigate evolving regulations, establish secure custody solutions, and develop accurate valuation methods. However, this also opens opportunities for offering new investment products and services.

The rise of digital assets is a reality on the market, which is why we decided to create a dedicated business line for all related activities. It is important to mention that digital assets encompass both securities tokens and crypto currencies including utility tokens and future CBDCs.

One of our key challenges is to hide the complexity for our clients while enabling them to benefit from the technology. This is why we have equipped ourselves with new IT systems and a specialised team, to ensure we can provide a similar trust and security framework as that for traditional assets.

It is also important to emphasise that traditional asset servicers are the only ones to be in a position to act as a one-stop shop for both traditional and digital assets.

"The lack of a cohesive regulatory environment means fund administrators must navigate a patchwork of regulations across different jurisdictions"

Michael Johnson: While these relatively new assets can be complex to work with from a fund admin perspective, there are opportunities to offer specialised services in this emerging sector, attracting more clients and expanding market reach. The primary challenge is the nascent and fragmented regulatory framework. The lack of a cohesive regulatory environment means fund administrators must navigate a patchwork of regulations across different jurisdictions. This increases the burden, requiring varied approaches to satisfy different regulatory bodies.

Additionally, as regulations evolve, administrators must continuously monitor changes to stay compliant. Some jurisdictions may currently lack dedicated frameworks for these assets, focusing instead on specific areas like anti-money laundering or consumer protection.

This scenario is typical when a new asset class emerges, and over time, these challenges will likely be resolved, usually using principles of the past that are tried and tested.

Outsourcing of fund administration functions has become increasingly prevalent among asset managers. What factors should asset managers consider when selecting a fund administrator, and how can administrators differentiate themselves in a crowded market?

> "Fund managers must see their administrators as 'trusted partners' that know and understand their business"
>
> David Rochford, MUFG Investor Services

El Houayek: When selecting a fund administrator, asset managers should consider factors like regulatory expertise, technological capabilities, cost-efficiency, and service quality. Administrators can differentiate themselves by offering specialised services, innovative technology solutions, and exceptional client support.

Rochford: Fund managers must see their administrators as 'trusted partners' that know and understand their business. A true, trusted partner understands a manager's requirements — sometimes starting with a small or discrete task and proving it can do more. The best partners are intensely focused on building trust, being flexible and open-minded, and providing the best possible solutions. We are seeing a trend where managers previously outsourced accounting activities, then middle office services and now front office support services, and administrators need to adapt to these changes.

Bock: Asset managers face considerable market pressure due to investor demands on transparency and advanced analytics over portfolio performance and cost management, growing competition, lowering margins, managing operating costs and their operating model for more efficiency and especially better integration of middle and back office data.

With these multiple elements to handle, asset managers need to be able to rely on a partner that addresses their needs today and tomorrow and moreover allows them to focus on their core competence – asset management and generating performance for their investors.

Selecting a provider is also a long-term commitment since setting up interfaces, fine-tuning the operating model to deliver optimal performance and meet precise and measurable expectations, and implementing an optimised change management process, takes time and is costly to switch. We also see growing scrutiny from investors and other stakeholders on the choice of outsourcing providers. Hence the need for a reputable, stable, reliable, knowledgeable, resilient and flexible partner who constantly invests in systems, operational efficiencies, new services, new geographies, and stay in tune with a constantly changing industry.

BNP Paribas' clients are especially vocal on our teams' expertise, their dedication to serve them and to constantly enhance our services. It is a question of mindset. We work on the long term and endeavour to constantly improve ourselves.

Johnson: All in all, Gen II's focus has always been on enabling fund managers to focus on their core fund raising and investing while providing them with tools and solutions to optimise their operations — and that is how fund administrators should be evaluated. Asset managers can break this down by looking at three fundamental areas that influence all services provided by fund administrators; asset class expertise, service quality and technological capability.

On the technology side, Gen II's capability is now stronger than ever, offering strategic and digital solutions to meet our clients' operational needs. For example, Gen II offers clients powerful access to their fund data through the Sensr product suite. This fully integrated, next-generation, web-based set of solutions allows firms and their investors access to all aspects of their fund data and analytics through our Portal, Analytics and DataBridge products.

In terms of expertise and service quality, Gen II is the largest independent private equity fund administrator, with the longest-tenured, most experienced team in the industry. Following the recent acquisition of Crestbridge, we offer unparalleled real asset services which support global strategies, tailored for scalable success. Finally, because our experts and clients maintain a strong partnership over the duration of our relationship and we're able to tailor our services to our clients' specific needs, we produce exceptional value add – and maintain a strong track record of client satisfaction.

Herbert: Outsourcing has risen up the agenda for managers for a number of reasons. First and foremost, it is about risk mitigation – managers are alive to the fact that the landscape is increasingly complex and outsourcing risk is a sensible play for them. It can be a cost-effective solution too, with outsourcing often being easier and more attractive than hiring a permanent in-house expert. And it can provide access to deep pools of specialist talent and expertise. It is why JTC puts so much emphasis on its shared ownership model, because it engenders such good talent retention. Managers like the fact that they can call on consistent, broad, and independent expert advice from a stable multijurisdictional team.

"When it comes to selection of an outsourced administration solution, there is no doubt that in the current macro environment, there is an extraordinary downward pressure on pricing in the sector"

Melanie Herbert, JTC Group

When it comes to selection of an outsourced administration solution, there is no doubt that in the current macro environment, there is an extraordinary downward pressure on pricing in the sector. But choosing a fund administrator should not be about price alone — it should be about added value, the capabilities an administrator can bring, the long-term picture, the quality of service, and the ability to harness technology in a smart way.

All these things are vital, because a manager needs to know that their administrator can be there to support them throughout their funds' life span, at every step, with an ability to grow with them. Ultimately, it is about helping a manager to come across as best they can to their investor audience. That is where an administrator can really differentiate themselves, particularly in an environment where it is so hard to raise capital — by building that relationship and being the trusted link between the manager and the end investor.

Cybersecurity threats pose a significant risk to financial institutions. How are European fund administrators proactively addressing cybersecurity challenges to safeguard sensitive financial data and maintain the trust of their clients?

> "Cybersecurity is not only a matter of IT, and although we do pay much attention to technology, cybersecurity issues often come from the human part of the process"
>
> Ramy El Houayek, Caceis

El Houayek: European fund administrators are addressing cybersecurity challenges by implementing robust security protocols, conducting regular risk assessments, and investing in advanced cybersecurity technologies. They focus on safeguarding sensitive financial data and maintaining client trust through continuous monitoring and incident response strategies.

Cybersecurity is not only a matter of IT, and although we do pay much attention to technology, cybersecurity issues often come from the human part of the process, which is why our people are trained and regularly tested on those topics. This allows us to benefit from a best of breed set-up for combining both the Human and IT side.

Herbert: In an increasingly digitised environment, it is clear that cybersecurity remains a major risk. Administrators should not position themselves as cybersecurity experts, though – instead, they should seek to work with and have the best-in-class software and solutions to protect their own clients.

Again, it is about digital integration, bringing together the digital solutions they need to deliver what they do best – fund administration - backed up by leading cybersecurity experts and software.

Rochford: We see trust as being critical across the industry. Accordingly, fund managers and administrators continually are investing to keep information secure, especially as digitisation increases. This is centred around understanding the threats facing their businesses through timely threat intelligence and exposure management, and ensuring that information is used to support the design and operation of security measures.

While technology continues to play a critical role in securing information, the role of employees here is fundamental. We must equip them with the knowledge and provide support to operate securely. This should include regular cyber training and awareness activities, supplemented with timely, targeted activities related to changing cybercriminal tactics. Firms also must have an open culture that encourages employees to report anything that looks suspicious so it can be fully investigated.

Johnson: To proactively address cybersecurity threats, European fund administrators are implementing comprehensive cybersecurity frameworks that include regular vulnerability assessments, advanced encryption protocols and continuous monitoring of IT systems.

Employee training on cybersecurity best practices and incident response plans all form part of a wider system to safeguard sensitive financial data and maintain client trust. Gen II also has additional specialist technology focussed around the two highest risk areas, payments and emails. This includes features such as being able to set network restrictions on the use of email attachments.

The trend towards consolidation in the fund administration industry has been evident in recent years. What factors are driving this trend, and how do you foresee it impacting the competitive landscape and service offerings of European fund administrators?

Johnson: The biggest factor is perhaps the need for economies of scale, enhanced technological capabilities and both broader and deeper service offerings. This consolidation is likely to result in fewer mid-sized companies and a larger pool of both small and large fund administration firms. The larger firms will likely have more robust and integrated service platforms, potentially increasing competition between them whilst driving innovation and efficiency. The smaller fund administration firms will likely specialise in particular niche areas and develop deep expertise, technology and processes for those niches.

Rochford: It is similar to the world of fund managers in many ways — big firms are growing bigger as the funds market grows and the amount of assets to manage and service increases. Administrators, especially those that are bank-owned, can provide a comprehensive breadth of services, offer more stable revenue and can be less capital intensive.

Herbert: What we are seeing is managers moving increasingly towards one provider that can offer them end-to-end service delivery and a seamless transition along all stages of their fund lifecycle. Rather than having to go to multiple providers, for instance, the preference is to have one point of contact that can support them in multiple ways – whether that is fund launch, administration, accounting, corporate services, management company services, governance or depositary services, across multiple jurisdictions such as the Channel Islands, UK, Ireland, or Luxembourg.

It means they save time, not having to explain a situation to multiple providers, it means they benefit from consistency and having an administration partner that really understands them in depth, and it means that they get benefits of scale and efficiency from a provider that is not just involved in one aspect of their business.

"The larger firms will likely have more robust and integrated service platforms, potentially increasing competition between them whilst driving innovation and efficiency. The smaller fund administration firms will likely specialise in particular niche areas and develop deep expertise, technology and processes for those niches"

Michael Johnson, Gen II Fund Services

El Houayek: The fund administration industry's consolidation trend is driven by the need for scale, cost efficiency, and enhanced service capabilities. This trend is expected to increase competition, leading to more comprehensive service offerings and potentially lower costs for clients.

With the growing interest in alternative investments such as private equity and real estate funds, how are European fund administrators adapting their platforms and processes to support the unique requirements of these asset classes?

> "We invest considerably in making the operational boundaries between traditional and private capital asset classes disappear, allowing for a single service experience worthy of a truly global service provider"
>
> **Martin Bock, BNP Paribas Securities Services**

Bock: Private equity and real estate funds present significant growth opportunities for asset managers. The increasing sophistication of all aspects of asset management, from identifying opportunities, to measuring performance down to managing all administrative aspects, drives the platform strategy of service providers.

The key to a successful approach is twofold.

We actively listen to our clients. Asset managers place great value in highly specialised and integrated bank services that cover fund accounting, complex reporting requirements, loan management, liquidity management, asset valuation and reporting, and more – whatever their investment strategies.

We help them meet operational deadlines and handle complex fund structures while supporting transparency and disclosure requirements for investors, stakeholders, and regulators.

We continuously invest in our systems by offering new functionalities, better reporting, and above all extensive automation and connectivity with the outside world to exchange data.

While we do operate highly sophisticated systems to address the needs of private capital, hedge and traditional investments, we invest considerably in making the operational boundaries between traditional and private capital asset classes disappear, allowing for a single service experience worthy of a truly global service provider.

El Houayek: European fund administrators are adapting their platforms and processes by developing specialised expertise, enhancing reporting capabilities, and integrating the appropriate technology solutions that respond to the specific needs of these asset classes.

Johnson: Gen II is continually evolving its platforms to support the requirements of our private equity and real estate fund clients.

This involves customising reporting frameworks, enhancing valuation methodologies and integrating specialised investment management software to handle the unique characteristics of these asset classes.

For example, Gen II uses FIS Investran for private equity and Yardi for Real Estate at the GL level, and we will not compromise when it comes to the use of best-of-breed platforms for asset classes.

"We support clients globally on our unique platforms and same experience covering key fund jurisdictions, so they have the same experience to address their needs across global and local teams"

David Rochford: We are providing fund managers with a 'one-stop shop' for services. We support clients globally on our unique platforms and same experience covering key fund jurisdictions, so they have the same experience to address their needs across global and local teams. We spend a great deal of time developing tailored, best-in-breed solutions for our clients and support them with our own applications that complement and differentiate our services. For example, we have created robust models to help determine complicated carried-interest calculations. At the same time, we are centralising repetitive tasks, payments, recs, and the capital call process while providing flexibility on how we deliver our services.

Looking ahead, what do you see as the most significant challenges and opportunities for European fund administrators in the coming years, and how do you envision the industry evolving to address them?

"Target operating models within funds and across service providers that support these funds are already changing and we expect that to significantly increase in the coming years"

David Rochford, MUFG Investor Services

El Houayek: The most significant challenges for European fund administrators include regulatory changes, technology evolution, new products such as cryptocurrencies and cybersecurity threats. Opportunities are in digital transformation, expanding into alternative investments, and providing value-added services. The industry is likely to evolve towards greater efficiency, transparency, and client-centricity.

Herbert: The key challenge for managers is likely to revolve around market instability. We have seen the extent to which market and geopolitical instability over the past year or so has impacted fundraising and transaction flow – and with unrest in Europe, the Middle East and elsewhere set to persist, and with the regulatory landscape continuing to evolve at pace, that fluid and uncertain outlook is set to continue.

From a fund administrator's point of view, the key is to be agile. We have very much taken the view at JTC that we need to be big enough to deliver deep pools of expertise, but also agile enough to be able to evolve, adapt and respond to the market as needs be, to support managers. That agility – both in terms of people, and infrastructure and systems – is rooted in having the right organisational culture. It will be critical in the coming years with the potential to be a real differentiator.

In tandem with that, we are going to see technology continue to shape our landscape too. The important thing for us as an administrator will be to balance the best of both worlds – embracing our entrepreneurial mindset to realise the benefits of smart adoption of technology, whilst at the same time drawing on the power of our people to nurture our client relationships, something that is so embedded in our culture.

Rochford: We will continue to see a dramatic transformation in operations and technology. Target operating models within funds and across service providers that support these funds are already changing and we expect that to significantly increase in the coming years.

There is no doubt that regulators will continue to amend existing rules and implement new ones — we have already seen an increase in disclosure and transparency regulations, and we anticipate seeing new rules governing AI soon.

Fund administrators must closely track these changes and develop new processes and systems to ensure we continue providing clients with superior client experience. We make our clients' needs a priority, and we want to know what is important to them. Increasingly, we are providing back, middle, and front office functions to make the investor experience, especially onboarding, more efficient and easier.

"Eventually, we see that scale and resilience are gaining in importance for asset manager"

Martin Bock: The industry will have to take up a lot of exciting challenges in coming years. Our clients expect that we embrace increasing personalisation of investment portfolios, increasing integration with their front office systems, along with a cost-efficient setup – both internally and externally.

We expect that the extent of outsourced services will increase considerably, and will encompass tasks for which fund administrators interact with external platforms on behalf of their clients.

Data and reporting stay at the forefront of BNP Paribas' developments for clients. Asset managers need to monitor all aspects of their outsourcing arrangements and the operating costs of their funds to a great level of detail. We need to ensure full data consistency across multiple systems and geographies to help our clients meet the increasingly complex regulatory requirements across the globe. They count on their fund administrator to ensure compliance and investor protection.

We furthermore expect the enhanced Accounting Book of Records (ABOR) to become increasingly important as it is the only fully reconciled source of truth for investors and regulators.

Eventually, we see that scale and resilience are gaining in importance for asset managers, which underlines the relevance of large and integrated services providers.

ESG investing has gained significant traction in recent years. How are European fund administrators incorporating ESG factors into their service offerings and reporting frameworks to meet the growing demand from investors for sustainable investment options?

> "Looking ahead, as the fund industry faces new challenges in the age of sustainable finance and ESG rulemaking, the role of asset servicers will continue to evolve"
>
> Ramy El Houayek, Caceis

Herbert: The issue of environmental, social and governance (ESG) factors continue to pose complex questions for managers. When you distil it, there are really three points a manager has to think about when it comes to ESG – what are their requirements and obligations under regulation; what is their capability in terms of gathering and managing data; and how are they going to report that to investors?

Generally, the strengths of a fund administrator really lie in the last point, around investor reporting. That is the sweet spot — what a good fund administrator should be able to do well and where they can add most value.

We are fortunate that at JTC we are also able to draw on the expertise of our wider Sustainability Services team too, who can provide specialist additional knowledge to support clients in this evolving space.

El Houayek: Providing ESG data and reporting services has quickly become a standard feature for fund administrators driven by the rise of ESG and sustainable investing regulations in Europe.

With the introduction of the Sustainable Finance Disclosure Regulation (SFDR), sustainability risk monitoring first became a necessity for funds and has since evolved into a broad spectrum of ESG monitoring and reporting services, including regulatory and industry reporting — for example; SFDR, EET, Taxonomy, and TCFD — ESG factsheets, controversial activity screening, and investment restriction monitoring. Additionally, stress testing and advanced modelling for climate risk are emerging areas that are gaining traction fast.

Given the specialist nature of ESG and enduring challenges around data consistency, it is often looked at in isolation by specialist teams. However, there is an increasing trend towards combining ESG analysis with traditional risk and return analysis. Such an integrated approach helps provide a more comprehensive view of a portfolio's performance and sustainability.

Looking ahead, as the fund industry faces new challenges in the age of sustainable finance and ESG rulemaking, the role of asset servicers will continue to evolve.

Our mission is to help asset managers implement ESG investment strategies, meet regulatory and industry reporting requirements and promote best practices to enable them to grow their businesses sustainably. ■

Beyond the surface

After the FCA introduced a new anti-greenwashing rule, Jack McRae speaks to members of the asset servicing industry to assess its potential impact and the future steps required for sustainability

The UK's Financial Conduct Authority (FCA) has made it clear that stamping out 'greenwashing' is central to creating a more sustainable future for the nation. The UK government has set a goal of reaching net-zero by 2050, yet the FCA believes that, without greater environmental, social and governance (ESG) compliance, efforts to reach that target will be hindered.

Sheldon Mills and Sacha Sadan, executive director of Consumers and Competition and director of Environmental, Social and Governance respectively, explained that: "Better industry standards will improve market integrity and consolidate the reputation of the UK as a leading international hub for sustainable finance, helping to attract those looking for genuine, credible sustainability-oriented investment opportunities."

But what are they doing to get there?

The FCA has introduced new anti-greenwashing rules which aim to ensure financial institutions adhere to ESG rules. The new rules aim to offer clarity to investors by making firms demonstrate more truthfully that they are complying with regulation,demonstrating they are in accordance with the four C's — Correct, Clear, Complete, and fair Comparisons.

The new rules have been embraced by Martina Macpherson, head of ESG product strategy and management, Financial Information at SIX, who states: "What the regulation covers is expansive, and there is hope this will bring more clarity and consistency when it comes to sustainable investing. But it is important to note this is the first step of many."

By their own admission, the FCA "have been concerned that some firms may be making misleading or exaggerated sustainability-related claims about their investment products."

And they are right to feel that way, according to Mattie Yeta, chief sustainability officer at CGI.

"In 2020, the Competition and Markets Authority (CMA) led a sweep of 500 websites together with other global consumer protection agencies and found that 40 per cent of international businesses had made misleading environmental claims," Yeta explains.

"In 2021 it was reported that the CMA spent an estimated 29,471 working hours (equivalent of three years and four months) on its probes into greenwashing to crack down on wrongdoers between September 2021 and January 2024."

images by fokke_baarssen/stock.adobe.com

The state of greenwashing

Exactly how big of an issue is greenwashing in the UK?

Sophie Tuson, environment and climate change practice lead at RPC, offers a rather bleak assessment. She explains: "Greenwashing is a significant issue in the UK, as it is globally.

The increasing consumer and investor demand for sustainable products and services has led some firms to make exaggerated or misleading claims about their environmental and social impact."

Rampant greenwashing across the industry has created what Tuson describes as a 'trust deficit' that has led to, "stakeholders, including asset managers, finding it challenging to differentiate between genuinely sustainable products and those falsely marketed as such."

Tuson argues that the issue is widespread, and growing.

"We are seeing an uptick in greenwashing cases and investigations against listed companies in both the financial and non-financial markets," she explains.

"These exemplify the pervasive nature of this problem. The result is not only consumer deception but also a potential misallocation of capital away from genuinely sustainable investments."

Volker Lainer, head of ESG, Connections and Regulatory Affairs at GoldenSource, goes further to suggest that the development of ESG protocols in the industry has only revealed the extent to which greenwashing is seeped into the roots of the industry.

He says: "The increased accessibility of ESG metrics and methodologies has given the industry a much deeper understanding into how greenwashing manifests itself, and regulators like the FCA are now paying much closer attention."

Paying attention

RPC's Tuson praises the new rule as "a robust step" in the efforts to quash greenwashing in the financial services industry. She states: "By requiring all sustainability-related claims to be fair, clear, not misleading, and consistent with the product's sustainability profile, the rule imposes a high standard of transparency and accountability, in a similar way to the CMA's Green Claims Code.

"The inclusion of the four C's helps ensure that firms substantiate their claims comprehensively and present them transparently. This rule, aligned with other regulatory frameworks like the Green Claims Code from the CMA and the ASA guidance, forms a cohesive regulatory approach to tackling greenwashing."

Tuson is not keen to over-lavish praise upon the FCA just yet, and says that the rule's effectiveness will rely on "proactive enforcement and the willingness of the FCA to pursue significant cases to set a precedent."

CGI's Yeta considers the crackdown on greenwashing as inevitable. She comments: "We are aware that it is likely only a matter of time before we start to see greenwashing litigation claims being brought against corporations in the UK."

Yeta continues to explain that the risk of reputational damages means companies need to "keep up to date with measures such as the Code and the FCA's new anti-greenwashing rules which help generate awareness."

SIX's Macpherson echoes this sentiment and warns that companies will have to stay aware of changes to regulation. She believes that, "with more specific product labelling rules set to apply from July, UK firms must brace themselves for these ongoing changes to better navigate the complexity jungle."

Macpherson continues to promote working with 'trusted vendors' as the "the only way firms can back up their sustainability credentials, meaning they will be better placed to meet new regulatory requirements and prepare for those to come later this year."

GoldenSource's Lainer places emphasis on the importance of data management in remaining on top of ESG compliance.

He comments: "As with all regulations, financial institutions must ensure they have an effective data management strategy in place from now, enabling systems to efficiently collect and aggregate ESG risk-related data to evidence sustainability claims both internally and externally.

"Firms that prioritise [higher scrutiny] will find themselves in a much stronger position as and when the next stages of the UK's SDR are implemented."

Lainer labels the FCA's new rules as "an important step in the right direction", but believes more work has to be done.

The next steps

RPC's Tuson believes there are four further problems that still need to be addressed in order to make the financial services industry more sustainable.

Tuson calls on the FCA to "actively monitor the market and investigate potential greenwashing cases, as we're seeing the CMA and ASA doing, rather than relying on third-party complaints. This proactive stance could deter firms from making misleading claims."

She continues to argue that there should be "sector-specific guidance" to make understanding the rules easier as well as whistleblower protection.

Tuson explains: "Strengthening protections for whistleblowers and ensuring robust internal reporting mechanisms are crucial.

"This approach can help identify and rectify misleading claims internally before they escalate to regulatory scrutiny."

Finally, Tuson believes that the FCA should ensure that the consumer is better informed. She believes that "educating consumers about what to look for in sustainability claims can empower them to make informed decisions and spot potential greenwashing."

CGI's Yeta is also intent on not getting carried away with the hope that these rules will be immediately revolutionary.

Somewhat muting the earlier optimism, she says: "Whilst the new anti-greenwashing will likely lead to enforcement action in time, it is unrealistic to expect any published outcomes citing a breach of this rule in the immediate future; typically, it takes at least two to three years for enforcement outcomes to follow a new rule."

Yet, she argues the FCA have more than enough powers currently in place to begin making a concerted effort to crack down on companies greenwashing.

Yera explains: "The FCA's pre-existing suite of powers, as well as its principles-based approach to enforcement, is certainly broad enough for it to be enforcing against greenwashing now, whether that is on a criminal basis under the Financial Services Act 2012, or on a regulatory basis for breach of its rules or principles."

Extra ESG

Both RPC's Tuson and CGI's Yeta believe greater steps need to be made to ensure all ESG regulation is being complied with. Both share the belief that data collection and standardisation are integral to ensuring firms remain in-line with rules.

Yeta explains: "Data collection is essential for organisations to successfully identify, assess and report on ESG. For instance, information on clients' greenhouse gas emissions or the locations of their production facilities allows organisations to assess the exposure to physical and transition risks."

She continues to suggest that "information on clients' supply chain structure, including exposure to geographies with higher human rights can give an organisation a better overview of its value chain activities."

The difficulty with this data collection is its resource-intensive nature. Collecting and ensuring this data is accurate requires significant manpower, time and resources and, even then, is still not always accurate. Yeta argues: "The industry needs to find the means to better collaborate and share data for ease of reporting and communication."

RPC's Tuson wants the industry to adopt "standardised metrics and reporting frameworks for ESG data" because, in their current form, they are unable to offer fair and accurate comparison and demonstrate the true levels of sustainability between different investments.

Firms also need to offer "transparency and accountability in supply chains, especially regarding human rights and environmental impact," Tuson adds. "Addressing climate-related risks and ensuring resilience against climate impacts is also vital for long-term sustainability."

Creating a sustainable future is reliant on firms becoming more ESG-compliant and the FCA enforcing rules that crackdown on greenwashing. Yet, at the root of the problem is a laissez-faire approach to becoming sustainable.

Not only does the impetus fall on the regulators to prevent greenwashing, Tuson rallies firms who "must go beyond surface-level commitments and integrate ESG factors into their core business strategies and operations [by] setting and meeting ambitious sustainability targets and ensuring that these are reflected across the entire value chain."


State Street hires Dollaku and Lamanna

State Street has appointed Denis Dollaku as head of Business for State Street Bank International (SSBI), and Riccardo Lamanna as head of Products for SSBI.

Both Dollaku and Lamanna will report to Andreas Przewloka, CEO of SSBI.

Lamanna also has a dual reporting line into Chris Rowland, head of Custody, Cash and Depositary Bank Services.

In his new role, Dollaku will be responsible for SSBI's commercial strategy to drive revenue growth, increase market share, and position SSBI as the partner of choice.

He will bring together and oversee sales, client management, client relationship management, client experience and services, and sales enablement functions across SSBI.

Dollaku will also continue his current responsibilities as Italy country head and a member of the executive management board for SSBI.

While retaining his Luxembourg Country Head responsibilities, Lamanna will be responsible for leading the firm's efforts in aligning the governance and development of products delivered by SSBI to its clients and assumes responsibility of the depositary bank function across SSBI with additional reporting lines across Continental Europe.

Andreas Przewloka, CEO of State Street Bank International, comments: "We are pleased to welcome Denis and Riccardo to their new leadership roles. Their extensive knowledge and experience will be instrumental as we continue to strengthen our market position and deliver on our strategic objectives." ■

Four join DTCC Board

DTCC has announced the appointment of four new members to their board of directors. The market infrastructure firm confirmed Brian Gallagher, Christopher Gelvin, Jon Herrick and Igor Modlin have joined the board.

Kevin M. Kessinger, non-executive chairman of DTCC's Board, welcomes the appointments, saying: "They bring extensive leadership skills, deep subject matter expertise and diverse experiences in financial services to the Board at a time when the industry is looking to DTCC for enhanced support. As our company takes on a larger role leading change through innovation, we look forward to their guidance, insights and contributions."

Gallagher, global head of Markets Operations at JPMorgan Chase, is responsible for operational support for the Markets Sales and Trading businesses.

Gelvin, group operations and technology office chief operating officer at UBS, is responsible for strategic planning and operating management, data governance and the technology investment portfolio across the firm.

Herrick, chief product officer at the New York Stock Exchange, leads product development and innovation at the exchange business.

Modlin, global head of Prime Services Product Development at Goldman Sachs, is responsible for Prime Services' front to back efforts.

Noren announces retirement

Ulf Noren has announced his retirement from SEB. Noren spent over four decades in the financial services industry, with over half of that coming at SEB.

He announced his decision via a post on LinkedIn which reflected on his time in the industry. Noren noted the change that the likes of “computers, faxes, host-to-host connections, mobile devices, dematerialised securities, apps, SWIFT, MQ, APIs and AI” transformed the industry.

On leaving the industry, Noren says: “I just want to say a big thank you to all that have contributed to make my days filled with more laughter than tears, more good discussions than bad and sharing insights and knowledge at a level I never would have been able to reach myself.”

Noren will depart on 15 November.

Citi hires Gambardella to spearhead expansion of Markets franchise

Citi has appointed Cécile Gambardella as head of sales, Markets for Japan, Asia North and Australia, and Asia South.

In her new role, Gambardella will spearhead the development and expansion of relationships across Citi’s Markets franchise in the region.

Based in Hong Kong, Gambardella will report to Paul Smith, head of Markets, Japan, Asia North and Australia, and Sue Lee, head of Markets, Asia South.

Gambardella joined Citi in 2022 and was most recently head of Markets for France and Benelux. In this role, she provided regional leadership in full partnership with the product areas across all customer segments.

Prior to this, she worked at Bank of America and J.P. Morgan in local and G10 markets roles.

Commenting on Gambardella’s appointment, Smith says: “With Cécile’s

FinTech Depowise hires Belov as Managing Director for the UK and Ireland

Estonian fintech Depowise, has announced its entry to the UK and Ireland and the appointment of Leonid Belov as managing director for these markets.

Before his new role at Depowise, Belov worked as sales manager at SparkChange. He also held the role of vice president of EMEA Business Development at BlackRock Solutions and worked in other financial institutions such as State Street, MSCI, and Bloomberg.

Artur Reiter, co-founder and co-CEO of Depowise, states: “[Belov’s] exceptional talent in growth engineering, coupled with his strategic approach, sales expertise, and extensive financial technology knowledge, will undoubtedly secure our success in these new markets.”

Commenting on his new role, Belov says: “Depowise has incredible growth potential that I couldn’t resist being a part of. The dedication and achievements of the team in just three years – developing a market-leading end-to-end tool for the depositary market - are truly impressive.”

track record and wide network, she is well placed to lead our sales team as we drive further growth across our Asia Markets businesses.”

Lee states: “We are pleased to welcome Cécile to lead our integrated corporate and institutional sales team, as we strive to deliver the full potential of our global network and structuring expertise to our clients.”

Citi’s Markets business provides customised solutions to support investment and transaction strategies of corporations, governments, investors, and intermediaries globally.

Suntera Global welcomes Stokoe as Head of Funds in the Isle of Man

Suntera Global has appointed Alex Stokoe as head of Funds in the Isle of Man. In his new role, Stokoe will lead a team of expert practitioners in providing fund services, including administration, regulatory services, accounting, and corporate governance.

He will also work with colleagues across Suntera’s global network to support the continued growth of the firm’s internationally focused book of fund business, spanning private equity, real estate, hedge and other alternative asset classes.

Prior to joining Suntera Global, Stokoe most recently served as associate director (AD) at Apex Fund Services, Isle of Man, also holding the position of AD at Federated Hermes, in private markets finance.

Ryan Taylor, head of Funds at Suntera Global, comments: “Alex joins Suntera with an impressive resume, bringing considerable knowledge of the cross-border funds sector to the role, gained from working across multiple jurisdictions. His depth of experience will add greatly to our Isle of Man office as we look to continue to bolster our alternative fund capabilities in the jurisdiction and support the wider growth of our funds business across our global operation.” ■

A Canadian Leader in Sub-custody

With more than 1,800 professionals exclusively focused on servicing Canadian investors and global investors into Canada, CIBC Mellon can deliver on-the-ground execution, expertise and insights to help clients navigate the Canadian market. Leveraging the technology and scale of BNY Mellon, a global leader in investment servicing, and the local presence of CIBC, one of Canada's leading financial institutions, CIBC Mellon has the experience and the capabilities to help you succeed in Canada.

Canadian custody and sub-custody
Canadian correspondent banking[1]
Broker-dealer clearing
Securities lending[2]

Brokerage[1]
Investment fund services
MIS (NEXEN, STP scorecard, trade match report card)
Data analytics[2]

[1] Provided by CIBC
[2] Provided by BNY Mellon

Learn more, contact:
Richard Anton at +1 416 643 5240
Lloyd Sebastian at +1 416 643 5437
www.cibcmellon.com

CIBC MELLON