AST ASSETSERVICINGTIMES

ISSUE091 WEDNESDAY 11.06.2014

assetservicingtimes.com

India’s grand unified FPI of everything

The Securities and Exchange Board (SEBI) decision has created a unified and simplified regulatory framework for foreign portfolio investments.

A new investor class, foreign portfolio investor (FPI), has been launched, merging the three existing investor classes.

“It was envisaged that dispensing with the mandatory requirement of direct registration with SEBI and adopting [a] risk-based know-your-customer approach in [an] FPI regime would smoothen the entry process and onboarding experience of FPIs that desire to invest in the Indian securities market,” said SEBI in a statement.

The new FPI regime took effect on 1 June.

Designated depository participant Citi Securities Services India was among the first firms to register an FPI following implementation of the regime.

“The inherent attractiveness of the Indian markets has kept India as a focal point of our securities business and we are pleased to roll out this new framework for our global clients,” commented Aashish Mishra, head of securities services at Citi in India.

“We have been continuously involved with the development of the securities markets here from being the first to enable securities lending and borrowing for our clients to facilitating the largest QFI investment to being the first custodian to offer [an] e-voting facility for company board meetings for our clients,” added Mishra.

Deutsche Bank has also been appointed as designated depository participant and custodian bank by CMI Ventures under the new regime.

CMI Ventures is expected to fund greenfield microfinance institutions in India.

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Hong Kong to comply with FATCA

Hong Kong and the US have concluded discussions on an inter-governmental agreement (IGA) that will facilitate compliance with the US Foreign Account Tax Compliance Act (FATCA) by financial institutions in Hong Kong.

Following completion of the discussions, Hong Kong and the US are expected to sign a Model 2 IGA later in 2014.

Under the IGA, financial institutions in Hong Kong will need to register and conclude separate individual agreements with the US Internal Revenue Service.

These agreements will see institutions seek consent from their account holders that are US taxpayers for reporting their account information to the IRS annually.

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MUFG completes acquisition of Meridian

Global asset administrator Mitsubishi UFJ Fund Services has completed its acquisition of Meridian Fund Services Group, closing the deal on 27 May.

The deal was completed as part of the ongoing growth strategy of Mitsubishi UFJ.

The Meridian acquisition raises Mitsubishi UFJ Financial Group’s (MUFG) fund services assets under administration to approximately $165 billion, servicing more than 300 clients and 1000 funds globally.

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India's grand unified FPI of everything

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"It was envisaged that dispensing with the mandatory requirement of direct registration with SEBI and adopting [a] risk-based know-your-customer approach in [an] FPI regime would smoothen the entry process and on-boarding experience of FPIs which desire to invest in the Indian securities market," said SEBI in a statement.

Anand Rengarajan, head of investor services in India at Deutsche Bank, commented: "The new investor access framework under the FPI regime could be a game changer for global investors as it provides them with a more efficient way to invest in India."

"We are pleased to be chosen by CMI Ventures as the DDP and custodian bank. As one of the largest custodian banks in India and given our ongoing involvement in the banking industry's developments, we are uniquely positioned to help foreign investment companies with their securities services needs in the Indian market."

Martijn Bollen, general counsel at CMI Ventures, added: "We are delighted to expand our relationship with Deutsche Bank. We valued their ongoing engagement globally and locally, as well as their guidance throughout our FPI registration process. We look forward to continuing to work with their global team."

Hong Kong to comply with FATCA

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A spokesperson for Hong Kong's Financial Services and the Treasury Bureau said: "The IGA demonstrates Hong Kong's commitments to enhancing tax transparency in the international arena. It will lower overall compliance costs for the industry and safeguard the interests of these institutions and their clients."

The operation of the Model 2 IGA will be supplemented by exchange of information on relevant US taxpayers at the government level upon request, pursuant to a tax information exchange agreement signed between Hong Kong and the US in March.

Steve Engdahl, senior vice president of product strategy at data management provider GoldenSource, said: "As the deadline passes, it is no longer good enough for financial institutions to address FATCA challenges just for today. Firms need to adopt a more forward-looking approach to make the most of their FATCA data."

"This requires a solution that works across all critical data sets, not just customer data. It should really be seen as an opportunity for financial institutions to harvest new insights about client behaviour to gain a competitive edge."

MUFG completes acquisition of Meridian

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Mitsubishi UFJ Fund Services provides a range of fund administration and investor services to hedge funds, private equity, fund of funds and real estate funds, mutual funds and family offices.

Tim Calveley, deputy CEO of Mitsubishi UFJ Fund Services, said: "Meridian is an important addition to our business as we continue to expand, both organically and through acquisitions."

"We will continue to develop the range of services we offer to the global investment industry and, with the backing of the fifth largest bank in the world by assets, are perfectly placed to offer the complex solutions that clients require in a challenging regulatory landscape."

SIX launches Swiss trade repository

SIX is to establish a central trade repository for derivative transactions in cooperation with Swiss banks.

The firm hopes that the move will enhance the transparency and traceability of derivative transactions, in accordance with regulatory requirements, and help improve financial market stability.

The Swiss Financial Market Infrastructure Act (FMIA), which is currently in consultation, represents the legal basis for the creation of a trade repository.

The act is set to enter into force at the end of 2015 or early 2016. The aim is to enhance the transparency and traceability of both over-the-counter and exchange-traded derivatives.

This information will allow supervisory authorities to identify risk concentrations and systemic risk at an early stage. By establishing a trade repository for derivative transactions, the new Swiss legislation implements the G20 obligations agreed in 2009 in response to the financial crisis.

The trade repository provided by SIX will record the details of derivative transactions that must be reported by banks and other counterparties.

Following validation and a consistency check, the information collected will be passed on to the supervisory authorities, as well as aggregated and made available to the public in anonymised form.

Sandell Asset Management chooses Hedge360

Sandell Asset Management, a US-based alternative asset management firm, has chosen SunGard's Hedge360 as its portfolio management platform.

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Hedge360 will enable Sandell to increase operational efficiency by better servicing its clients through automated processes. It will also offer a hosted, enterprise-wide solution that fully integrates with its trading, risk and operations.

Rick Ecklord, senior managing director of Sandell Asset Management, said: "Reducing our operational costs, strengthening our infrastructure while supporting complex instruments and multiple strategies is on top of our firm's agenda."

"As a highly customised solution, Hedge360 meets all of our requirements to help us increase operational efficiency while offering scalability critical to our future business activities."

Rob MacKay, COO of SunGard's Hedge360, commented: "Transparency and accountability [are] becoming more critical for both fund managers and investors and a robust technological infrastructure is increasingly integral to day-to-day investment activities."

"Hedge360's integrated platform helps achieves operational stability across the full investment lifecycle helping hedge funds to gain the institutional credibility they need to maintain profitability and help achieve ongoing growth."

Markit to acquire CTI

Markit has agreed to buy Compliance Technologies International (CTI) to make use of its tax compliance and reporting services.

Software from CTI automates the certification of tax domicile, validation of withholding tax status and calculation of withholding tax to help firms streamline compliance with anti-money laundering and know-your-customer (KYC) regulation.

The Dodd-Frank Act, European Market Infrastructure Regulation, Foreign Account Tax Compliance Act and Markets in Financial Instruments Directive, among other regulations, create stringent requirements in the financial services industry for the collection and management of customer data.

CTI's expertise in tax due diligence, withholding and reporting complements the customer identity management and regulatory reporting services offered by Markit through its counterparty manager platform and the recently launched Markit I Genpact KYC Services solution.

Michele Trogni, managing director and global head of managed services at Markit, said: "There is growing harmonisation among tax regimes worldwide which creates exciting opportunities for service providers to standardise and digitise tax processes."

"CTI's unique technology and tax expertise will enhance Markit's KYC offerings and further enable us to help our customers adapt to changing regulation."

Cyrus Daftary, co-founder and CEO of CTI, said: "Markit's global reach will be invaluable as we grow the CTI business and expand our product platform. We will continue to offer our customers best-in-class tax compliance tools and will continue to innovate to address evolving regulatory requirements."

The transaction is subject to regulatory approval and is expected to close in July.

KPMG adds class of Rothstein Kass

KPMG is to become a leading audit, tax and advisory services provider in the US hedge fund market with the addition of Rothstein Kass partners and employees.

The audit firm has claimed that the deal represents its commitment to serving the broader alternative investments industry and capital markets, including hedge funds, private equity, real estate, infrastructure and other segments of the industry. The transaction is expected to close in the coming weeks and terms of the agreement will not be disclosed.

"Combining the strength of KPMG and its global reach with Rothstein Kass' leading market position will create the pre-eminent professional services provider in the hedge fund market," said John Veihmeyer, global chairman of KPMG.

"This powerful combination will provide the services and capabilities our clients need as they face new regulations, increasing market complexity and global convergence that are affecting hedge funds and the broader alternative investments industry around the world."

Steven Kass, CEO of Rothstein Kass, commented: "This is a game changer and we are truly excited by the expanded global opportunities that this combination will present for our clients and our people."

"We are looking forward to a seamless transition that will provide business continuity for both our clients and professionals, and are committed to continuing to provide the highest level of service for which KPMG and Rothstein Kass are known."

Atlantic Fund Services enters the UK

Atlantic Fund Services has opened a new office in London that will focus on business development.

By entering the UK, Atlantic now operates in eight markets: Poland, Luxembourg, the US, Czech Republic, Slovakia, Liechtenstein and, since April, Austria.

The firm has stated that the London office will play the role of a bridge between the US and Europe.

Roman Lewszyk, CEO of Atlantic's European business, commented: "London is a city of decision makers and a true centre for asset managers. We just have to be present here."

The new office will be headed by Julian Naylor, a seasoned financial services IT executive. For the past 25 years Naylor has specialised in information technology and asset servicing.

Prior to joining Atlantic, Naylor was managing director of Confluence and also held senior roles at BNY Mellon and DST.

Naylor said: "I am truly delighted to be joining such a dynamic and exciting organisation. Following the successes of Atlantic in continental Europe, it is now time to replicate this in the UK."

European UCITS through the roof

The European investment fund industry saw a surge in demand for UCITS in Q1 2014 with the total rising to €148 billion, according to statistics from the European Fund and Asset Management Association (EFAMA).

This marks the largest quarterly net inflow since Q1 2006 and is a stark contrast when compared with net sales of €51 billion in Q4 2013.

UCITS excluding money market funds (long-term UCITS) experienced net inflows of €134 billion during Q1 2014, up from €72 billion in the previous quarter. Demand for bond funds was the driver behind this large increase, as net inflows reached €61 billion and sales of balanced funds increased to €45 billion.

Net inflows to equity funds remained positive at €27 billion, albeit down from €40 billion in the previous quarter.

Money market funds registered net inflows for the first time since Q1 2012. Net sales totalled €14 billion, compared to €21 billion of net outflows in the previous quarter.

Total UCITS net assets rose 3.5 percent during Q1 2014 to stand at approximately €7.12 billion at the end of March.

The combined assets of the investment fund market in Europe, including UCITS and non-UCITS, increased by 3.8 percent in Q1 2014 to break through the €10 trillion mark. Total assets in Europe stood at approximately €10.16 billion at the end of March.

Clearstream launches monitoring report to aid AIFMD compliance

Clearstream has released new report aimed at helping firms to comply with the Alternative Investment Fund Managers Directive (AIFMD).

The Domestic Markets Monitoring Report will cover 30 domestic markets, including the set of market links that Clearstream offers, before AIFMD comes into effect.

It will provide information on the structure of the domestic market, including account structures and audits, as well as information on Clearstream's network of 53 domestic markets and links to central securities depositories.

Depository banks can use the service when reporting to alternative fund managers.

Berthold Kracke, member of the executive board of Clearstream, said: "Market participants must now mobilise for AIFMD which will enter into force on 22 July. Our Domestic Markets Monitoring Report is a first step to increase transparency in the custody chain and thereby supports our customers in complying with AIFMD."

SWIFT in Mexico City

SWIFT has opened a new office in Mexico City and appointed a director to lead it in response the sustained growth of Mexico's economy.

Ruben Galindo, director, sales services for Mexico at SWIFT, will run the Mexico City office and will report to Jairo Namur, regional manager for Latin America the organisation.

Galindo joined SWIFT in May and previously held the regional product head position at HSBC Latin America.

SWIFT experienced a period of growth in 2013, where it saw financial messaging increase by 15 percent, with a projected similar growth in 2014.

Chris Church, chief executive of the Americas at SWIFT said: "The opening of the new office is a significant milestone for our Latin American business. We now have a stronger physical presence in the region."

Two become one at Standish

Standish Mellon Asset Management Company LLC, BNY Mellon's investment company, has launched an asset management solution for US insurance companies.

The new solution groups asset management and asset servicing together, and it also includes global custody, insurance accounting and reporting.

Vince Pacilio, executive vice president at BNY Mellon and head of the insurance segment, said: "We're seeing more insurance companies

looking for bundled solutions as they would rather partner with providers that offer a holistic and more comprehensive set of services."

The solution promises to meet the needs of insurance companies, which require asset management and asset servicing to be grouped together.

BNY Mellon can now provide investment management and investment services to a broader range of insurance companies, according to Pacilio.

Christine Todd, president of Standish and head of its insurance and tax-sensitive groups, said: "Developing synergies between our investment management and investment services business enables us to meet the unique needs of the insurance segment."

New paper urges full transparency from fund managers

The Pensions Institute at Cass Business School has called for asset managers to reveal the full costs of their fund management business.

Investor returns are being damaged by hidden costs that are at least as big as the visible costs in actively managed funds, according to a report by the institute.

Research cited in the paper suggests that concealed costs, such as bid-ask spreads and transaction costs in underlying funds, can make up to 85 percent of a fund's total transaction costs. The remainder is taken up by visible costs such as commissions, taxes and fees.

A staggered approach could be taken in the lead up to the full disclosure of all transaction costs, according to the paper.

Director of the Pensions Institute, Professor David Blake, said: "No good reasons have been put forward for why all the costs of investment management should not be fully disclosed. They are after all genuine costs borne by investors."

"There is little point in requiring transparency where the reported measure for 'costs' does not include all of the costs, or in the short-term, as many costs as could currently be reported on an efficient basis."

Costs could be reported in the form of a 'rate of cost', which could be deducted from the gross rate of return to give a net rate of return, and as a monetary amount, which could be compared with the monetary value of the investor's portfolio.

The paper concludes that, in the initial stage, investment managers should be required to report all visible cash costs involving commissions, taxes, fees, custodial charges and acquisition costs, together with the hidden cash costs of bid ask spreads, transaction costs underlying funds and undisclosed revenue.

"All these indirect costs relate to the efficiency of the investment management process and all good investment managers should have an estimate of their size," said Blake.

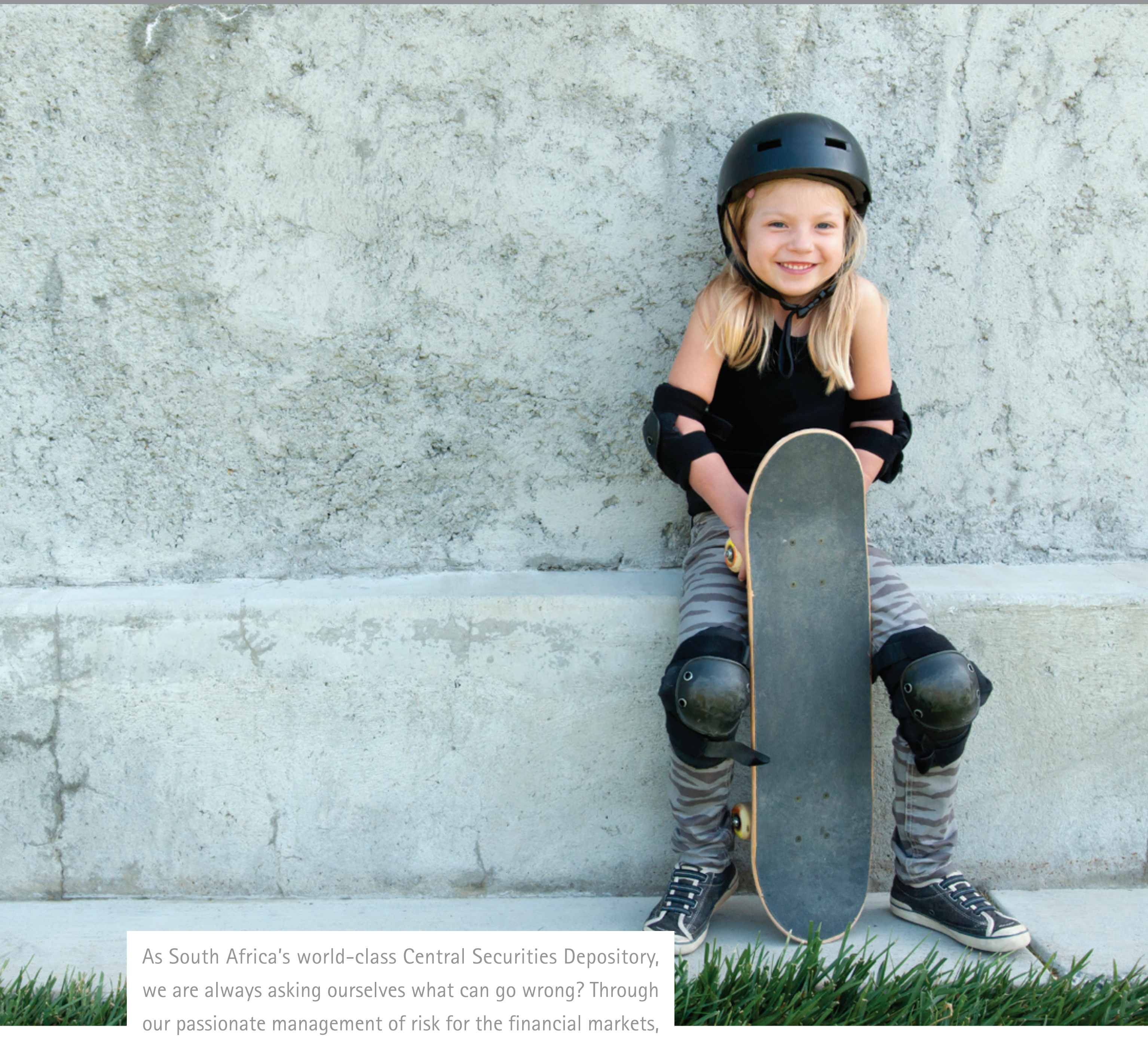
SS&C hits century and a half

SS&C Technologies is now supporting 150 customers through the SS&C GlobeOp Regulatory Solutions Group.

The group assists funds of all types with Form PF, the US Foreign Account Tax Compliance Act, the Alternative Investment Fund Managers Directive and other compliance and reporting rules. Recent wins in Q1 2014 took the total number to more than 150 customers and 2000 funds.

Robert Swan, COO of Lighthouse Partners, commented: "We've relied on SS&C GlobeOp for fund administration services for many years and using their regulatory services has enhanced our ability to better serve our customers while ensuring compliance with the numerous regulatory changes. This is a critical measure of our success."

Neil Berman, CFO of long/short credit manager Claren Road Asset Management LLC,



added: "SS&C GlobeOp has had a major impact in facilitating the regulatory reporting we need to provide. SS&C GlobeOp combines industry experience and cloud-based technology to help us effectively respond to inquiries and navigate compliance."

Growing competition for investors, tighter operating budgets and the need for specialised talent and technology have all been identified within the industry as escalating challenges.

Chairman and CEO of SS&C Technologies, Bill Stone, added: "A range of large and mid-sized funds across all strategies are choosing SS&C GlobeOp's regulatory solutions to help comply with a wide range of industry regulations."

"In this environment, funds must remain informed and proactive, while maintaining robust compliance and regulatory control. We take a partnership approach with our customers and welcome the input they provide as we continuously deliver class-leading regulatory technology and services."

Credit union sells trust business

Alaska Trust Company (ATC) is acquiring the trust division of Alaska USA Trust Company (AUTC), a subsidiary of the $5.5 billion Alaska USA Federal Credit Union.

ATC will acquire all the outstanding stock of AUTC. The transaction is subject to the negotiation of a definitive stock purchase agreement, as well as approval from the Alaska Division of Banking and Securities and the respective boards of directors. They expect to complete the deal by the end of July.

ATC is an independent trust company offering administration and wealth management services on a nation-wide basis.

The company administers more than $5 billion of assets and has been operating in Anchorage for more than 17 years. In AUTC, it is buying a provider of investment custody and securities lending services to institutional investors.

Glenn Cipriano, president of AUTC, commented "The combined resources of these two experienced Alaska-based trust companies, with similar commitments to local service and value, will provide even greater benefits to individual clients in the future. The commitment to individual trust clients and excellent service are values both companies share."

Douglas Blattmachr, president of ATC, added: "It is comforting to know that the transaction will bring expanded expertise, investment management and trust administration options to clients of both companies as well as operational economies of scale. It will also result in trust-related job opportunities in the local area."

Hedge funds positive in May

Hedge fund performance was positive overall in May, rebounding from a slight decline in April, according to eVestment's May 2014 Hedge Fund Performance Report.

The industry returned 1.23 percent during the month and is up 2.20 percent year-to-date (YTD), on pace for an annualised return of 5.36 percent for the year.

Credit funds posted their ninth consecutive positive month in May, returning 1.03 percent and are the second best performing primary market-focus behind volatility strategies. The continued decline in US Treasury yields has been a major boon for the universe which is on pace to return nearly 10 percent in 2014.

Activist hedge funds rebounded from declines in April with their largest monthly return since January 2013. The group has produced the highest volatility of any major strategy in 2014 and have deviations of returns lower than only sector specific equity and emerging market strategies across the whole industry.

Distressed funds had another solid month in May, returning 1.03 percent, which puts their 2014 performance ahead of all other major strategies, including activists.

Chapman's Eye on the market

It's a strange world

Don't you find it odd that, in the UK, a police officer is not allowed to counter-sign a passport application form whereas a banker—that much-reviled figure accused of being responsible for all the woes and ills of the world—still can? Isn't it strange that despite the untold millions—if not hundreds of millions—of pounds, dollars and euro spent on technology, our industry still doesn't have true straight-through processing (STP) and many firms are as far away from it as they have ever been? Don't you wonder why some firms, despite hundreds of years of experience, the benefit of hugely expensive external and internal consultants, and a vast array of information at their fingertips, still continue to make massive yet simple mistakes in the execution of their strategies?

The answer to this conundrum is, as you might expect, convoluted and is a combination of historical precedent, the vagaries of human beings, tradition and regulatory pressures artificially distorting the market. In order to avoid becoming overwhelmed by the hopelessness that the true nirvana of STP will never be achieved, or despondent that as soon as business comes in the front door, other business appears to go out the back, or your market-leading and differentiating product innovation gets overtaken by a competitor's, it is wise to apply the adage of management that 'you can't please all of the people all of the time'.

By that I mean if you accept that some strategic mistakes will happen, sometimes a competitor will win a mandate that should have been, by rights, yours and that a regulatory change will nullify the potential benefits of a new product you've been working on for a while, then you will cease to dwell on the negative but instead look to the positive. This means that you're still 'in the game', that you have been able to demonstrate thought leadership, albeit thwarted by unforeseeable regulatory issues, and that you are still striving to do the best for your clients.

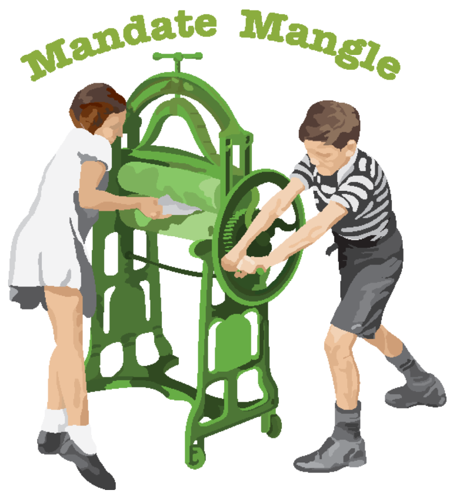
The ability to adopt and embrace this mindset in a period of unparalleled change is what will mark out the winners from the losers in our industry, from both a corporate and individual perspective. Yes, we know that some firms are going through some major and well-documented structural changes in terms of refocusing their business away from traditional sources of revenue with the contingent loss of quality staff, the industry is seeing new players—Atlantic Fund Services entering the UK, for example—rumours of market information firms wanting to aggressively enter the fund administration business persist, and Facebook is allegedly looking to apply for a banking licence in Ireland (which I find a fascinating development for what began as a simple social media tool, as anyone who's seen my Luddite offerings on Facebook will attest to).

But rather than crying out "the end is nigh" for a firm or segment of the industry, the more savvy operators will accept that it's all part of the natural evolution of the industry and spend their time looking for ways to take advantage of the opportunities, which will no doubt arise to work in conjunction with these players.

And if you want to ponder something that's really strange: why does the sell-by date on every packet of crisps fall on a Saturday?

As ever, do let me know your thoughts. Drop me a line at paul@hornbychapman.com

Paul Chapman, managing director, HornbyChapman Ltd



AXA Investment Managers Deutschland has engaged **CACEIS** as depository for its entire existing real estate open-ended mutual and special funds business in Germany, with a total volume of €2.5 billion.

Matthias Leube, managing director of real estate within AXA Investment Managers Deutschland, commented: "CACEIS is one of only a few service providers that is able to provide a comprehensive range of services for both mutual and special funds."

"During our selection process, CACEIS's wide experience in business migration as well as its status as a leading independent, third-party depository, were decisive factors."

Holger Sepp, member of the management board of CACEIS Bank Deutschland, added: "Our broad range of services and our strong market reputation is derived from our group's extensive experience in the real estate funds business."

"We are delighted that AXA Investment Managers Deutschland has entrusted all its existing real estate business to CACEIS. Following this appointment, we provide depository services for 16 real estate investment companies with a volume of some €16 billion."

CACEIS has also been selected by Sal. Oppenheim to handle its physical asset depository activities in Germany. The migration volume amounts to some €12 billion in physical assets.

Sal. Oppenheim and CACEIS are working closely together to ensure all concerned funds will be migrated to CACEIS by the end of the year, subject to the approval of clients and institutional end-investors.

Sepp stated: "We are delighted to take on the depository services previously carried out by Sal. Oppenheim. This decision highlights CACEIS's increasingly sophisticated approach to depository services provision for physical assets."

"It also serves to strengthen our leading position and enhance our business reputation as the premier third-party physical asset depository in Germany."

"CACEIS services 16 real estate investment companies in Germany accounting for some €16 billion in assets as well as 28 initiators of closed-ended funds investing in real estate, private equity, renewables, aviation and shipping containers."

Wolfgang Leoni, chairman of the board of Sal. Oppenheim, said: "The primary objective of our in-depth request for proposal process was to select a solid partner with outstanding expertise in providing depository services to physical assets, and one that demonstrated a close strategic fit with the structure and requirements of our clients."

"In the wake of the realignment of Sal. Oppenheim and our strategic initiative to focus resources on our core business strengths such as asset management for private and institutional clients, entrusting the depository activities to CACEIS is a logical step."

The Connecticut State Treasurer's Office has confirmed **BNY Mellon** as global custodian for the state's $28.5 billion public pension plans and trusts.

The bank's asset servicing arm will provide global custody, accounting and performance reporting services to six pension funds and nine trust funds, covering 194,000 teachers, state and municipal employees who are pension plan participants and beneficiaries, as well as academic programmes, grants and initiatives throughout the state.

The three largest funds are the State Employees' Retirement Fund, Teachers' Retirement Fund, and the Municipal Employees' Retirement Fund.

"We look forward to developing our relationship with the State of Connecticut and providing the improved efficiencies public pensions are seeking," said George Gilmer, CEO of US asset servicing at BNY Mellon.

"In an increasingly complex and regulated market, public employee systems like Connecticut look to us for a combination of expertise, responsiveness, and technology support that lets them devote more resources to plan management."

Connecticut treasurer Denise Nappier named BNY Mellon as her preferred vendor to provide master custodian services, while Deutsche Bank was given the nod to provide securities lending.

The bank has also been been appointed indenture trustee, reinsurance trustee, registrar and paying agent for the $450 million Kilimanjaro catastrophe bond transaction sponsored by Everest Re.

Kilimanjaro Re is a Bermuda-based special purpose reinsurer. Kilimanjaro Re will provide Everest Re with a four-year source of fully collateralised retrocessional reinsurance protection through the issuance of two tranches of cat bond notes.

Alex Tsarnas, head of US corporate and insurance market segments at BNY Mellon Corporate Trust, said: "So far this year, we've seen a substantial increase in the issuance of cat bonds and insurance-linked securities."

"Given our deep experience in administering cat bonds, we are well positioned to support issuers and sponsors like Everest Re as the market continues to expand."

As of 31 March, BNY Mellon Corporate Trust served as trustee and/or paying agent on more than 65,000 debt-related issues globally. Its clients include governments and their agencies, multinational corporations, financial institutions and other entities that access the global debt capital markets.

Four Serbian pension funds have mandated **Societe Generale Securities Services** to act as their custodian and depository bank.

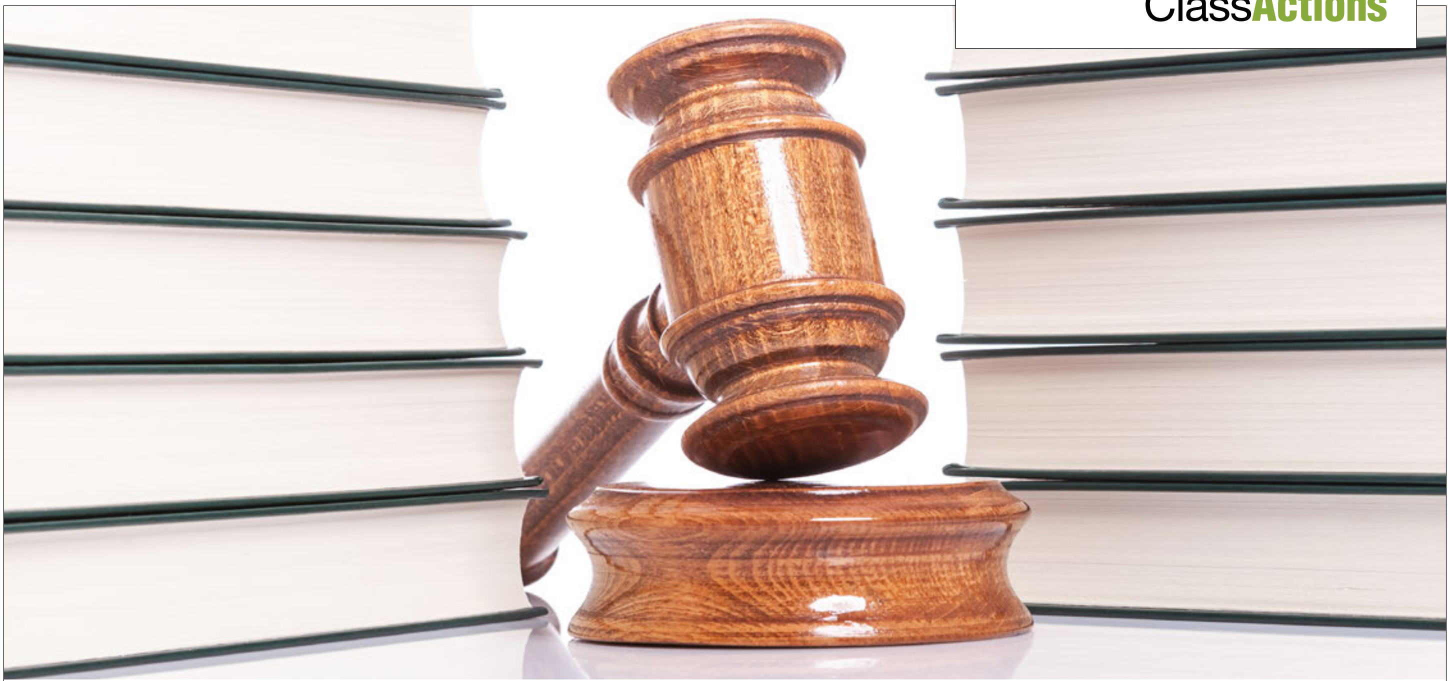
Delta Generali Basic, Delta Generali Index, DDOR Garant Štednja and DDOR Garant Ekvilibrio issued the mandates.

The pension funds will enjoy custody and depository bank services for fund monitoring and trustee services, to ensure they comply with Serbian regulations.

Societe Generale provides European pension funds with a service based on asset protection, performance and reporting.

Pascal Jacquemin, deputy head of the international department at Societe Generale Securities Services, said: "These four mandates clearly position [us] as a leader in the pension funds market in Serbia and show our commitment to the Serbian market." **AST**


Risk 25 Firms of the Future
DTCC is proud to be recognized by Risk Magazine as one of the Risk25 Firms of the Future.



International vigilance

Settlements for the Asia Pacific market will reach $3.44 billion by 2020, according to Jonathan Hu of Goal Group

In the US, F-cubed actions—which involve a non-US shareholder suing a non-US company, whose stock was purchased on a non-US stock exchange, and who is bringing a case in a US federal court—have effectively been banned by the Supreme Court's 2010 ruling in Morrison v National Australia Bank.

As a result, class action cases are no longer solely focused on the US, but group litigations are being filed in multiple legal systems throughout the world, including Japan. This international diversification of class actions can be attributed to a combination of restrictions on jurisdiction definitions in US federal courts, along with a growing desire to develop domestic collective redress procedures in many countries around the globe.

Although the US is still the most dominant judiciary, aggrieved investors are now instigating litigation in more flexible jurisdictions globally. International companies listed on multiple exchanges must now defend themselves against securities class actions in multiple jurisdictions, and there is a growing pressure of global class action cases looking for a home in legal systems that are able to define and prosecute a global class.

Japan has presented itself as a leader in group actions in Asia. Currently in Japan, a group of related securities claims can be brought in the form of a 'joint suit' or by an 'appointed party' under the Code of Civil Procedure. The procedure allows a number of persons who share a common interest to appoint a representative who will then act on their behalf in conducting the court proceedings. Joint proceedings and appointed party proceedings may be brought by residents from other jurisdictions.

Under the Code of Civil Procedure, the court's decision is binding for the appointed representative, the defendant, and those who appointed and authorised the representative. How damages are calculated depends on the method of proof used by the claimant. In cases where it is clear that damages were incurred but the demonstration of their amount is very difficult, the court can award the amount of damages that it considers appropriate. Quantification on damages is done separately for each victim.

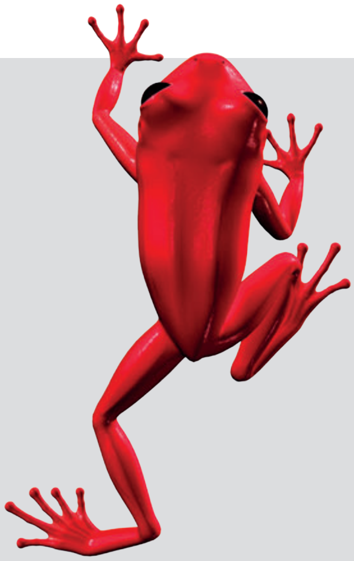
The existing class action system does not allow a class of consumers to seek monetary compensation. The Japanese government has recently been looking to introduce a new consumer class action litigation system to make it easier for consumers to claim damages. It is expected to take effect in 2016 and demonstrates Japan's acknowledgment of the benefits of class actions. Increased accessibility to securities class actions may also be seen as a result.

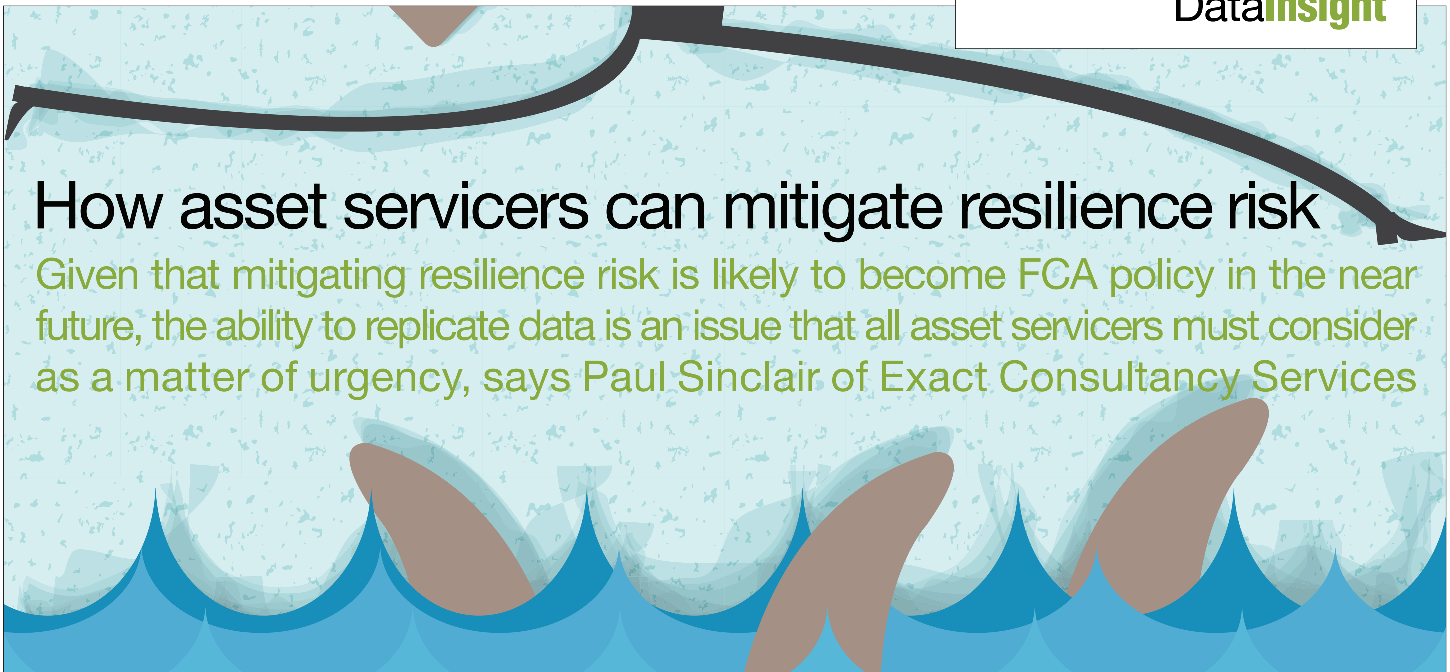
Greater emphasis has been placed on the importance of fiduciary duty and corporate governance reform where malfeasance or negligence leads to a significant loss in investment value. Fiduciary duty increasingly includes responsibility for identifying and ensuring participation in relevant securities class actions to enable clients to reclaim rightful returns where the value of investments has been wrongly damaged.

Goal Group has calculated that securities class action settlements for the Asia Pacific market will reach $3.44 billion by 2020. As securities class action legislation develops and spreads within the Asia Pacific region, fiduciaries should remain vigilant about international opportunities to pursue legal redress, whether it be in the form of group, collective, class or direct actions, in order to reclaim investment losses as result of alleged corporate wrongdoing.

Although keeping track of the opportunities to make a claim, and the processes required to do so successfully can appear a complicated and daunting task, specialist service providers can now automate the complex process of class action participation across international legislatures at a relatively low cost. On this basis, any argument that complexity, cost and time should be a reason for not making a claim would appear to be very weak indeed. **AST**

Jonathan Hu
Director of sales and relationship management APAC
Goal Group





How asset servicers can mitigate resilience risk

Given that mitigating resilience risk is likely to become FCA policy in the near future, the ability to replicate data is an issue that all asset servicers must consider as a matter of urgency, says Paul Sinclair of Exact Consultancy Services

In November 2013, the Financial Conduct Authority (FCA) published Report TR13/10, its thematic review of outsourcing in the asset management industry. The report focuses on assessing two key areas of risk relating to outsourcing of critical activities that could result in poor outcomes for customers if not mitigated effectively. These are:

- Asset managers having inadequate contingency plans in place to deal with a failure of their service provider (resilience risk); and
- Asset managers applying inadequate oversight of their service provider (oversight risk).

'Too big to fail' not a legitimate guarantee

The FCA's position is clear—responsibility lies with the asset manager. If 'too big to fail' is not considered a legitimate guarantee of asset servicers by the FCA, an important element of resilience risk mitigation is the ability of their asset manager clients to either effect an 'immediate insource' of their data or have the ability to transfer that data across to another asset servicer.

Asset managers must therefore have a failsafe systems capability that can replicate the data that the asset servicer has, so that if the asset servicer should fail, it can instantly deploy and process from this constantly updated, alternative data source. This capability is sometimes referred to as 'live archiving'.

It is open to interpretation as to whether this part of the recent thematic review refers to a different third party, or a separate entity that is still under the auspices of the same asset servicer. If the latter, fears will surely persist about the separate entity's stability. If the former, there will inevitably be concerns about capacity.

Questions over capacity

Indeed, many asset servicers have cut back their capacity during the downturn and still face resourcing challenges. Many in the industry would argue that more asset managers would consider outsourcing but have concerns that the asset servicers lack the required bandwidth. With only a handful of dominant global players in the asset servicing market, could an asset manager rely on the alternate asset servicer being in a position to take on their business if the primary asset servicer failed?

Rather than asset servicers seeking agreements with their competitors, is there a better way of reassuring their clients and satisfying the FCA? One where, in addition to helping mitigate the resilience risk, there could be wider benefit to the industry through enabling asset managers to move between service providers more readily.

The burden of migrating all of an asset manager's data from one outsource provider to another would be immense and could probably be only achieved in an unacceptable timescale. It would be far easier if that data were replicated at a third party supplier, which would have the ability and the tools to migrate data to a new outsourcer. In this way the old outsourcer could continue to operate in business as usual mode while the migration took place and the new provider merely needs to accept the data.

Benefits beyond compliance

Even if asset servicers do not as yet have to provide this service, it would certainly help reassure the regulator (and asset management clients) that the asset servicer is taking effective steps to mitigate its clients' resilience risk.

Additionally, the side benefits of a live archive can be dramatic in terms of providing the client with immediate access to its data. The uses of that data could be anything from supplementary MI to data mining to bespoke client reporting—in short, anything that is difficult for asset managers to undertake when they are trying to extract data from the asset servicer.

From the FCA's perspective, a key advantage would emerge if a firm outside of the asset servicer's business were running the live archive. If an asset servicer were to build its own live archive (even through a separate entity), it would still be inextricably linked to the good fortunes of the parent firm. An independent archive system would also be far less expensive and faster to build than for an asset servicer to do so.

Live archiving is perhaps the logical first step for asset servicers in helping their clients satisfy the FCA's concerns over resilience risk. It is a 'quick win'—providing reassurance to asset managers that its outsourcer is taking the FCA's anxieties seriously and making a first step toward producing a full resilience risk programme.

Offering this extra 'safety net' to clients would help attract more business to asset servicers.

If an asset manager had a live archive arrangement in place and perhaps only signed agreements with a secondary outsourcer in the event that the primary one should fail, this would go a long way to mitigating resilience risk. **AST**

Paul Sinclair
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Industry appointments

BNY Mellon has appointed **Nikos Kardassis** to oversee its enterprise product management group.

Kardassis will be responsible for developing product strategy across BNY Mellon's four investment servicing platforms for asset owners and managers, insurance firms and financial intermediaries.

Kardassis will report to Tim Keaney, the vice chairman and CEO of investment services, and Samir Pandiri, executive vice president and CEO of asset servicing.

He joins from Jet Airways in India, where he was CEO.

Dan Wywoda, the former head of global product management for asset servicing, will report to Kardassis in a new role that will he him leading strategic programmes, with responsibility for major, complex projects key to asset servicing's growth and development

Keaney commented on the hire: "Kardassis has more than two decades of leadership and business management experience and a record of driving innovative product development and profitability, which will serve us well as we shape the future of Investment services."

"Wywoda has done outstanding work leading asset servicing's global product management team the past six years, and we look forward to his continued guidance and expertise on strategic projects," he added.

Meanwhile, **Antonio Portuonodo** has been appointed president of the Bank of New York Mellon Trust Company.

Portuondo took on the role on 7 May, replacing Troy Kilpatrick who recently left the firm. As president, he will oversee the running of the Bank of New York Mellon Trust.

He has more than 21 years of experience in the corporate trust industry.

He joined the firm in 1998 and has served as the head of the public, not-for-profit sales and relationship management team in the US, for BNY Mellon Corporate Trust.

Eric Kamback, CEO of BNY Mellon Corporate Trust, said: "Portuonodo has consistently demonstrated the value of his experience with the public, not-for profit sector and his expertise in relationship management, making him an ideal choice."

"As we build for the future, his deep understanding of the corporate trust business will be key to our success."

Deutsche Bank has appointed **Jens Reubbert** as head of global transaction banking in Vietnam and chief country officer.

Reubbert will take the role immediately.

He will report to Gunit Chada and Alan Cloete, co-CEOs of the Asia Pacific and members of the group executive committee of Deutsche Bank.

He joins from Deutsche Bank China where he served as managing director and COO. He has previously worked across Germany, Hong Kong, Singapore, Turkey and China.

As head of global transaction banking for Vietnam, he will report to Lisa Robins, the Asia Pacific and Deutsche Bank head of global transaction banking.

Chada said: "Reubbert's appointment clearly underlines our commitment to developing a successful franchise in Vietnam which is a growth market for both our clients and the Bank. [He] brings significant global and client management experience to this important role."

Robins added: "Reubbert's focus will be to bring his extensive experience and that of our team in Vietnam to serve the needs of both global and local clients and to expand Deutsche Bank's presence in the market."

OTAS Technologies has expanded its US sales team with the addition of **Jennifer Martyn**.

Her hire follows the appointment of Nick Lieder earlier this year as head of US sales

Martyn joins from Thomas Reuters, where she served in the pan-European equity research division and prior to that, at StarMine in the European sales office.

She will work with the North American team, including Courtenay Kane and Noah Levin. Together, the team will integrate OTAS and TradeShaper into the workflow of new and existing institutional investments.

"Martyn's expertise and experience will bring a new dimension to the US team and its sales efforts. Her dynamic and client-centric approach to the fintech sales process has proven in the past to be a great recipe for success," said Nick Lieder, head of US sales of OTAS.

Martyn added: "I'm looking forward to working with the team in the US and on a global level to increase the OTAS footprint and grow the business".

The hire is part of a period of growth at OTAS. Alex Wild and Kim Zhang recently joined the global product specialist team in London and Hong Kong, respectively.

Nixon Peabody has expanded its government investigations and white-collar defence practice in New York City with the arrival of **Bradley Mirkin**, former senior litigation counsel at the Financial Industry Regulatory Authority (FINRA).

FINRA is the US's largest independent securities regulator providing oversight to more than 4000 securities firms and their representatives.

At FINRA, Mirkin served as lead counsel in some of its largest and most challenging cases.

He also consulted on significant enforcement, member regulation and market regulation investigations, examinations and disciplinary actions. **AST**