The NED
Risk and Governance
Independent intelligence on fund governance issues
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Liquidity: problems soon

Even pre-crisis liquidity was always going to be a big theme this year. An informal survey of directors undertaken by The NED over the last few weeks shows that many expect some of their funds will have problems as a result of the market crisis. But they also said that it is too early to say how extensive this will be.

Gatings are already on the rise. Fitch Ratings report that at least 76 European mutual funds suspended redemptions in March 2020 due to increased demand for withdrawals from investors. These funds had $40 billion of assets under management, say Fitch. ESMA reports that European based funds with €100 billion gated or applied other extraordinary liquidity measures in March.

Of the funds followed by Fitch the vast majority of gatings were driven by issues in pricing underlying securities across asset classes. Fitch says that there was even one case of an exchange-traded fund suspending trading due to pricing issues.

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Emergency measures: trouble ahead

Some of the emergency fund governance measures that jurisdictions have brough in could well be dangerous. Before directors plunge in and take advantage of them, they should get clarity on their implications for tax and other items. Bear in mind nothing like this has ever occurred before; it could lead to some unexpected results.

The consequences for tax of virtual meetings must be a real concern. For obvious reasons directors are forced to attend board meetings remotely. Whilst it might be fine to do this from a regulatory point of view, it could still carry a significant tax risk.

No tax authorities, that The NED is aware of, have made any rulings on this matter – including HMRC. As a result, there could potentially be some nasty surprises when the crisis is over and actions taken during this period are judged by tax officials.

Bear in mind that governments, right around the world, will be desperate to get their hands on as much taxable income as possible in the not too distant future. Fiscal deficits will be at historically high levels; offshore funds and their directors will be seen as fair game.

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IFI Global eEvent

How the crisis impacts fund governance

Tuesday, April 28, 2.00 to 3.00 pm UK time

- Emergency measures
- Lessons of the '08 crisis
- Risk oversight
- Longer term impact

Chris Addy, CEO, Castle Hall

Iain Cullen, Partner, Simmons & Simmons

Simon Osborn, CEO, IFI Global

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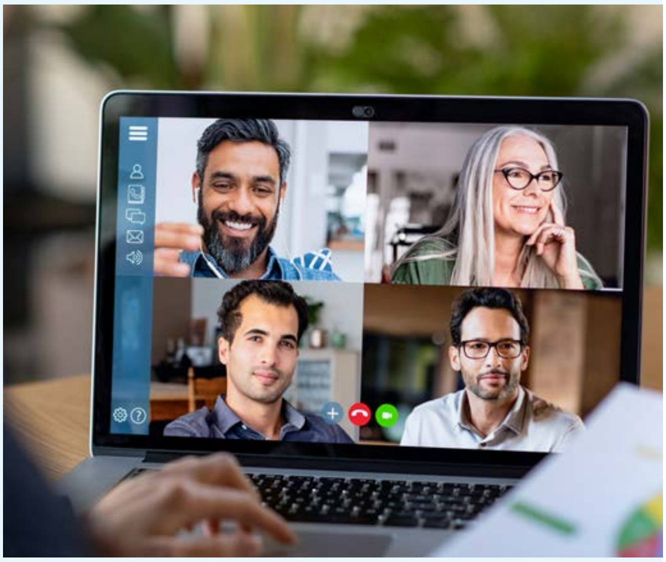

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To register please contact Tamara Sims sims@ifiglobal.com.

ESMA consultation on limiting leverage at alternative funds

ESMA has launched a consultation on its draft guidance to address leverage risks in the EU's alternative investment fund sector. The consultation is part of the ESMA response to the recommendations of the European Systemic Risk Board (ESRB) in April 2018 to address liquidity and leverage risk in investment funds.

ESMA's aims to promote supervisory convergence in the way National Competent Authorities (NCAs) assess how the use of leverage within the AIF sector contributes to the build-up of systemic risk in the financial system, as well as how they design, calibrate and implement leverage limits.

'In situations when financial markets are under severe stress, highly leveraged alternative investment funds can further amplify systemic risk. Considering the size of the investment fund sector, achieving supervisory convergence in NCAs' approaches to monitoring and regulating the use of leverage by alternative investment funds is of the utmost importance', said ESMA's chairman, Steven Maijoor.

He added, 'Our proposed Guidelines address the assessment of leverage-related systemic risk and aim at ensuring that NCAs adopt a consistent approach when assessing

whether the condition for imposing leverage-related measures are met.'

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