

The NED

Independent intelligence on fund director issues

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Fund boards do little for investors say US and UK lawyers

UK or US lawyers polled by The NED don't think that offshore fund boards provide a lot of help to investors but do have limited uses. Nonetheless they believe investor protection is the main purpose of fund governance. Overall there was little divergence of opinion in the poll results – although a few lawyers in the US think the board's main function is to serve all stakeholders, not just investors. The NED spoke to the same number of lawyers on each side of the Atlantic.

That two lawyers polled in the US think the board's main function is to serve *all* stakeholders, not just investors was the only real difference uncovered by the poll in views from the US and UK. One of the two said that the main function of fund governance is to “further the proper and transparent discharge of board duties for the benefit of all stakeholders.” Other respondents in the US, and all of those in the UK, said that they see the primary purpose of corporate governance of alternative funds is to protect the interest of the fund's *investors*.

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OECD Plan has serious implications for offshore boards

The OECD's 15 point Action Plan to 'de-offshore' the global economy, which was adopted by the G20 in St Petersburg in early September, has profound implications for offshore fund directors. If implemented as intended at present it will play havoc with the way that offshore funds are structured and operate. The OECD's Plan allows countries to tax profits of companies held in offshore subsidiaries to prevent what it calls an “artificial shifting of income.” Board decision location will no longer be the key determinant of where a company is based.

Whilst the details of The OECD's Action Plan have yet to be worked out in detail the intention is clear. The authors of the 15 Action Plan intend to prevent what they call an “artificial shifting of income” by focusing on where the majority of a company's sales and employees are located as the most key criterion as to where that company should pay tax.

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