

# The NED

Independent intelligence on fund director issues

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## Can Cayman directors be semi-transparent?

Or is transparency like pregnancy, something that you can't do in halves? At The NED's Cayman roundtable there was much discussion on who might be given access to CIMA's proposed database of directors. Many thought that CIMA should allow open access or proceed no further with the database idea.

In addition to the transparency issues there was concern that CIMA's proposed database would put it into the unusual position, for a regulator, of acting as an agent in the facilitation of an investment decision. And some feared that it would be a major undertaking for CIMA to keep the database up to date, whilst others felt that without third party checking the information that CIMA will have on its database won't be worth anything.

However, many welcomed CIMA's Statement of Guidance (SOG). A view that was expressed by a number of roundtable participants was that Cayman needs a regime that is well thought of by investors, and the SOG will help in this regard.

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## SEC wants more cases to go to trial

Mary Jo White, head of the SEC, wants more cases to go to trial with less pre-trial settlements. She also said that the SEC will police smaller infractions more vigorously to deter more serious wrongdoing, including misdemeanours by auditors and fund directors. "Our new approach could lead to more trials and I welcome that," she added.

She hopes that the SEC's new policy will mean that more defendants will admit to wrongdoing, adding that the regulator's trial lawyers "are ready to go up against the best of the white-collar defence bar." She added that the number of trials that the SEC has brought over the past decade had decreased dramatically. She wants to reverse that trend.

One of the cases cited by the SEC as an example of the tougher approach that they are taking was that of Philip Falcone. This hedge fund manager admitted improperly borrowing money from one of his funds and doing favourable side deals with certain investors without disclosing this to his other investors. ■

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CIDA	Maples FS
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