

Fund fraud: directors' responsibilities

Can independent fund directors do more to prevent fraud? Should directors be viewed by fund investors as de-facto fraud prevention officers? If the answer is yes then what more should they be doing? And if the answer is no then do investors' due diligence teams need to spend even more time than they do already digging around to try and ensure that nothing fraudulent could happen?

The fraud question is worth raising for three reasons. First of all there has been a lot in the mainstream financial press about the problems at Platinum and some other frauds recently.

Secondly, as The NED covered on a number of occasions in 2016, director remuneration in jurisdictions like Cayman has led to questions as to whether some of those that serve on boards can really be doing the job properly if they are getting – as is now said to be the case, on occasions – just \$5,000 for doing this job.

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Finally, real investor involvement

There is a growing body of evidence that institutional investor involvement in fund governance matters is on the increase. And, more importantly, interventions by investors in fund governance are also become more effective. They are starting to exert their influence in ways that few would have envisaged a few years ago.

In Europe much of this is thanks to AIFMD. AIFMD is the first regulatory measure to introduce the concept of a governance responsibility around risk. It has taken investors some time to cotton on and appreciate what this means for them.

Nonetheless the Directive really helps them with their risk oversight. As a result questions about how the board fulfils its risk supervisory responsibilities are now on the list of the DDQs of many institutional allocators and their advisors these days. Regulators in jurisdictions like Ireland and Luxembourg have also become more focussed on this matter recently, which has also helped.

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Alternative Fund Governance: The View of Investors (US & Europe)

The Tracker

The impact of AIFMD on US managers (incl remuneration & ManCos)

For more information, please e-mail [Tamara Sims](#)

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Make cheque payable to:
IFI Global Ltd.
10 Arthur Street
London EC4R 9AY

For additional information please contact Tamara Sims at sims@ifiglobal.com
IFI Global Ltd, 10 Arthur Street, London EC4R 9AY Tel: +44 (0) 207 220 9077

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Editorial & research enquiries:
Simon Osborn e-mail: osborn@ifiglobal.com

Directory, event & subscription enquiries:
Tamara Sims e-mail: sims@ifiglobal.com