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Marketing Hedge and
Private Funds in Europe

MARKETING HEDGE AND PRIVATE FUNDS IN EUROPE

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Introduction

- Accessing European retail, institutional and other investors via public offering and private placement regimes
- Impact of the EU Alternative Investment Fund Manager Directive (AIFMD) from 2013
- Will the current private placement regime survive AIFMD?
- Advantages and disadvantages of establishing EU-domiciled funds and EU-authorized subsidiary operations

Introduction

- What is involved in becoming EU-regulated - UCITS, MiFID and AIFMD?
- Legal position if the Euro collapses or individual countries leave the Eurozone
- Action points for managers with Euro-denominated share classes and/or underlying Euro swap or other exposures

Structuring Funds for European Investors

- Optimal structure depends on nature of underlying investments and investment strategy; and jurisdiction and type of underlying investor
- ‘Europe’ = 25 plus jurisdictions so analysis is very complex
- Real Estate/PE Funds typically use LPs
- Retail ‘long only’ and hedge funds typically use corporate vehicles
- But detailed analysis driven by tax and regulatory considerations in each case

Structuring Funds for European Investors - Tax Considerations

Tax

- Natural capital gains flow-through for Real Estate/PE Funds via LP structures
- Use of DTTs – common issue for long only funds and especially certain emerging market funds – Russia/CIS, India, Brazil
- Use of ‘blocker corporations’ to shield trading income/convert income into capital gains – common issue for hedge funds

Structuring Funds for European Investors - Tax Considerations

- European jurisdictions have no ‘check the box’ elections (unlike the U.S.) to treat corporations as transparent
- But several European jurisdictions do have anti-avoidance provisions which impute liability to tax on a current year basis; deem capital gains to be liable to income tax; and/or impose surcharges etc.
- E.g. UK ‘Offshore Funds Rules’; and German Investment Tax Act

UCITS

- Open ended, publicly marketable EU funds
- Exempted from AIFMD
- Restricted to 'listed tradable securities' – so no PE or Real Estate Funds
- Hedge Funds - 'Newcits'
- Eligible assets rules – relevant to hedge funds and hedge fund of funds

UCITS

- UCITS IV:
 - Procedures for mergers of UCITS funds
 - Master feeders available for first time
 - Standardised 'Key Investor Information Document'
 - Management Company passport
 - Simplified/improved passporting mechanisms
- UCITS V

Closed End Funds

- Caught by AIFMD
- But can be marketed publicly under Prospectus Directive if compliant – i.e. separate from AIFMD passport and therefore to the retail public
- May be appropriate for fund of funds, PE, Real Estate and other more illiquid strategies

Marketing Funds to European Investors - Regulatory Considerations

- Most Jurisdictions require marketing to be conducted by EU authorised marketers
- Some allow non-EU persons to market but marketing then more restricted e.g. Belgium (but must register locally); UK (access to individuals denied)

Marketing Funds to European Investors - Regulatory Considerations

Private placement rules vary enormously but fall into 5 main categories:

- subject to a minimum investment amount (e.g. Belgium €250,000, Holland €50,000)
- by number of offerees - e.g. Denmark (8), Holland (100)
- by type of investors (e.g. institutional, large corporates, sophisticated individuals etc.) – Finland, Germany, Holland, Switzerland, UK
- all forms of active solicitation banned – France, Italy, Norway, Spain
- no restrictions - Sweden

Alternative Investment Fund Managers Directive (AIFMD)

Basics

- EU AIFMs to be subject to significant additional regulation – already subject to MiFID (required to be regulated, have minimum capital, subject to conduct of business rules etc)
- AIFMD effectively regulates funds (AIFs) as well as AIFMs by restricting marketing of both EU *and* non-EU funds into the EU
- And imposing structural requirements on such EU funds (e.g. depositary) and ‘equivalency’ requirements on non-EU funds and non-EU jurisdiction

Alternative Investment Fund Managers Directive (AIFMD)

Basics

- EU AIFMs granted a passport to market EU funds to 'professional investors' throughout the EU from 2013
- EU AIFMs may be granted a passport to market non-EU funds to 'professional investors' throughout the EU from 2015 subject to AIF *and* non-EU jurisdiction complying with various 'equivalency' requirements

Alternative Investment Fund Managers Directive

Basics

- From 2015 non-EU AIFMs may be able to apply to become recognised AIFMs and be granted:
 - (i) permission to manage EU AIFs; and
 - (ii) a passport to market EU and non-EU funds to ‘professional investors’ throughout the EU (subject to non-EU AIF *and* non-EU jurisdiction complying with various ‘equivalency’ requirements)
- From 2013 - 2015 non-EU AIFMs will not be able to manage EU AIFs – significant competitive disadvantage as EU AIFs more attractive for tax and regulatory reasons to some investors
- But running and EU AIF likely to be a lot more expensive

AIFMD Strategies

Comply from 2013

- Passport – will allow active/broader marketing into Denmark, France, Italy, Norway and Spain from 2013
- But passport will potentially restrict marketing in Belgium, Holland, Germany, UK – and perhaps Switzerland – as compared to current private placement rules
- Passport where more attractive, privately place elsewhere?
- EU investor preference for regulated funds?
- And tax disadvantages for some investors who invest in tax haven based funds
- “Brand potential” of AIFMD funds similar to UCITS – discussion that derivatives funds be restricted to AIFMD funds

AIFMD Strategies

Wait and See

- 2015 decision on passport for non-EU AIFs and non-EU AIFMs
- 2015 decision also regarding private placement route post 2018
- But will private placement rules survive until 2018 - or even beyond 2013 in current form?
- Managed Accounts – not covered by AIFMD
- Platform providers – each AIF must have a single AIFM which can delegate, scope for delegation to US/other managers
- Non-EU funds post 2013 – implications for EU and Non-EU Managers

AIFMD Strategies

Mergers/Consolidation

- AIFMD likely to significantly increase cost of compliance for EU Managers
- Depository likely to cost extra 100-150 basis points (AIMA)
- Establishment, reporting and approval obligations will add to both launch and ongoing costs
- Start ups will be hit particularly hard – but small and mid sized firms also
- Expect some teams/star traders to join existing firms or platform providers instead of setting up solo to avoid/reduce costs

AIFMD Strategies

Mergers/Consolidation

- Non-EU managers to buy into Europe
- Or set up own operations
- Ability to work through 3rd party marketers with passport?

AIFM authorisation

- Home member state – EU AIFM
- Member state of reference – non-EU AIFM
- Fit and proper persons
- Suitably qualified to act as fund managers
- Detailed information about:
 - remuneration policies
 - compliance procedures
 - arrangements for:
 - delegation
 - valuation
 - risk management

AIFM authorisation

- Detailed information about proposed funds
- Risk profile of fund
- Policy on use of leverage
- Arrangements for collateral/re-use of assets
- AIF rules/instrument of incorporation
- Material changes to be notified
- ESMA technical standards
- Member States may restrict investment strategies

Financial resources requirements

- Own funds
- At least €125,000
- Plus 0.02% of amount by which AUM exceeds €250 million
- Maximum requirement €10 million
- 50% of additional 0.02% amount if guaranteed by bank or insurance undertaking

Ongoing regulatory requirements

- Organisational Requirements
- Conflicts of Interest
- Conduct of business rules
- Risk management
- Independent valuation procedures:
 - Liquidity
 - Delegation
 - Leverage

Ongoing regulatory requirements

Annual report

To home state regulator (and investors on request)

- balance sheet
- income and expenditure
- activities and material changes of AIF
- remuneration paid by AIFM to
 - staff
 - senior management
 - other staff impacting risk profile

Ongoing disclosure requirements

- Must also file with home state regulator:
 - Principal exposures
 - Performance data
 - Risk concentrations
 - Underlying funds (FoFs)
 - Additional reporting requirements for leveraged AIF
- Need to demonstrate leverage limits of each AIF are reasonable and are being complied with

Depositaries

- EU regulated bank or investment firm
- Equivalent offshore institutions for non-EU AIF but:
 - Can be in home state of non-EU AIF, AIFM or member state of reference
- Where non-EU institution
 - Co-operation and exchange of information agts
 - Subject to EU equivalent prudential regulation/supervision

Depositories

- OECD Tax Convention between all home states where units will be marketed and 3rd country
- Contractual liability mirrors EU liability rules

Depositories

- No depositary passport
- Delegation - depositary remains liable for sub-depositaries but can delegate to regulated brokers subject to conditions
- Responsible for holding all financial instruments and verifying holdings of other assets
- Oversight of registrar functions
- Oversight of valuation in accordance with applicable law/rules

Depositories

- Assets delivered within normal time limits
- Responsible to AIF and investors for negligence including loss of custody assets unless
 - due to external event beyond its control and
 - unavoidable or delegate's fault in prescribed circumstances

Additional Obligations on Private Equity Managers

- Reporting when holdings cross 10/20/30/50% and 75% thresholds in either direction
- Reporting on acquisition of control (usually at 50% level) is also to target and target's shareholders and employees
- Required information includes:
 - financing of acquisitions
 - policy for preventing conflicts
 - future plans for business
 - communication regarding employees and changes of employment conditions

Additional Obligations on Private Equity Managers

- Ban on 'asset stripping' within 24 months of acquisition of control - i.e. any distribution, capital reduction, share redemption or acquisition of own shares by target which exceeds profits/would reduce net assets, capital or reserves
- Rules following acquisition of control apply to listed and non-listed companies



Legal position if the Euro
collapses or individual countries
leave the Eurozone

Redenomination: the Relevant Legal Principles

- *Lex Monetae*
- Governing law
- Jurisdiction
- Currency of payment
- Placement of payment
- Location of entities
- Identity of the obligor
- Parties' contractual intention

***Lex Monetæ* – “the law of money”**

- Independent states enjoy sovereignty over their own monetary systems
- Thus, a sovereign state can freely declare that its current currency is to be replaced by a new currency and declare monetary obligations are to be redenominated into the new currency at a stipulated exchange rate calculated by reference to its prior currency
- If a monetary obligation refers to a particular currency, the law of the country where that currency is used will determine what currency payment is to be made in, regardless of the governing law of the contract

Lex Monetæ

- This legal principle is internationally recognised and has been followed by courts in multiple jurisdictions when considering currency changes introduced by independent states over the years
- As a result of the *lex monetæ* principle, monetary obligations can never simply cease to exist but must be replaced by a new unit of account or currency
- This is critical as otherwise debt/other monetary obligations would be completely extinguished on the introduction of a new currency
- There will always, therefore, be a legal ‘link’ between the old and the new substituted currency – otherwise it would be impossible, domestically and internationally, to ‘revalue’ existing debt/contracts

Lex Monetae: Application

- Establish the legal territorial ‘nexus’ of the contract/obligation
- Explicit: redenomination clause - very unusual
- Implicit – consider:
 - Governing law
 - Location of obligor
 - Place of payment
- If all factors point to, for example, an exiting Member State, there is a rebuttable presumption that that country’s currency law applies (and, therefore, Euro obligation can be redenominated into new local currency)

Eurozone Break-up: Possible Scenarios

- Complete
- Partial
- Legal
- Illegal

Documentary Implications

- Euro-denominated funds
- Service provider contracts
- ISDA/ other derivatives contracts

***Lex Monetae* in Practice**

Example Scenario 1

- Two contracts governed by English law between an entity in Member State A and an English counterparty guaranteed by a bank in Member State A
- Member State A exits the Euro (but Euro continues to exist) and introduces a new currency at a rate of 4000 new units = 1 Euro (implied devaluation of 50% as ECU conversion rate was 1 Euro = 2000 units)

***Lex Monetae* in Practice**

Example Scenario 1

- A EUR 1m obligation effectively becomes a EUR 500,000 obligation
- Member State A entity defaults and English counterparty sues under guarantee
- 1 contract provides for payment in Sterling; the other in Euro
- 1 contract provides for payment in London; the other in Member State A

***Lex Monetae* in Practice**

Example Scenario 1

- In what currency are these obligations to be paid? This will depend on which country's monetary law applies
- Important not least as new currency may fluctuate against Euro, may be exchange controls imposed etc
- Actions could be brought in English or Member State A courts

***Lex Monetae* in Practice**

Example Scenario 1

- Safe to assume that Member State A courts will find payment must be made in Member State A new currency if payment was due by a local entity and in Member State A

***Lex Monetae* in Practice**

Example Scenario 1

- But if payment was due to be made in Euro in London and new local currency law only made local payments mandatory, English law would be the proper law of the contract and English law would recognise the Euro as a continuing currency
- Thus even a Member State A court should find the guarantee had to be honoured in Euros

***Lex Monetae* in Practice**

Example Scenario 1

- The Sterling contracts could be required to be honoured in new Member State A currency if payable in Member State A but in Sterling if payable in London
- The rule to be applied by local courts depends on the terms of the new local law – if it makes payment in local currency mandatory in all cases then this overrides governing law of contract and place of payment

***Lex Monetae* in Practice**

Example Scenario 1

- But if it makes payment in local currency mandatory only in limited circumstances – say local payment and local obligor – then local courts will only automatically require payment in those limited circumstances
- If outside these mandatory rules then normal contract interpretation will follow – governing law, place of payment, parties' intentions etc

***Lex Monetae* in Practice**

Example Scenario 1

- If the same case was brought in the English courts would the result change?
- Although the English courts would recognise the new Member State A currency as validly existing, it does not follow that they would automatically find payment should be made in that new currency, even where payment is to be made locally and debtor is from Member State A

***Lex Monetæ* in Practice**

Example Scenario 1

- The English courts would have to decide which *lex monetæ* applied - Member State A or the remainder of the Eurozone as the Euro continues in existence
- This is a matter of contractual interpretation and the English courts would apply English law to determine what the parties intended
- Did the parties intend to contract by reference to the currency of Member State A from time to time?

***Lex Monetae* in Practice**

Example Scenario 1

- Where the obligation is expressed in Euros and payment in London, the court should find it continues to be a Euro obligation
- Where payment is in Member State A, an English court may find that payment should be in the local currency, depending on all the facts

***Lex Monetae* in Practice**

Example Scenario 1

- If Member State A left without consent would it make a difference?
- Yes, in the case of English court decisions at least, and probably other continuing Eurozone States
- An illegal departure would make English courts likely to disregard local law in all cases as it would be incompatible with English public policy for an English court to recognise the illegal act of Member State A

***Lex Monetae* in Practice**

Example Scenario 2

- Same facts as Scenario 1 but orderly abandonment of the Euro
- Member State A courts likely to arrive at same decisions as in Scenario 1
- But English courts cannot follow *lex monetae* of Eurozone in this case as it ceases to exist. So would need to find other criteria to decide

Lex Monetae in Practice

Example Scenario 2

- Place of payment would imply Sterling even for Euro obligation but this may not be logical and would depend on all the facts
- E.g. if purpose of underlying contract was to hedge obligation of Member State A entity business in Member State B, new currency of Member State B could be the appropriate currency

***Lex Monetae* in Practice**

Example Scenario 3

- Disorderly breakdown of entire Eurozone – ‘Eurozone Black Wednesday’
- Again local courts would come to same decision as in Scenario 1 above
- English courts could theoretically disregard local *lex monetae* on ground entire break up was contrary to EC Treaty etc but perhaps more likely to follow Scenario 2

Contingency Plans

- Are they necessary?
 - “Thinking the unthinkable on a Eurozone break-up” (FT 27/11/11)
 - “Europe fails to reach the summit” (FT 11/12/11)

Contingency Plans – Review Key Contractual Terms

- Governing law
- Jurisdiction clauses
- Terminate/re-negotiate risky contracts
- Credit risk management (hedging, diversification etc)
- Location of financial investments and bank accounts

Contingency Plans – Review Key Contractual Terms

- Timing of payments
- Price - EURIBOR-based interest rates/other pricing references
- Indemnity provisions
- Termination events
- Definition of currency including “Euro”
- Place of payment

Contingency Plans: Points to Consider

- Risk factors in prospectus/ marketing materials
- Discretion to switch Euro denominated shares/obligations into alternative currency share class to avoid uncertainty/potential payment/other difficulties

Conclusion

- UCITS – only EU-wide publicly marketable type of fund
- Newcits - investment range could be narrowed
- AIFMD will radically change regulation of EU managers and establishment and marketing of EU funds from 2013
- Non-EU managers need to consider whether to ‘opt-in’ to EU regulation from 2013
- Or adopt ‘wait and see’ approach
- But dangerous to assume current private placement rules will survive in current form post 2013

Conclusion

- Demise of Euro unlikely but depends on ability of EU to restructure current institutional set up and move quickly towards a truly federal structure
- Not clear all Eurozone countries want this – implied loss of significant additional sovereign powers
- And reliance of central unelected EU institutions to to recognise differing needs of different EU Member States
- Distinct possibility that one or more current Eurozone Member States will exit Euro unless wholesale restructuring of Eurozone occurs – markets have lost confidence and current credit ratings of all but Germany imply cost of funding unsustainable

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An abstract graphic on the left side of the page consists of several overlapping white circles of varying sizes. The circles are arranged in a way that they create a sense of depth and movement, with some appearing to be in front of others. The overall effect is a complex, organic shape that resembles a stylized flower or a cluster of bubbles. The circles are drawn with thin white lines, and their centers are marked with small white dots.

OUR EXPERIENCE



K&L Gates Investment Management Practice

The core Financial Services practice of K&L Gates includes one of the largest and most experienced investment management teams in the United States. More than 100 lawyers in the U.S., Europe, and Asia focus their time providing legal services to the investment management and professional investor communities. With an exceptional depth of knowledge and experience, the lawyers of K&L Gates are leading the way in assisting clients with investment management strategies.

The financial services industry is undergoing dynamic and rapid change. Financial institutions must serve customers on a global platform, while simultaneously addressing increasing global competition, changing technology, modernization of financial laws, and regulatory oversight. To remain competitive, financial services providers need to understand and manage effectively the complex and often interrelated legal and business issues that arise.

Our clients represent a cross-section of the investment management industry, including both financial service providers, such as broker-dealers, investment advisers, banks and trust companies, insurance companies, as well as investment vehicles, and other institutional investors, such as open- and closed-end registered investment companies (and their independent directors), ETFs, hedge funds (onshore and offshore), retirement plans (ERISA and governmental plans), and collective investment funds sponsored by banks and trust companies.

Areas of Practice

Investment Companies/Mutual Funds

We represent clients in connection with the full range of investment company industry products and activities, including all types of open-end and closed-end investment companies, funds of funds, funds of hedge funds, ETFs, variable insurance products, private and offshore investment funds and unit investment trusts. Our practice involves all aspects of the investment company business, from organizing and registering open- and closed-end funds to providing ongoing advice and representation to the funds and their advisers, directors and distributors.

Investment Advisers

Our U.S. Investment Adviser practice is among the largest in the United States. Our lawyers have extensive experience with the regulatory and legal issues affecting institutional and private advisory accounts, including pension plan accounts, hedge funds, other private investment funds, and offshore funds.

Hedge Funds, Private Funds and Offshore Funds

Our Hedge Fund practice represents a full range of U.S. domestic and non-U.S. funds in all aspects of their organization, funding, operations, and extraordinary transactions. We work with hedge funds, fund sponsors, advisers, placement agents, distributors, key investors and similar participants, as well as custodians, administrators, prime brokers, and other private fund service providers.

We have a substantial practice involving the organization and operation of a wide variety of private funds, offshore funds, hedge funds and other types of unregistered funds. These include offshore funds, limited partnerships, and limited liability companies that invest in, among other things, other funds, large domestic and foreign securities, mortgage servicing rights, timber, real estate, and collateralized debt offerings (CDO).

Regulatory Compliance

Our clients place substantial confidence in our firm regarding the sensitive and often critical area of regulatory compliance and enforcement. Because the mere allegation by a securities regulator or private plaintiff of wrongdoing can cause great damage to the target of the allegation, we appreciate the value of preventing the institution of public enforcement actions or significant legal actions.

BID	OFFER	LAST	VOL
7.98	8.00	8.00	0
24.46	24.50	24.49	0
24.66	24.68	24.66	0
10.51	10.54	10.53	0
44.00	44.03	44.00	0
5.52	5.53	5.52	0

K&L Gates is ranked as having one of the leading financial services practices in the country.

(Chambers USA)

Alternative Investments

K&L Gates' Alternative Investment Management practice represents institutional clients, including government agencies, private and governmental pension funds, universities and endowments, as well as high net-worth individuals, in evaluating, negotiating and structuring alternative investments. We work closely with public agencies in a variety of capacities and, as a result, we have a heightened sensitivity to the issues that concern government-related clients and other clients with significant fiduciary obligations.

Anti-Money Laundering

A number of our lawyers have substantial experience advising clients on anti-money laundering compliance—an increasingly important issue for business. Many of our clients expand the obligations of financial institutions to implement programs and procedures to detect and prevent money laundering.

Bank Securities Activities and Funds

We have extensive experience with respect to permissible securities and fiduciary activities of banks and bank and financial holding company affiliates. In the United States, we regularly counsel banks and their affiliates in connection with the formation, operation, and regulation of bank proprietary mutual funds registered under the Investment Company Act of 1940 and unregistered common and collective trust funds. Business and regulatory issues we deal with on a regular basis include Gramm-Leach-Bliley Act (including residual Glass-Steagall Act) matters, marketing strategies, and procedures required for properly investing the assets of fiduciary accounts and other bank clients in proprietary funds.

Broker-Dealers

Our clients come from every segment of the broker-dealer industry, including full-service broker-dealers and brokerage affiliates of investment advisers, banks, and insurance companies. In the U.K., we also advise the equivalent organizations or “brokerage affiliates.”

Our investment management group has provided representation to investment advisers, distributors, funds, and other affiliates of most of the 50 largest U.S. fund complexes.

Custody, Transfer Agent, and Other Service Providers

We advise transfer agent companies, including newly organized transfer agents. We have established or updated their operations manuals, procedures and forms, advised on their record-keeping requirements, conducted internal compliance audits, assisted with regulatory compliance examinations, advised on transfer agent registration requirements, and advised clients on how to avoid registration as a broker-dealer or clearing agency.

Enforcement, Litigation, and Arbitration

We have a major Securities Enforcement practice with more than 25 lawyers focused on defending clients in all aspects of private litigation, including class actions, and enforcement investigations and proceedings by the SEC, the NASD, and other securities regulators including, in the U.K., FSA enforcement actions, and the handling of disciplinary matters.



ERISA

Our ERISA practice offers extensive experience relating to fiduciary responsibility and prohibited transaction issues pertinent to mutual funds, hedge funds, common and collective funds, investment advisory programs, and other investment products and services and their providers.

Insurance Products

We provide legal and compliance assistance to insurance companies, employee benefit plans, banks and other regulated financial institutions, seeking to issue, sell and/or invest in fixed and variable life insurance and annuity products, including guaranteed investment contracts (GICs) and bank investment contracts (BICs).

Independent Director Representation

We represent independent directors of more than 40 fund complexes on issues including duties under the Investment Company Act of 1940, identifying potential conflicts of interest, reorganizations, litigation and regulatory proceedings, insurance and indemnification issues, and compliance policies.

Over-the-Counter Derivatives (OTC)

We regularly advise a variety of hedge funds, mutual funds, corporations and other end-users in structuring, negotiating and documenting a full range of over-the-counter OTC derivatives, including credit, equity, interest rate, currency, energy, and other commodity derivatives.

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We have substantial experience organizing REITs and advising them on their tax, real estate and mortgage issues. We represent banking concerns and institutional investors in connection with the financing of industrial, commercial, and residential developments.

Small Business Investment Companies

We provide a full range of services to principals, managers and investors in Small Business Investment Companies (SBICs), which are private equity funds licensed and leveraged by the U.S. Small Business Administration.

State and Municipal Pension Plans

We counsel state, municipal, and other institutional investors in the structuring and formation of investments in domestic and international alternative investments, including hedge funds, funds of hedge funds, private equity funds, venture capital funds, real estate funds, and other private investment funds.

Tax

Globally, we have extensive tax law experience to supplement the firm's Investment Management practice. K&L Gates' lawyers have worked on various international tax-planning strategies and transactions.

U.S. CFTC Regulation

Our lawyers regularly advise investment advisers, registered investment companies and hedge funds on regulatory issues relating to their use of futures contracts, options, swaps, other derivative instruments, and related CFTC registration issues.

Asia

K&L Gates has one of the most established registered investment fund legal practices in Greater China. Our Taipei office has one of the largest mutual fund practices in Taiwan. Our lawyers have extensive experience representing institutional clients including government agencies, pension funds, universities and other endowments, as well as some of Asia's leading private investors in their investments. Our Asian offices work closely with our asset management clients in Asia, which include private equity firms and venture capitalists. We frequently advise on the structures of both open-end and close-end offshore funds and assist in the formation of such funds.



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K&L Gates Hedge Funds and Alternative Investment Funds Practice

K&L Gates represents U.S. and non-U.S. clients in all segments of the alternative investment and hedge fund industry. Our practice is distinguished by the depth and breadth of our experience, geographical reach, and level of client service.

Why K&L Gates?

The depth and breadth of our experience in the investment management industry is unsurpassed.

As financial markets and regulatory schemes converge, clients require a law firm with the experience to advise on the best way to deliver their products and services, whether they operate or offer investment products in the United States, the United Kingdom, Europe or Asia. We have the global reach and the experience required and we are committed to providing the highest quality service in the most cost-effective manner possible.

All Types of Clients

We represent sponsors and managers of all types of alternative investment and hedge funds that are offered in the United States and offshore, institutional investors in these products and service providers to the industry (such as distributors, custodians, and prime brokers). Our clients include: major Wall

Street and international financial services firms, independent investment advisers and managers, brokerage firms, advisers to mutual funds, banks and trust companies, bank holding companies, retirement plan service providers, insurance companies, government plans and agencies, and universities and endowments.

Depth and Breadth of Experience

Our alternative investment and hedge fund practice is part of our Investment Management Group, which is one of the largest and most respected in the world. More than 40 lawyers in our Boston, Chicago, Hong Kong, London, Los Angeles, New York, San Francisco, Seattle, Taipei, and Washington, D.C. offices are actively engaged in various aspects of the practice. Many lawyers in our Investment Management Group formerly held senior positions at the SEC or other regulatory authorities. Our private fund lawyers are

supported by U.S. and non-U.S. specialists in tax, ERISA, U.K. pension law, derivatives, commodities, structured products, employment, bank regulatory, securities regulatory, anti-money laundering, real estate, estate planning, litigation, private equity, and venture capital. We have particular experience in regard to presentation of prior performance data.

Third-Party Recognitions

Our hedge fund practice was nominated to the shortlist for the third year in a row by HFMWeek US Hedge Fund Services Awards for both "best onshore law firm" and "best law firm-client service." At the 2011 awards ceremony, we were recognized with "high commendation" for the category of "Best US Law Firm-Client Service."

In addition, our hedge fund/private fund practice was nationally ranked for the second consecutive year in the first-tier of the U.S. News-Best Lawyers® rankings of "Best Law Firms."



More than 40 lawyers devote all or a significant portion of their time to hedge fund, venture fund, and other private fund matters.

All Types of Investment Strategies

We have experience in the full range of strategies employed by alternative investment and hedge funds (including funds-of-funds, long-short hedging, global macro, quantitative trading, credit, distressed debt, illiquid investments, mortgage-related, activist, arbitrage, and commodity-related), and specialized investment products, such as real estate funds, "principal protected funds," natural resource funds, Shariah-compliant funds, and variable life insurance products. We also have experience in structuring side pockets and dealing with side pocketed investments for our clients.

All Types of Structures

We advise fund sponsors and managers in identifying and implementing the best structure for organizing their business and fund offerings, including selecting the best jurisdiction (whether it be the U.S., U.K., Europe or Asia) and the best legal structure (whether it be a U.S. limited liability company or limited partnership, an offshore corporation, a U.K. OEIC, a trust or a U.S. "Small Business Investment Company").

We have experience with regard to all types of fund structures, including master-feeder structures, U.S. and non-U.S. group trusts, public and private fund structures, funds-of-funds, parallel funds, multi-strategy funds, "registered hedge funds" and "registered funds-of-funds," leveraged funds, and "hybrid funds."

We have provided advice on the various exemptions from SEC registration that are best suited to a particular product offering, such as those available to common or collective trust funds maintained by banks or trust companies, "group trusts" for employee benefit plans under IRS Revenue Ruling 81-100 and "business development companies." Also, we can advise on investment products that combine SEC registered and non-registered structures and specialized products offered through trust structures.

We tailor our work for clients to meet their individual needs and bring to bear all relevant experience. We advise fund sponsors and managers on all aspects of their operations, including the structuring of their funds, fund raising, employment and compensation matters,

tax planning, trading, U.S. and non-U.S. regulatory matters, industry best practices, and listings on non-U.S. stock exchanges. We also advise service providers on all aspects of their operations and institutional investors on their investment programs, including relevant U.S. and non-U.S. regulatory requirements, industry best practices, and "market" commercial terms. We conduct "mock audits" for our SEC registered clients (and for non-registered clients that want to operate as if they were) that simulate actual SEC audits through a risk-based analysis of compliance policies and procedures.

Asian Offices

Lawyers in our Beijing, Hong Kong, and Taipei offices establish hedge funds, open- and closed-end investment vehicles, and authorized and unauthorized unit trust structures.

London Office

The London office regularly provides counsel to participants in the U.K. financial services industry including investment managers, brokerage firms, and other FSA regulated firms. Important practice areas of the London team include fund establishment and listings with a particular focus on hedge funds and real estate funds, FSA regulation (including implementation of the E.U. Markets in Financial Instruments Directive), incentivization structures, banking and structured finance, and exit strategies for managers including IPOs and private sales.



K&L Gates is ranked as having one of the leading financial services practices in the country.

(Chambers USA)

Experience with Extraordinary Transactions

We advise fund sponsors, managers, and other financial services firms on:

- Acquisitions of fund sponsors and managers, as well as service providers, such as administrators and broker-dealers.
- Strategic investments in fund sponsors and managers, representing both the fund sponsor/manager and the strategic investor
- Lift-outs of personnel, including compensation arrangements/equity participations for portfolio managers and portability of prior performance records.
- Strategic alliances and joint ventures with distribution partners and others.
- Restructuring of funds, including changes in fund service providers, investment policies, fees, subscription and redemption terms, and eligible investors.
- Conversion of "non-plan-asset funds" into funds that hold "plan assets" and are compliant with the fiduciary responsibility standards and prohibited transaction restrictions of ERISA and the parallel prohibited transaction provisions of the Internal Revenue Code.

Real Estate Funds

We represent clients in securitizing residential and commercial real estate and mortgage loans, both in real estate investment trust and limited partnership structures, including tenancy in common interests, inter-state land sales registrations, syndications of real estate limited partnerships and the public offering of real estate investment trusts. K&L Gates frequently helps clients understand the status of their real estate partnership holdings and analyze available sale or refinancing options. We also have particular experience in timber funds and the tax issues unique to the timber industry.

State and Municipal Pension Plans

K&L Gates counsels state, municipal and other institutional investors in the structuring and formation of investments in domestic and international alternative investments, including hedge funds, fund of hedge funds, private equity funds, venture capital funds, commodity funds, infrastructure funds, energy funds, real estate funds, and other private investment funds. Our lawyers work closely with investors providing advice in multiple disciplines with the requisite industry knowledge and are solely focused on the client's objectives. We help clients focus, when appropriate, on the corporate governance, regulatory, ethical, and other fiduciary requirements which are applicable to our institutional investor clients.

We also provide advice to our fund clients, when accepting investments from state and local plans and agencies, with respect to compliance with lobbyist/placement agent registration laws, gifts and entertainment restrictions, prohibitions on contingent compensation and/or use of placement agents, political contribution limitations, and state sunshine laws.



We are legal counsel to dozens of investment company complexes that range in size from the largest U.S. complex to small start-up operations. We also serve as legal counsel to investment advisers and broker-dealers that manage the assets of pension funds, hedge funds, offshore funds, bank collective funds and individuals. Many of our money management clients are affiliated with banks, insurance companies and brokerage firms, while others are independent firms.

We are focused on working with clients to solve problems and achieve their objectives.

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K&L Gates UK Financial Services Practice

Members of the K&L Gates London office regularly advise participants in the UK financial services industry including a broad spectrum of domestic and international fund managers, trading advisors, banks, brokerages, proprietary trading firms and other FSA regulated firms. We differentiate our financial services practice through (1) the sheer scope and breadth of our resources and experience, (2) our commitment to practical and cost-effective solutions, and (3) quality of service. In the increasingly complex regulatory and business environment in which our financial services clients operate, and especially in light of the consolidating nature of many leading industry participants, we can bring to bear the resources and experience demanded by our sophisticated clients in an effective and cost-efficient manner.

Value Added Service

We have in-depth knowledge that comes from extensive experience in the financial markets. In addition to our experience in private practice, members of the Financial Services Practice, in the UK and U.S., have worked in-house and are active in a variety of U.S. and UK industry associations, including the Alternative Investment Management Association, the Securities and Investments Institute, the Futures and Options Association, the Futures Industry Association, the Investment Company Institute and the Managed Funds Association. Our experience provides us with knowledge not only of the applicable laws and regulations, but also of business realities, regulatory processes and exchange and regulatory personnel, enabling us to provide effective advice that goes far beyond mere knowledge of legal rules.

Areas of Practice

Investment Management

The Financial Services Practice provides advice with respect to the organisation and day-to-day operation of a range of investment funds (including parallel and master-feeder structures and funds of funds) and fund managers. Our lawyers are especially well versed in the practical as well as the technical and regulatory aspects of organising and operating fund vehicles and structuring investment managers to minimise regulatory capital and other requirements. We strive to create and develop innovative structures to address the specific needs of our clients. In addition to the investment vehicles and managers themselves, our clients include a wide range of other service providers to the fund management industry, from administrators and custodians to banks and distributors. Members of the Financial Services Practice are involved in the structuring of investment funds with a broad range of investment strategies, including hedge, private equity, real estate, life insurance settlements and

distressed and emerging market investments. Our lawyers are also highly experienced in the structuring and acquisition of, and exit strategies from, fund portfolio investments (by private sale or public offering), and in the buying, selling, and flotation of investment management and other financial services firms.

Futures and Derivatives

We are one of the few law firms with significant experience in this complex area of law. Members of the Financial Services Practice provide advice on all aspects of futures and derivatives legal and regulatory compliance, including trade practices, registration, recordkeeping and reporting, anti-money laundering, capital requirements, margin and supervision. We also represent our clients in connection with investigations and enforcement actions. Our lawyers are experienced in dealing with the regulatory aspects of mergers, acquisitions, dispositions of business interests and other transactional matters and regularly draft and negotiate clearing agreements, customer account documentation, written supervisory procedures and compliance manuals.



Banks and Broker-Dealers

We provide comprehensive legal services to a diverse group of clients that includes banks, broker-dealers, online brokerage firms, proprietary trading groups and many others. Our lawyers provide business-sensitive advice on all aspects of bank and broker-dealer law and regulation, including FSA applications, reporting, trading, research, advertising, capital, margin and supervision. Members of the Financial Services Practice also regularly draft and help implement brokerage agreements, compliance manuals, trading and privacy policies and conflict of interest policies. Our lawyers are experienced in handling transactions involving transfer of ownership interests in banks and broker-dealers and also represent bank and broker-dealer clients in regulatory investigations and proceedings.

OTC Derivatives and Structured Products

We advise financial institutions, derivatives dealers, hedge funds and other asset managers in structuring, negotiating and documenting hedge fund-linked and other structured investments as well as a full range of over-the-counter derivatives. Our lawyers advise clients with respect to securities, commodities and banking regulatory and compliance matters, and provide ongoing advice concerning the trading, marketing and sales of OTC derivatives and structured products.

FSA Regulation

Our regulatory lawyers handle all aspects of FSA and other regulation in the financial services industry, including in relation to contentious matters, from litigation to regulatory investigations and regulatory enforcement action. We are also able to provide seamless trans-Atlantic, European and global regulatory advice through our international network of offices. Chambers UK 2011 reported a client comment on one of our regulatory lawyers that "he is completely up to date about UK and EU regulation and is brilliant at educating us".

Representative Matters

- Advising U.S.-based hedge fund manager clients on the establishment of UK offices including establishing the corporate entities, advising on the corporate structuring and the regulatory, employment and other issues associated with the establishment by a U.S. hedge fund manager of its practice in the United Kingdom.
- Acting for an FSA-authorized entity in relation to a Bermudan fund of hedge funds including reviewing the prospectus and investment management agreement.
- Advising on prime brokerage arrangements between our hedge fund clients and the major international prime brokerage groups.

- Advising a U.S. fund manager with regard to proposed arrangements for two members of its UK LLP to receive ownership interests in the U.S. entity.
- Advising a fund distribution business on its corporate reorganisation and contractual terms with fund clients.
- Advising a securities trader in connection with an internal investigation, disciplinary hearing and FSA investigation regarding certain trades which the FSA believed were conducted by the trader on the basis of inside information.
- Advising UK-based hedge fund groups on their regulatory capital requirements.
- Advising a UK hedge fund manager on a substantial position taken in connection with an ongoing public takeover offer in the United Kingdom.
- Advising a U.S. hedge fund manager on tax-efficient deferred remuneration structures and the FSA's Remuneration Code.



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K&L Gates U.K. Investment Management Litigation Practice

There are many forms of dispute which arise within the investment management industry. K&L Gates acts for a range of different participants in the investment management community and has a thorough understanding of industry practice in respect of investment management agreements. The K&L Gates Litigation Group works hand in hand with the K&L Gates Investment Management Group in advising clients on the best legal and commercial solutions to disputes.

The types of dispute are varied, but areas where K&L Gates has experience include disputes between:

- investors and funds and/or their service providers i.e. fund directors, managers, administrators, custodians, counterparties, prime brokers, and auditors
- funds and service providers
- offshore managers and onshore investment managers/sub-managers
- investment managers and their partner/employees
- investment managers and regulatory authorities
- participants and their insurers

There are numerous claims by institutions, including major pension funds, and class actions by investors, against funds in the United States. The regulation of fund managers is under scrutiny. In the U.K., the FSA has been conducting a thematic review of the risk of market abuse and the management of inside information by fund managers.

In these times, fund managers need to know that they can turn to advisers who can deal with the risks and opportunities with which funds are presented now more than ever.

K&L Gates is ideally placed to address these issues.

- K&L Gates has extensive experience in recovering client monies invested in failed ventures including acting for the Committee of Unsecured Creditors in the Bayou Funds bankruptcy. K&L Gates is able to advise on fallout from situations such as the Madoff scandal including asset recovery and associated investment management litigation issues.
- K&L Gates' long-established investment management practice advises, and has for several decades advised, leading funds and fund managers of all sizes, and has detailed experience of acting for funds and fund managers.
- K&L Gates has defended funds, fund managers and many types of financial services firms and individuals against substantial law suits, securities class actions and arbitrations, and has pursued claims on their behalf.
- K&L Gates' securities enforcement practice regularly defends firms and individuals in regulatory investigations by bodies such as the FSA and the SEC.
- K&L Gates has partners who are former in-house lawyers at investment managers, whilst other partners have held senior positions within the SEC and other regulators.

- K&L Gates' policyholder insurance coverage practice has wide experience advising on and improving policy wordings at renewal, and securing funding from Directors' and Officers' and professional indemnity policies when insurers had previously declined coverage.
- K&L Gates is recognised as a dependable crisis manager to conduct internal investigations when clients need to establish the facts and take big decisions in the light of their operational risks and regulatory responsibilities. From major high profile assignments such as investigating examiner of New Century, in the CBS Sixty Minutes affair and for the Examiner in the WorldCom bankruptcy to smaller incidents, when management simply must know the truth and how to deal with it K&L Gates' lawyers know what to do, how to do it efficiently, effectively, and sensitively to the client's needs.
- K&L Gates has acted in hedge fund SIV noteholder priority cases, has considerable experience in investment manager partner disputes and litigation on business sales in the investment management sector.

K&L Gates focuses on the key tasks—identifying risk, minimising exposure, and dealing with disputes.

Whatever an investment manager or fund has to face—from external litigation to internal employment issues; from regulatory enforcement proceedings to compliance practices—K&L Gates has the knowledge and understanding of the investment management industry to protect, advance, and fulfil business objectives, by resolving concerns and disputes.



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K&L Gates London Private Equity and Venture Capital Practice

K&L Gates represents both the providers of private capital and the companies, management teams, and entrepreneurs who use private capital to acquire, create, and grow companies. The K&L Gates private equity and venture capital team covers the entire spectrum of transactions in the private equity market, from formation to investment to exits. We advise on private equity transactions, both in our London office and across our international platform.

We work with our clients to assess and manage risks and to develop practical strategies to achieve client objectives. Our approach is flexible and proactive, and we are dedicated to providing timely advice in an efficient and cost-effective manner.

We bring an interdisciplinary approach to our work. We assemble teams as necessary to bring the lawyers with the relevant skills and experience to the transaction, regardless of where those lawyers are based. Because we are a single, focused, global entity, we deliver integrated services across multiple legal disciplines and jurisdictions.

Our lawyers have years of experience working on transactions covering a broad range of industries. The depth of our experience gives us a thorough understanding of current market practices and terms and conditions and allows us to provide value-added service to our clients.

Key Areas of Focus

Venture Capital and Emerging Growth Companies

Our London team advises both high-growth companies and institutions and other investors. We work with clients from start-up to profitability to IPOs and public acquisitions, and we scale our services in the U.K. and international deals.

We have deep experience with high-growth and technology-driven ventures, and we have the legal resources that matter in this sector— from transactional IP to executive compensation to multi-party restructurings and innovative financing rounds. Most importantly, we balance a business-focused perspective with experienced legal advice.

K&L Gates' lawyers advise and represent some of the world's most prominent information technology companies on cutting-edge issues, influencing technology and intellectual property law as our clients shape their industries.

We also represent many start-up and early stage, emerging growth companies. We work with them from formation, through the various stages of their financing activities, and in their strategic joint venturing, acquisitions and disposals, and liquidity transactions. Some of the world's leading businesses, including Microsoft, Starbucks, and T-Mobile, have turned to us for assistance and guidance with their most important opportunities and challenges as young companies.

Our lawyers also represent capital sources, such as hedge funds, business development companies, and other institutional investors, in making leveraged investments in technology-oriented companies, including software developers, ISPs, computer service firms, and a wide variety of other technology-intensive businesses. These investments include senior secured loans, second lien loans and mezzanine debt, and are frequently accompanied by equity kickers or private equity investments.



Leveraged Buyouts and Private Equity

Our lawyers have experience representing companies (both public and private), merchant banks, strategic investors, venture funds, buyout funds, special opportunity funds, and management teams and their sponsors in leveraged buyouts, management buyouts, and other control transactions.

Our lawyers represent buyers, sellers, and financing sources in a broad array of transactions, including acquisitions and dispositions of entire companies and subsidiaries, leveraged buyouts, spin-offs, roll-ups, going-private transactions, recapitalisations, IPOs, and joint ventures. These transactions cover virtually every sector of the economy, including industrial, consumer, wholesale and retail services, travel and leisure, health care, financial services, education, IT, technology, telecommunications, pharmaceutical and life sciences.

K&L Gates' acquisition finance practice provides our clients with experienced assistance in structuring, negotiating, and closing the financing necessary to complete acquisition transactions. These include bank credit facilities, mezzanine debt or other private debt placements, asset-based financings, and bridge loans and other creative financing structures.

Fund Formation

K&L Gates has significant experience in the formation of private equity, venture capital, and other investment funds. We are counsel to private equity and venture funds, hedge funds, and funds of hedge funds. We have also played a major role in drafting fund documents for a wide variety of specialised funds.

We are adept at utilising the various structures most commonly used by such funds when structuring management and other fee arrangements, carried interest and clawback provisions, distribution provisions, valuation policies, and similar structuring issues.

Our interdisciplinary approach to fund formation allows us to draw on the extensive experience of our lawyers in the many areas of the law involved in the formation of private equity, venture and mezzanine funds, including employee benefits, executive compensation, depository institutions, hedge funds and venture funds, investment management, tax and securities.

Portfolio Company Representation

We act as outside counsel to a number of our private equity fund clients' portfolio companies. The broad range of knowledge and experience of lawyers from other areas of specialisation at our firm enables us to provide a full array of legal services to these portfolio company clients. Such advice has involved the implementation of executive compensation and employee incentive arrangements, intellectual property protection and enforcement, real estate, equity and debt financings, securities transactions, litigation, corporate governance, real estate and environmental, tax, restructurings, and other matters.

Liquidity Transactions

We add real value when it comes to exit strategies for investment realisation. Whether advising on a sale or an IPO, we can help our clients to maximise investor return.

A significant focus of the firm is representing clients in domestic and cross-border merger and acquisition transactions, including advising on the structuring, financing and successful completion of the full range of acquisitions, divestitures, joint ventures, recapitalisations, and other related transactions.

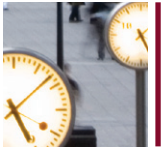
We also have a strong track record advising companies on their IPOs or subsequent offerings, including equities, debt instruments, and hybrid securities. Our issuer engagements include all aspects of corporate planning and restructuring, preparation of registration statements and prospectuses, assistance in negotiating underwriting and placement arrangements, preparation of listing applications and requirements in the United Kingdom, United States, and Asian capital markets. In the United Kingdom, our lawyers support Full List, AIM, and Plus Market listing applications.



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K&L Gates LLP



K&L Gates London Corporate Practice

Our Corporate team in London advises on the full range of corporate and commercial matters. We have extensive experience advising on all aspects of domestic and cross-border, public and private M&A transactions. Clients in the capital markets arena include issuers, underwriters, sponsors, nominated advisers, financial advisers and investors. We provide focused, innovative legal advice to ensure that transactions are completed on time, on the right terms and at a sensible cost. We pride ourselves on being trusted business advisers to entrepreneurs, developing and developed businesses and directors particularly in key business sectors. We are particularly focused on the mid-market but also at home with start-ups and large international transactions. The London Corporate department was recognised by Chambers UK 2010 and Legal 500 UK 2010 as being highly regarded for U.S./UK corporate transactions.

Our practice is part of K&L Gates' international corporate and transactional practice, one of the most substantial in the world with more than 500 lawyers. Each year, we complete hundreds of M&A transactions and public and private debt and equity offerings. In a typical year the London corporate team will act on a significant number of transactions above £100m in value, breaking through £10bn of total deal value.

K&L Gates' mergers and acquisitions practice encompasses all aspects of buying and selling companies and businesses and includes transactions of all sizes and degrees of complexity, often involving

cross-border elements. Clients include corporations, partnerships, investment funds and entrepreneurs and range in size from emerging companies to some of the largest multinational corporations. We represent purchasers, sellers, bidders, targets, funders, management and advisors on both public and private mergers and acquisitions. We advise on the full range of services involved in such deals including taxation, pensions and employment, real estate, intellectual property and financing. We represent many public companies and companies seeking public financing in either initial or secondary public offerings, including by way of equity, debt and hybrid issues. Our advice includes all aspects of corporate

and transaction planning, structuring and restructuring, preparation of prospectuses, assistance in negotiating underwriting and placing agreements and preparation of listing documents for the Full List, AIM and PLUS markets.

We advise on all aspects of financings for private companies from small private share offerings to private equity and venture capital funding and large equity and debt offerings. We have significant experience in advising these companies from the initial investment through to exit.

For public company clients, our lawyers advise on a continuing basis about disclosure, corporate governance and both routine and complex regulatory and compliance issues. We help companies to understand the ever changing rules and guidelines on corporate governance issues, including the City Code and advising firms authorised by the Financial Services Authority on regulatory filing and reporting requirements.

“They are a very big firm but they make you feel like the most important client.”

Chambers and Partners UK 2010



Representative Transactions

Mergers and Acquisitions

Affinia Group Inc.

Sale of Commercial Distribution Europe Business Unit known as Quinton Hazell

CBRE

Establishment of a \$2bn fund structure for the acquisition of industrial distribution centres in Western Europe

LKQ Corporation

Acquisition of Euro Car Parts for an initial purchase of £225 million

CapGemini S.A.

Acquisition of 51% of the shares in Strategic Systems Solutions

Leisure Parcs Limited

Sale of the Blackpool Tower, the Winter Gardens and related assets for approximately £35m

Algorithmics

Acquisition of VIPitech from Towers Watson

Henderson UK Retail Warehouse Fund

Acquisition of all the issued units in a unit trust in exchange for the issue of units in Henderson Retail Warehouse Fund, cash and the transfer of two out of town retail warehouse investments held by Henderson

Matthew Benham

Acquisition of approximately 35% of the issued ordinary share capital of Brentford FC Limited, the holding company of Brentford FC

Powerperfactor

Purchase by Powerperfactor of its own shares from certain of its shareholders, and negotiation of a new shareholders' agreement for the remaining shareholders

OnAssignment, Inc.

Acquisition by OnAssignment, Inc. of the entire share capital of Sharpstream Holdings Limited

LSL Property Services plc

Acquisition of the entire issued share capital of Halifax Estate Agencies Limited from Bank of Scotland plc (part of the Lloyds Banking Group)

Velti plc

Re-domiciliation and re-organisation of the Velti group entailing a scheme of arrangement introducing a new Jersey-incorporated, AIM-listed company also to be named Velti plc

TRI Investments Limited

TRI Investments Limited acquired 100% of the issued share capital of Chartwell Fund Management Limited from Chartwell Group Limited

YGM Group

Acquisition of the IP rights in Aquascutum in 42 territories across Asia from the Japanese listed company, Renown Incorporated

Halliburton

Sale of interest in Enventure Global Technology LLC

La Poste Group

UK and US legal aspects of acquisition of stake in Sefas Innovation SA

Bestinvest

Sale of Bestinvest (with assets under management of £3.7bn) to 3i

Teledyne Technologies Incorporated

Various UK acquisitions

KBR, Balfour Beatty and The Weir Group

Sale of Devonport Royal Dockyard in Plymouth

Price Brothers Company

Sale of UK subsidiary to Hanson Pipe and Precast, Inc.

Iotech Limited

Sale of Iotech Limited to Sika AG

Sapient Corporation

Acquisition of Derivatives Consulting Group Limited

La Seda de Barcelona SA

Acquisition of European subsidiaries of Amcor Group

Halliburton

Multi-jurisdictional acquisition of PSL Energy Services Limited

Copart, Inc.

Bid for and takeover of Universal Salvage Plc

Ma Potter's Ltd

Sale of leading UK restaurant chain

Pointer Investments

Bid for and takeover of Principal Capital Investment Trust Plc

Equity Capital Markets

ProPhotonix Limited

IPO on AIM

City of London Investment Group plc

Admission to the Premium Segment of the full list on the London Stock Exchange

Hangar 8 plc

IPO on AIM

Produce Investments PLC

IPO- AIM UK

Liberum Capital Limited

IPO - AIM UK of Waterlogic Plc

Polish government

IPO for PZU SA on Warsaw Stock Exchange

HaloSource, Inc.

IPO- AIM UK

Afren plc

Secondary offering - AIM (US/UK/West Africa)

ET China International

IPO - AIM (China)

Secure Design KK

IPO - AIM (Japan)

Napo Pharmaceuticals, Inc

IPO - Full List (US)

Armor Designs, Inc

IPO - AIM (US)

New Britain Palm Oil Limited

IPO - Full List (Papua New Guinea)

Leed Petroleum PLC

IPO - AIM (US)

Entertainment One Ltd

Secondary offering - AIM (UK/Canada)

Patagonia Gold PLC

Secondary offering - AIM (Argentina/Chile/UK)

xG Technology, Inc

IPO - AIM (US)

City of London Investment Group PLC

IPO - AIM (US/UK)

PME African Infrastructure Opportunities PLC

IPO - AIM (South Africa)

Applied Intellectual Capital Limited

Secondary offering - AIM (US/UK/Jersey)

Capital Lease Aviation plc

IPO - AIM (UK)

Ukrainian Properties & Development plc

IPO - AIM (Ukraine)

Melorio plc

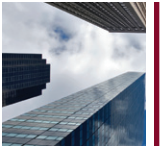
IPO - AIM (UK)

Cosalt plc

Secondary offering - AIM (UK)

Block Shield Corporation

Secondary offering - AIM (US)



K&L Gates Practice Areas

K&L Gates delivers legal services on an integrated and global basis from 40 cities on four continents. We represent a broad array of capital markets participants, leading global corporations in every major industry, and ambitious middle-market and emerging growth companies. We also serve public sector entities, educational institutions, and philanthropic organizations. Drawing on our worldwide resources and seamless service capabilities, we deliver value to our clients through efficient and effective representations in all of the following practice areas.

Corporate

- Restructuring and Bankruptcy
- Benefits, ESOPS, and Executive Compensation
- Corporate
- Finance
- Outsourcing and Commercial Transactions
- Private Clients, Trusts and Estates
- Public Finance
- Tax
- Tax-Exempt Organizations/Nonprofit Organizations

Energy, Infrastructure and Resources

- Construction and Engineering
- Energy
- Project Development and Finance

Financial Services

- Investment Management, Hedge Funds and Alternative Investments
- Consumer Financial Services

Intellectual Property

- e-Discovery Analysis and Technology (e-DAT)
- IP Procurement and Portfolio Management
- IP Litigation
- Technology Transactions and Data Protection

Litigation and Dispute Resolution

- Commercial Disputes
- Insurance Coverage
- Labor and Employment
- Toxic Tort/Product Liability

Policy and Regulatory

- Antitrust, Competition and Trade Regulation
- Environmental, Land and Natural Resources
- Food, Drugs, Medical Devices and Cosmetics
- Government Contracts and Procurement Policy
- Government Enforcement
- Health Care
- Public Policy and Law
- School Districts
- Telecom, Media and Technology

Real Estate

- Real Estate Investment, Development and Finance
- Real Estate Land Use, Planning and Zoning



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Global legal counsel in 40 fully integrated offices on four continents.



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South America

São Paulo

Europe

Berlin, Brussels, Frankfurt, London, Moscow, Paris, Warsaw

Middle East

Doha, Dubai

Asia

Beijing, Hong Kong, Shanghai, Singapore, Taipei, Tokyo

THE FINANCIAL SERVICES TEAM



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Martin Cornish is a partner in the London office. He concentrates his practice on investment management and financial services matters and has acted for securities, commodities and derivatives brokers and dealers, banks, investment banks and investment managers for over 20 years. Mr Cornish is an acknowledged legal authority and regularly appears as such in the *Legal 500* and *Chambers' Directories* of leading lawyers.



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Philip Morgan is a partner in the firm's Investment Management practice group and has wide experience in all aspects of law and regulation in the UK financial services industry. He works closely with U.S. and other colleagues to provide international financial services regulatory advice and his practice also focuses on investment funds, particularly hedge funds, real estate funds, private equity funds and listed investment funds. His transactional work also encompasses corporate projects such as joint ventures and establishment of limited liability partnerships, with a particular emphasis on the investment management and real estate sectors. He has advised a number of U.S. clients on the establishment of their business in the UK.



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Elizabeth Winder is an associate in the firm's London office. Elizabeth has advised on a broad range of funds and corporation transactions with a particular focus on property funds. Other practice areas include private equity, mergers and acquisitions, joint ventures, corporate finance and general corporate advice.



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Alice Bell is an assistant in the firm's London office. She concentrates her practice on investment management and financial services and regulatory matters.



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Paul Beausang is a corporate tax partner in the London office. Paul has extensive experience in a broad range of corporate tax issues with a particular focus on property tax matters, including advising on a variety of SDLT strategies.



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Emma Tuppen is senior associate in the Tax Group of K&L Gates' London office. She has extensive experience advising on tax issues relating to real estate transactions, in the context of sales and acquisitions, developments and joint ventures. Ms Tuppen has wide experience in relation to mergers and acquisitions, and regularly advises on diverse corporate issues. She has also advised on international corporate holding structures and fund structures.

Ms. Tuppen's real estate experience includes dealing with a variety of holding structures (including limited partnerships, unit trusts and companies). Her practice also extends to dealing with REIT clients and factoring in the aspects of REIT legislation relevant to the transaction.

Ms. Tuppen has worked in devising and advising on SDLT

mitigation schemes.



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Seema Chandaria is an associate in the firm's London office. She has advised on a range of funds and corporation transactions with a particular focus on property funds.



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Katie is a trainee in the firm's London office and has gained experience in a number of different departments. Prior to joining K&L Gates, Katie worked at the Gibraltar office of an international law firm as a member of their financial services team where Katie was involved in advising on the formation and regulation of a number of investment funds and fund managers in that jurisdiction.



STEPHEN MOLLER
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Stephen Moller is a partner in the Finance group of the London office. His experience includes a broad range of banking and capital markets transactions. Mr Moller's structured finance practice covers standalone derivatives as well as credit linked and fund linked notes and also receivables financing and asset backed securities. His broader banking experience includes finance for private M&A transaction and public bids, real estate loans and project finance transactions. He has also acted on a number of debt restructurings and distressed debt acquisitions/disposals, as well as structured transactions to securitise distressed debt. In addition to his investment bank and corporate clients, Stephen acts for hedge funds as lenders and as syndicate members and for fund of funds raising finance through bank debt or structured note issues.



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Trevor Beadle is a banking and finance partner in the firm's London office. His practice and experience covers advising banks, financial institutions, funds, lenders, borrowers and rating agents in relation to secured and structured domestic and international finance transactions. With a broad background in real estate, corporate and acquisition finance, Mr Beadle's experience includes capital markets, structured, derivative and ISDA products for banks, institutional investors and funds. Mr Beadle's finance practice also covers working with renewable energy and environmental projects; and ethical finance, including Sharia'h projects. More recently Mr Beadle's practice has included distressed loan work outs and restructurings; derivatives, ISDA and restructuring advice flowing from market events.



ROBERT HADLEY
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Robert Hadley is a partner in the firm's Commercial Litigation and Securities Enforcement practice groups. He focuses on regulatory enforcement and investigation matters and general commercial litigation. He has experience of litigation at all levels for clients in a variety of industries including the life assurance, financial services, construction, manufacturing, property and publishing sectors, as well as for individual clients. He has acted in FSA enforcement matters and advised firms and individuals on FSA regulatory issues



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Mr. Landau is a partner in the firm's Corporate practice group and has particular experience in corporate finance, domestic and cross-border M&A and private equity. He has extensive experience of transactions in a broad range of sectors, with particular emphasis on financial services, natural resources/oil and gas, technology and telecommunications, life sciences, leisure and retail sectors.

In particular, Mr. Landau has a wealth of experience of advising companies (both domestic and international), as well as investment banks on IPOs and fundraisings on the London Stock Exchanges' Official List and AIM Market.



KEVIN DEAN
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Kevin practices in mergers & acquisitions and corporate finance with a focus on the active fund management. He focuses on international mergers and acquisitions, takeovers, private equity and venture capital and corporate finance including capital raisings and stock exchange listings



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Stuart Grey is an associate in the Intellectual Property, the Telecom, Media, Technology, and the Sports practice groups in London. His practice focuses on the development, exploitation and protection of all types of intellectual property, know-how and information technology assets, and on data protection, in a diverse range of sectors. He has extensive experience of advising on licensing, commercial agreements, software and systems development agreements, and outsourcing, as well as in relation to mergers, acquisitions, disposals, joint ventures, and flotations in which IP is a major asset.



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Ian Fraser is a partner in the London Office's Employment, Pensions and Incentives group, focusing on employee incentives. He is experienced in all forms of employee incentives (including share incentives and cash arrangements), employment taxes and corporate tax.

Ian Fraser advises on the design, drafting and implementation of share incentive plans and other incentive arrangements (both in the UK and internationally and whether approved by HM Revenue & Customs to provide income tax/NICs relief or otherwise), dealing with incentive arrangements in the course of mergers and acquisitions and other corporate transactions, payroll taxes and social security liabilities and issues relating to internationally mobile employees.



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Noel is a partner in K&L Gates' Employment, Pensions and Incentives Group. His practice covers a wide range of contentious and non-contentious UK employment law including advising on recruitment, secondments, foreign assignments, employment status, unfair and unlawful terminations, all aspects of unlawful discrimination, employment issues arising out of corporate restructurings and business transfers, bonus and commission disputes, unlawful diversion of business, team moves and enforcement of post termination restrictions.

Noel is a former practicing employment barrister and in the 2006 edition of Chambers Legal Directory it states that he "gives sound stellar advice on both the commercial and legal aspects of his clients' negotiations. Clients view him as a responsive adviser who can negotiate the best deal".

His clients include companies operating in the financial services, insurance, publishing, technology and recruitment industries. His corporate clients range from start ups to FTSE 100 companies. He also advises senior individuals.



DANNY TSANG
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Danny is a partner in K&L Gates' Employment, Pensions and Incentives Group. He has a wide-ranging pensions law practice and advises both employers and trustees.

He has extensive experience in advising on plan re-organisations and strategy as well as on corporate transactions with a particular focus on public sector outsourcing. He also advises on the pensions aspects of insolvency having been involved in a number of high profile cases.



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K&L Gates includes lawyers practicing out of 37 offices located in North America, Europe, Asia and the Middle East, and represents numerous GLOBAL 500, FORTUNE 100, and FTSE 100 corporations, in addition to growth and middle market companies, entrepreneurs, capital market participants and public sector entities. For more information, visit www.klgates.com.

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Mark D. Perlow

AREAS OF PRACTICE

Mr. Perlow's practice focuses on investment management and securities law. He regularly represents mutual funds, hedge fund managers, investment advisers, fund boards of directors, and broker-dealers on a variety of regulatory and transactional matters. He has represented clients on a broad range of traditional and novel matters, including:

- Representing funds, investment advisers, and broker-dealers before the SEC and FINRA in connection with registration, exemptive applications, no-action and interpretive requests, enforcement actions, examinations, and transactional and disclosure filings
- Forming and reorganizing mutual funds as well as preparing and negotiating the full range of fund documents and agreements
- Structuring and forming hedge funds
- Counseling and negotiating agreements for funds, investment advisers and broker-dealers on issues arising from distribution (including retirement plan issues) and on counseling on regulatory issues in marketing and advertising
- Representing and advising fund independent directors
- Serving in interim role as chief legal officer for major investment manager and mutual fund sponsor
- Advising and assisting clients on adviser and fund mergers, acquisitions and adoptions
- Conducting "mock" SEC examinations and compliance reviews
- Advising funds on legal and regulatory aspects of derivatives, short selling, and market structure
- Counseling clients on "investment company," "investment adviser" and "broker-dealer" status issues
- Representing and advising the Investment Company Institute on regulatory policy recommendations and preparing related SEC submissions
- Preparing comments on SEC rule-making
- Advising fund sponsors and investors on regulatory and market issues posed by exchange-traded funds
- Serving as expert witness on industry practices
- Counseling clients on compliance with the Dodd-Frank and Sarbanes-Oxley Acts
- Advising clients on fiduciary duties and corporate governance, including proxy voting responsibilities
- Advising and assisting fund sponsors on new investment vehicles, including funds of hedge funds, alternative strategy mutual funds, 130/30 funds, employees' securities companies, manager-of-managers funds, stable value funds and basket depository receipts

PROFESSIONAL BACKGROUND

Mr. Perlow served as senior counsel in the Office of the General Counsel of the Securities and Exchange Commission from 1998 to 1999, focusing on investment

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management, fund and corporate governance, and enforcement. He also served in the SEC's Division of Enforcement from 1994 to 1997. While on the SEC staff, Mr. Perlow worked on regulatory initiatives on fund governance, the scope of the securities laws online, codes of ethics, personal trading of investment personnel, and foreign custody of fund assets, and he advised the SEC on enforcement actions involving funds and investment advisers.

He also served as senior attorney on a number of enforcement actions and investigations, including the W.R. Grace 21(a) Report on independent directors' duties, and cases involving accounting fraud, market manipulation, insider trading, and broker-dealer sales abuses. Prior to government service, Mr. Perlow was associated with a California law firm and represented technology companies on corporate, securities, and intellectual property matters.

PROFESSIONAL/CIVIC ACTIVITIES

- American Bar Association (Member of Committee on Federal Regulation of Securities and Subcommittee on Investment Companies and Investment Advisers, Task Force on Investment Company Use of Derivatives and Leverage)
- Federal Bar Association
- Hedge Funds Care, West Coast Committee
- West Coast '40 Acts Group
- National Investment Company Service Association (West Coast Steering Committee)
- Adjunct Faculty, U.C. Berkeley School of Law, "Capital Markets and Financial Institutions: Crisis and Regulatory Response," Fall 2009 and 2010

BAR MEMBERSHIP

California
District of Columbia

EDUCATION

J.D., Yale Law School, 1991 (Executive Editor, *Yale Journal on Regulation*, Olin Fellow in Law, Economics and Public Policy)
M.A., Oxford University, 1988 (Newton-Tatum Scholar)
A.B., University of California, Berkeley, 1986 (*summa cum laude*)

PUBLICATIONS

Articles

- "SEC Issues Concept Release on Use of Derivatives by Investment Companies," *The Investment Lawyer*, Vol. 18, No. 12, December 2011.
- "SEC Enforcement Action Shows Regulatory Focus on Private Equity Managers," VC Experts, October 27, 2011.
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- "New Regulatory Approaches to Short Selling in the U.S. and the EU," posted on Alternative Investment Management Association website, March 2010.

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Client Alerts and Updates

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- “Increased Regulation of U.S. and Non-U.S. Private Fund Advisers Under the Dodd-Frank Act,” Financial Services Reform Alert, July 9, 2010.
- “Senate Financial Reform Bill Would Dramatically Step Up Regulation of U.S. and Non-U.S. Private Fund Advisers,” Financial Services Reform Alert, June 8, 2010.
- “SEC Proposes Large Trader Reporting System,” Investment Management Alert, May 12, 2010.
- “New Dodd Bill Would Dramatically Step Up Regulation of Private Fund Advisers,” Investment Management Alert, March 23, 2010.
- “New Regulatory Approaches to Short Selling in the U.S. and the EU,” Investment Management Alert, March 11, 2010.
- “SEC Publishes Concept Release on Market Structure, Proposes Risk Management Rules for Sponsored Access,” Investment Management Alert, February 15, 2010.
- “Global Government Solutions 2010 – The Year Ahead,” K&L Gates Publication, January 2010.
- “Sweeping Reforms Moving Forward for Credit Rating Agency Practices,”

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- Investment Management Alert, October 13, 2009.
- “SEC Proposes ‘Pay-to-Play’ Rules for Investment Advisors,” Investment Management Alert, August 20, 2009.
- “SEC Seeks Comment on Alternative Uptick Rule Proposal,” Investment Management Alert, August 19, 2009.
- “Regulators Focus on High-Frequency Trading and Market Structure: Flash Orders, Indicators of Interest, Dark Pools and Co-Location,” Investment Management Alert, August 5, 2009.
- “SEC Takes Further Steps to Curtail ‘Naked’ Short Selling; Short Sale Reporting Rules to Expire,” Investment Management Alert, July 30, 2009.
- “Investing in Foreign Securities Offerings and Avoiding Rule 144A Pitfalls: Tips for the International Investment Manager, Investment Lawyer, July 2009.
- “Global Financial Markets – Legal, Policy and Regulatory Analysis,” Volume 2, Issue 3, June 2, 2009.
- “SEC Proposes Reinstating Short Sale ‘Uptick Rule,’” Investment Management Alert, April 20, 2009.
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- “K&LNG's Investment Management Update,” K&LNG Publication. Summer 2006.
- “SEC Adopts New Fund of Funds Rules,” K&LNG Investment Management Alert. July 2006.

Mark D. Perlow

PRESENTATIONS

Mr. Perlow is a frequent speaker and panelist on subjects related to the investment management industry. His recent presentation topics include:

- the Dodd-Frank Act
- regulatory initiatives regarding hedge funds, private equity funds and their managers
- regulation of derivatives and funds' use of derivatives
- regulation of portfolio management and investment risk



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J. Matthew Mangan

AREAS OF PRACTICE

Mr. Mangan is a partner in the firm's investment management group. He counsels investment advisers, private fund managers and broker-dealers on a variety of fund formation, product structuring, transactional, regulatory and compliance, and securities law matters. He regularly works with clients to structure and document U.S. and offshore private investment funds and assists clients with a variety of state and federal regulatory and compliance issues. He also represents government plans and other institutional investors in connection with their investments in hedge funds, private equity, venture capital and real estate funds. Mr. Mangan also counsels clients on complex seeding arrangements, corporate structure and entity formation issues.

Mr. Mangan also represents individuals and entities on securities enforcement matters involving the SEC, FINRA and other regulatory authorities, and has substantial experience conducting internal investigations in matters relating to securities regulation and compliance.

Mr. Mangan regularly assists clients with state and federal registration issues and the application of various exemptions.

PROFESSIONAL BACKGROUND

Prior to joining K&L Gates' investment management group, Mr. Mangan's practice focused on general corporate and securities transactions, with an emphasis on small and mid-sized entrepreneurial businesses, start-up and high-technology businesses, and real estate related transactional matters.

Prior to attending law school, Mr. Mangan passed the Certified Public Accountant's examination. He also served as a judicial extern to the Honorable Thomas E. Carlson, Judge, U.S. Bankruptcy Court, Northern District of California.

SPEAKING ENGAGEMENTS

Mr. Mangan is a frequent speaker and panelist on subject related to the investment management industry. His recent presentation topics include:

- the Dodd-Frank Act
- regulatory initiatives regarding hedge funds, private equity funds and their managers
- SEC examination and enforcement initiatives

PROFESSIONAL/CIVIC ACTIVITIES

- San Francisco Bar Association
- State Bar of California (Business Law Section)

COURT ADMISSIONS

- U.S. Court of Appeals for the Ninth Circuit
- U.S. District Court for the Northern, Eastern and Southern Districts of California

J. Matthew Mangan

BAR MEMBERSHIP

California

EDUCATION

J.D., University of San Francisco, 1992 (*cum laude*; American Jurisprudence Awards
for Torts and Criminal Procedure)

B.S., Accounting, Santa Clara University, 1988



David Mishel

AREAS OF PRACTICE

Mr. Mishel practices from K&L Gates' San Francisco office and is a member of the Securities Enforcement group. He practices in the following areas: broker-dealer, investment adviser and securities regulation and enforcement, and general corporate and securities business transactions.

Mr. Mishel counsels broker-dealers and investment advisers on regulatory and compliance matters, and represents broker-dealers and investment advisers in SEC and FINRA investigations and proceedings, as well as in the formation and licensing process. He also advises broker-dealers about Internet and online public and private capital raising issues.

Mr. Mishel also has extensive experience in corporate and securities practice including public and private securities offerings, mergers and acquisitions, venture capital and formation and representation of private investment entities.

PROFESSIONAL BACKGROUND

Prior to joining K&L Gates, Mr. Mishel was a partner at another law firm and worked previously for the Securities and Exchange Commission as a member of a special task force that authored the WHEAT report, the forerunner of the integrated disclosure system and the restricted stock rules. Mr. Mishel served in the U.S. Navy JAG Corps.

PUBLICATIONS

- "Raising Capital Through Online Offerings," *News and Notes, Compliance and Legal Division – Securities Industry Association*, March 2001
- "Redefining the Broker's Exception," *Investment Advisor's Compliance Conference*, June 2000

PROFESSIONAL/CIVIC ACTIVITIES

- American Bar Association Federal Regulation of Securities Committee
- Securities Industry Association Compliance & Legal Division
- Panelist, NASD National Panel of Arbitrators
- Speaker at Securities Seminars including the NASD Institute for Professional Development and the SIA Compliance and Legal Division

BAR MEMBERSHIP

California

EDUCATION

J.D., Harvard Law School, 1961

B.A., University of Michigan, 1958

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