**Paper chain**: more and more PE firms are using their fund administrator to assist with regulatory compliance

# Fund administrators take on an expanding role

As private equity continues to grow, the industry is facing mounting regulatory scrutiny. That means CFOs and CCOs will need greater support with compliance, *Robert Aufenanger* of Broadscope Fund Administrators tells *pfm*

**Q What are some of the key regulatory issues impacting PE firms?**

**Robert Aufenanger:** Well, first and foremost, as a result of Dodd-Frank most PE firms registered as investment advisors (RIA) with the Securities and Exchange Commission. Over the last few years, the SEC has come up to speed on the PE industry. We have all been involved with or heard about SEC reviews focused on disclosure, fee allocations, cyber security and other issues. In addition to SEC compliance, there are several other critical regulatory issues currently impacting the PE industry.

FATCA, the Foreign Account Tax Compliance Act, is a US tax law designed to fight tax evasion. Under FATCA, foreign financial entities must identify US investors holding accounts at their institution and report certain information to US tax authorities.

CRS, the OECD's Common Reporting Standard, is like FATCA on steroids. Since its enactment, over 100 countries have signed up to comply with CRS. The idea behind CRS is to have a common database where information is gathered and shared among the countries that are party to CRS.

AML and KYC, anti-money laundering and know your customer, are currently best practices but not yet a US requirement for RIAs. However, under Cayman law, AML is required for Cayman Islands funds.

GDPR, or General Data Protection Regulation, effective May 25, is an EU privacy rule that impacts European funds as well as US funds with EU investors. This is a hot area and it is widely expected that more privacy regulations are on the way.

**Q How do PE firms typically address compliance with these regulations?**

**RA:** Many firms address compliance issues with in-house resources, but it's a tedious task. Regulations have increased exponentially over the last few years. CFOs and CCOs are already stretched thin with expanding demands on their time. Now, in addition, they need to ensure they are compliant with a variety of regulatory issues. To do so, they need a strong technology solution and in-house technical expertise; the human resources, or in many cases compliance consultants to stay current on all the laws; and the manpower to implement and maintain their compliance programs.

We know that more and more PE firms are hiring fund administrators to assist with the traditional accounting and reporting functions. They are also asking these firms for compliance assistance. And CFOs and CCOs are finding that quality administrators can provide this assistance efficiently and cost effectively. A quality fund administrator will have a strong technology solution and policies and procedures in place, plus knowledgeable staff that works these issues daily for a variety of clients. Fund managers reap the benefits from economies of scale provided by the administrator, as well as insight into industry best practice. As a result, compliance assistance has increasingly become an important component to the administrators' service offering.

Robert Aufenanger

**Q How does the administrator assist the CFO/CCO with compliance?**

**RA:** Best practice is to coordinate a team effort. The CFO/CCO, their attorney, compliance consultants, tax preparer and the administrator form the appropriate team. This ensures all parties understand how a particular regulation impacts the specific managed funds. Once understood, a compliance program is developed and the administrator then implements the plan and continually monitors compliance in accordance with the plan.

The ongoing monitoring takes most of the workload off the shoulders of the CFO/CCO. A quality administrator will review regulatory updates as they occur and analyze the operational impact to the managed funds with the team.

**Q How have administrators developed the capabilities to provide these compliance services?**

**RA:** An administrator that provides quality compliance assistance will have the ability to respond to the rapidly changing regulatory landscape with subject matter expertise, well-trained staff, efficient dynamic technology tools, and a commitment to promptly and thoroughly analyze new regulations as they're spelled out. Administrators offering this kind of partnering model have invested heavily to customize their technology, develop process controls and procedures and train their staff appropriately.

Not all administrators have these compliance service capabilities. There's a recent survey that showed 36 percent of respondents switched their administrators within one year; that's a big number. One reason given for switching was the administrator's inability to cope with compliance. The CFO role has changed dramatically from the days where it was simply an accounting, reporting and investor communications function. CFOs/CCOs need the support, including compliance support, and they are increasingly looking to their administrator for assistance.

**Q What role does technology play in meeting compliance obligations?**

**RA:** Technology plays a major role. An organized database designed to capture and store pertinent data is the basis for creating the efficiencies required for compliance analysis and reporting. For example, AML compliance requires comparing data from one source to other source documents maintained by a manager. Data from W-8 forms must be compared for consistency to data from subscription documents, transfer documents, CRS forms and other legal documents. Also, a variety of regulatory filing formats require different data sets that must be properly stored and easily accessed for efficient report population. Attempting to retrieve, organize and review this data manually could be a nightmare.

Elsewhere, a lot of us are reading about blockchain and distributed ledger technologies. They may indeed provide the fund administration industry with a new cost-effective way to perform certain compliance functions in the future. We're following those developments closely.

**Q What does the compliance and regulatory environment look like in the years to come?**

**RA:** It is widely expected that new regulations will continue to impact the PE industry. And it's not just the US but international law, too; GDPR is a good example. Because PE continues to grow with an international scope, new regulations are going to continue. Data privacy and data security will continue to be in the spotlight. Sophisticated investors understand this, and they are asking the questions in due diligence meetings to ensure fund managers have effective compliance solutions. The SEC will continue to be proactive and CFOs need to be prepared by maintaining a strong compliance program. As these trends continue it is likely that more CFOs and CCOs will rely on knowledgeable full-service administrators to assist them with current and future regulatory and compliance issues.

Robert Aufenanger *is a managing partner of Broadscope Fund Administrators with more than 30 years of experience directing alternative investment products. Prior to co-founding Broadscope, he served as executive director and CFO of UBS's Alternative Investments Group, and also served as CFO of Alternative Investments at US Trust, Icon Investments and Merrill Lynch.*

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