



## BEPS tax leakage

BEPS is beginning to have an impact on the alternative fund industry, although we are still some way off from knowing what the full effect of this OECD led initiative will really be. It looks like funds domiciled in EU jurisdictions like Ireland and Luxembourg will be the first to feel the 'BEPS effect'.

Some BEPS rules have to be implemented by 2019 and others by 2020. 'This is about to hit the ground in the next couple of years,' said Robert Mellor, UK Asset Management Tax Leader at PwC, at IFI Global's recent London conference.

He added that we are now in the BEPS implementation period and the industry is beginning to be affected. For example, BEPS will lead to what he called 'tax leakage' in EU jurisdictions like Ireland and Luxembourg. 'This will have a fundamental impact on returns in some areas.' As a result, investors in funds that are domiciled there are likely to receive lower returns.

Institutional investors are beginning to include questions on BEPS compliance in their due diligence questionnaires, added Robert Mellor. He also made the point that in future managers will be talking to investors about the pre and post tax returns.

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## Delegation: disaster ahead?

Changes that ESMA and the Commission appear to have in mind for delegation probably won't work. They are protectionist and are likely to keep Anglo-Saxon alternative fund managers out of the EU.

Brexit is obviously the reason ESMA is looking again at delegation, and so why it published its Opinions to NCAs on UK manager relocations to the EU last May and July. The AMF's Natasha Cazenave said at a recent conference that ESMA fears 'a race to the bottom' post Brexit which is why it is reviewing delegation rules. The AMF, the French regulator, is very keen to see stricter rules put in place. Meanwhile the US has voiced its concern about delegation changes.

Natasha Cazenave also said ESMA will make sure that EU 27 is 'on the same page' when it comes to delegation. To that end it has started reviewing authorisations made by the CSSF in Luxembourg said Owen Lysak, a partner with Clifford Chance, at IFI Global's January conference.

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