

## *HFM Global* Talks With Neil Robson on Senior Managers Regime, MiFID II and GDPR

December 19, 2019

Financial Markets and Funds partner Neil Robson spoke with *HFM Global* for the publication's European regulatory year in review. On the Senior Managers Regime, Neil stated, "Firms are dealing with it and making sure who is going to be a senior manager, drafting statements of responsibility, going through their obligations and training managers." Regarding the second part of the regime's requirements, "Lots of clients are taking a view that they'll be 'super compliant' — they'll do everything up front because then all staff, whether managers or certification staff, will all be subject to the same rules."

Neil noted that questions still remain regarding the revised Markets in Financial Instruments Directive (MiFID II) going into next year. "The key outstanding regulatory change is how bits of MiFID II will work post-Brexit. As soon as we leave, we will have 'UK MiFID II' and 'UK MiFIR' but the problem is that a lot of the commodity derivatives rules, position limits and so on are based on pan-European markets, so you have potential problems with the percentage thresholds. That is effectively dead in the water, because if you take the UK element out of the EU regime, then the numbers are skewed — those numbers will have to be reset, which is quite complicated to do and remains an open issue."

The General Data Protection Regulation (GDPR) continues to pose challenges for European hedge fund managers going into 2020, as it clashes with US Securities and Exchange Commission's (SEC) record-keeping requirements for registered investment advisors (RIAs). Neil stated, "So far, we haven't had any full SEC-registered investment advisors through." While European managers can become exempt reporting advisors (ERAs) in the meantime, it is still a hindrance for hedge funds seeking serious institutional money. "The result is that a UK manager that is an exempt reporting advisor (as opposed to being SEC registered) cannot have any US-managed accounts. That's the real crux of the issue — many are having to say to US investors that they cannot have a separately managed account and will have to come into the fund." ("[2019 in review: Europe](#)," December 16, 2019)

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