FUNDS CONGRESS 2017

#FUNDSCONGRESS

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Introduction

On the 9th February 2017, almost a year of planning by co-organisers Dechert LLP and Carne came together in the biggest and best Funds Congress yet. With well over 1000 attendees, this is the largest Central London event that brings together asset managers from all asset classes and jurisdictions to consider themes that will define the year ahead in fund management.

Dechert's Peter Astleford opened the event with an upbeat review of recent trends in the industry, noting strong AUM growth despite a number of headwinds.

Astleford reminded delegates, arrayed over two floors at London's QEII Centre, that the three key product lines of European fund managers – UCITS, AIFs and separately managed accounts – could be organised in ways that minimised Brexit risk. "We may be at risk," he concluded, "but we are not in danger."

"We may be at risk, but we are not in danger."

"Strong AUM growth despite a number of headwinds..."

Peter Astleford, Partner, Dechert LLP

Industry Keynote

Sir Chris Hohn, Founder,
The Children's Investment Fund Management

Active asset managers without a clear source of alpha face a bleak future, predicts Sir Chris Hohn, philanthropist and founder of value-based manager TCI.

Hohn, in a rare speaking appearance that reassured some but discomfited others, discussed the relative performance of active and passive investment strategies. Active management did not fare well. Amongst other things, he quoted Greenwich Associates research suggesting mutual funds have historically underperformed the market by some 60% a year. Passive strategies, on the other hand, had in general proved themselves stronger over time.

Hohn, whose strategies have underpinned significant historical performance at TCI, criticised the high fees charged by active managers, arguing that the lower fees charged on passive strategies played a big part in their better than average long-term returns.

Active investment funds tend to focus on the short term, he added, and value asset accumulation over performance. Greater portfolio turnover can also lead to higher trading cost and other issues, such as Capital Gains Tax. Some managers do little better than hug a benchmark in any event, hamstrung by excessive caution.

Hohn did note that certain active strategies – including certain real assets and private equity – had delivered strong performance. However, there was often a very significant gap between top quartile performers and the rest.

Hohn made a good case for seeking out inefficiencies in strong, sustainable companies, investing for the long term, and focusing on a limited range of industries and opportunities. TCI seeks out corporate events or other special situations that may have been misunderstood or mis-valued – Hohn cited VW as a recent example – and does not shy away from activism where appropriate. A consummate contrarian investor, Hohn noted that there was often plenty of money to be made in tricky situations that had dissuaded others.

The Future Shape of Active v Passive Asset Management

With disappointing performance rife within the active management space, passive management strategies have come to dominate the market. Nevertheless, the panel agreed that active strategies may still offer interesting return potential, particularly where products are not reduced to a benchmark. Opportunities for active managers would also increase if most of the market shifted to passive.

In this environment, active managers are facing greater demand for dialogue from investors, who are seeking more detail in managers' approach to the investment process. With a greater focus on cost transparency, managers have also been forced to compare their premium items with what has been commoditised, which has led, in some cases, to fee adjustments.

> "Many active managers find that they need to educate their investors and potential investors about strategies to which they are not accustomed"

Non-traditional asset categories have delivered growth stories for active managers. However, many investors clearly prefer exposure to beta rather than to assets they don't understand. Accordingly, many active managers find that they need to educate their investors and potential investors about strategies to which they are not accustomed. Some fund managers have also done well by finding a balance between active and passive strategies.

Andrew McCaffery, Global Head of Alternatives, Aberdeen Asset Management – Moderator
Jamie Broderick, CEO, UK & Jersey, UBS Wealth Management
Jeremy Soutter, Global Head of Product Development and Management, Standard Life Investments
Leda Braga, CEO, Systematica Investments

Appealing to European Insurance Company Investors After Solvency II

Over the past few years, the insurance industry has faced a mix of low returns on conventional investments, increased customer scrutiny and heavier regulation on capital requirements.

This mix has led many insurers to turn their attention from traditional asset classes, such as government bonds, to a more diverse, global portfolio that includes liquid and illiquid assets managed by both internal and external asset managers. Insurers are also clearly focused on managing their risk.

In order to take advantage of this trend and attract investment by insurance companies, asset managers need to have an understanding of insurance companies' objectives and their risk appetite. They must be able to offer a level of transparency that allows insurance company investors to track risk limits, both in terms of funds' portfolios and asset managers' internal infrastructures. For many asset managers, this implies a change in working practices, with greater emphasis on legal, compliance and accounting and a need for training to help staff understand the needs of insurance industry clients.

Nevertheless, the panel concluded that the insurance industry represents a great opportunity for asset managers to attract fresh investment into their funds — if they are willing to put in the effort required.

John Donohoe, Group CEO & Founder, Carne Group – Moderator

Etienne Comon, Head of EMEA Insurance, Goldman Sachs Asset Management

Michele Gaffo, Chief Investment Officer, Poste Vita S.p.A

Ravi Rastogi, Partner and Insurance Group Leader (Europe), MMC, Mercer

Tolga Uzuner, Senior Portfolio Manager, Emerging Markets, Apollo Global Management

Evolutions in Investor Preferences and Fund Distribution

The panel discussed a significant shift over the past few years, with increased demand from institutional investors for bespoke, value-driven products, rather than pre-packaged products. With investors coming under increasing scrutiny from their own regulators and stakeholders, they are demanding both high returns and portfolios that help them manage their own risk, product and return profiles.

Investors that traditionally managed assets in-house are looking to outsource in order to diversify risk and take advantage of external asset managers' knowledge and skills. Yet they seek more tailored and customised products. Investors are also pushing heavily to keep prices low, challenging asset managers to provide added value.

> "Asset managers looking to keep up with competitors will need to invest in order to become client matter experts"

In order to understand and meet an investor's bespoke requirements, asset managers may need to make a significant investment in internal training and technology infrastructure — and show a willingness to engage with the client.

In the retail market, there has recently been a significant inflow to passive management. The Retail Distribution Review has skewed control over the value chain towards distributors, rather than asset managers, and has also led to an emphasis on keeping costs as low as possible. The use of "robos" is likely to increase with MiFID II on the horizon.

The panel's conclusion? Asset managers looking to keep up with competitors will need to invest in order to become client matter experts, rather than purely product matter experts.

Doug Lindgren, CEO North America, Carne Group - Moderator
Mike O'Brien, CEO EMEA & Joint Global Head IM Solutions Business, JP Morgan Asset Management
Shoqat Bunglawala, Head of Global Portfolio Solutions EMEA & Asia, Goldman Sachs Asset Management
Simon Ellis, Global Head of Client Segments, HSBC Global Asset Management
Diana Mackay, CEO, Mackay Williams

How to Speak Plainly and Reclaim Your Professional Life

Lucy Kellaway, Associate Editor, Financial Times

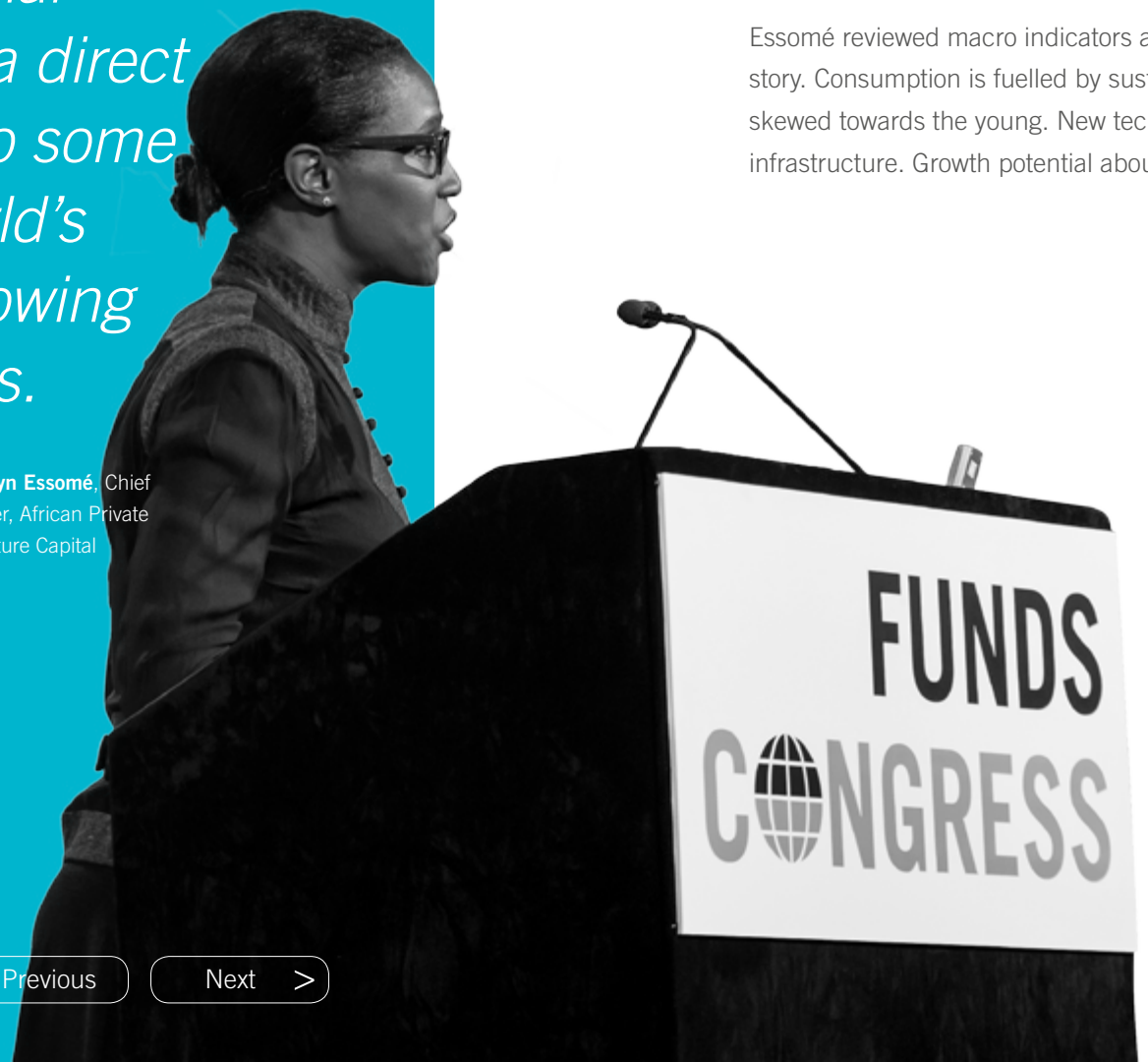
Known and loved for her satirical commentaries on the absurdities of modern corporate culture, Lucy Kellaway has spent decades poking fun at corporate jargon, fads and delusions of grandeur.

Kellaway shared highlights from her "Dear Lucy" *FT* column, revealed the real reason she killed off one of her most memorable creations and shared coping strategies for e-mail management in the 'always on' 21st century corporate culture. Kellaway, who has forged a three-decade career and a loyal reader fan base by shining a spotlight on the worst examples of corporate humbug, self-aggrandisement and over-complication, was the perfect start to the afternoon's proceedings.

The One Billion Consumer Opportunity

The small but burgeoning African private equity market allows international investors a direct channel to some of the world's fastest-growing economies.

Michelle Kathryn Essomé, Chief Executive Officer, African Private Equity and Venture Capital Association



Spooked by political uncertainty in the UK and Europe? Consider shifting allocations to Africa, argued ex-investment banker Michelle Kathryn Essomé. The small but burgeoning African private equity market allows international investors a direct channel to some of the world's fastest-growing economies.

Essomé reviewed macro indicators across the continent, generally a very positive story. Consumption is fuelled by sustained urbanisation and population demographics skewed towards the young. New technologies are set to leapfrog decaying traditional infrastructure. Growth potential abounds.

Yet with local stock markets dominated by large industrial conglomerates still mainly run by the state, said Essomé, it is the unlisted companies serving Africa's fast-growing consumer markets — nimble, newly established players in financial services, telecoms, health care and residential real estate — that are driving growth.

Currently dominated by Nigeria and Ghana, Africa's US$40 billion PE industry is a people-focused market, where value is created largely by organic growth. Strategies required are highly labour-intensive, with most firms seeing "boots on the ground" as an essential part of the value proposition. But the rewards are significant and not limited to return on capital. Many firms have a strong culture of environmental and social governance and investment cases often result in significant 'spin off' community or social benefits.

With fund managers expected to comply with MiFID II in less than a year, the regulatory panel, notwithstanding that the FCA had not been able to field a speaker this year, brought delegates up to date with European regulators' priorities for the year ahead.

Timeframes stipulated by MiFID II represent a challenge for the entire industry, panellists acknowledged. Regulators are aiming to complete their own preparations by mid-2017, six months before the new regulations come into force.

Priorities for the year varied modestly by country. In some jurisdictions, differences remain between regulations at the EU and national levels. In cases where regulatory bundles (such as EMIR) were not specifically designed for asset management but nevertheless affect the industry, regulators emphasised that they remain open to dialogue with funds to ensure that their interpretation of the rules provides a practical, workable regulatory framework.

Panellists acknowledged that ESMA's work on UCITS shares had not received the attention it merits, particularly in view of the importance of currency hedging. Stability and predictability were foremost in regulators' minds concerning UCITS, along with broad support for ESMA's rulings. Some flexibility in interpretation would be granted to ensure that managers can benefit from economies of scale.

With fee levels – particularly those of active managers – continuing to prompt discussion, it was noted that the European Commission had recently financed a study on fees and could be expected to issue some guidance in the near future.

Lastly, with many fund managers now starting to focus on contingency plans for a post-Brexit loss of EU passporting rights, discussion focused on the rules surrounding the delegation of fund management to third countries and the 'substance' of the functions being delegated.

Regulatory Priorities for 2017 and Beyond

Susanne van Dootingh, Head of European Regulatory Strategy, State Street Global Advisors – Moderator
Matthieu Lucchesi, Head of Asset Management Regulation and International Affairs Directorate, AMF
Jean-Marc Goy, Counsel for International Affairs, CSSF
Gráinne McEvoy, Director, Securities and Markets Supervision, Central Bank of Ireland
Joe Agius, Deputy Director, Securities & Markets Supervision Unit, Malta Financial Services Authority

US Enforcement in the Trump Era

Anyone whose activities touch on the U.S. financial system or involve U.S. persons should be concerned about the long arm of the U.S. Securities & Exchange Commission (SEC) and Department of Justice (DoJ), according to Vincent Cohen, former acting U.S. Attorney for the District of Columbia and now a partner in Dechert's white collar litigation group. Many types of fund manager are of interest to the SEC, emphasised Cohen, not just those formally registered under the Investment Company Act of 1940.

> "Maybe they won't make the *Wall Street Journal* or the *Financial Times*, but these are the cases of most concern to people in this room."

It was under Cohen's watch that a DoJ strike team went out to Benghazi to capture terrorists. However, most cases were less dramatic. The SEC pursued a 'broken window' approach to enforcement, prosecuting lower level offences in order to deter more egregious misbehaviour. "Maybe they won't make the *Wall Street Journal* or the *Financial Times*, but these are the cases of most concern to people in this room," Cohen warned. This approach could be expected to continue notwithstanding the recent change in president and administration.

The Dodd-Frank Whistleblower Program had a transformative effect on the SEC's enforcement activity. This is highly relevant to European managers, as in 2016, 10 percent of the 4,218 tips received by the SEC originated outside the U.S.; and 24 percent of those who received whistleblower awards were foreign nationals. And while President Trump may dismantle some aspects of Dodd-Frank-related regulation, the relative ease of prosecution suggests that the Whistleblower Program will survive.

Moreover, since former acting Deputy Attorney General Sally Yates' September 2015 memo emphasising the greater role of individual wrongdoers in corporate investigations, Justice Department representatives must now be present during SEC interrogations of financial executives. And while civil actions brought by the SEC may result in very hefty fines, Cohen reminded the audience, charges brought by the Justice Department can lead to jail time.

Karen Anderberg, Partner, Dechert LLP
Vince Cohen, Partner, Dechert LLP and Former U.S. Attorney for District of Columbia

Making Brexit Work for Fund Managers

The purpose of the panel was not to debate the rights and wrongs of Brexit, but to focus on how fund managers could make the most of it.

The panel discussed a range of topics, including the potential for deregulation in the UK and the economic stimulus this may prove to be, the political nature of the "equivalence" question, as well as the scale of the negotiation and legislative process ahead. In overall terms, the panel felt that Brexit would be relatively "low impact" for UK-based fund managers. Structural solutions to EU distribution should still be available. A mass exodus of talent was not likely. London would continue as a global finance hub thanks to "overwhelming" advantages—an energetic business culture, benign tax regime, capacity to draw talent, openness to innovation and the rule of law.

> "The real competition, it was noted, comes not from Dublin, Paris or Frankfurt but from New York"

The real competition, it was noted, comes not from Dublin, Paris or Frankfurt but from New York. The deregulatory agenda of the United States under President Trump could prove a much greater threat to the UK financial services industry than Brexit. Would the UK leave Europe only to be swallowed up by an unchained Wall Street?

Theo Moore, Senior Director, APCO Worldwide – Moderator
Jonathan Faull, Former European Commission Taskforce Leader
Joan Hoey, Regional Manager (Europe), Economist Intelligence Unit (EIU)
Hon. Jacob Rees-Mogg MP, Member of Parliament for North East Somerset
Steven Woolfe MEP, Independent Member of European Parliament for North West England

Testimonials

> *'Very hard to top this excellent event'*

> *'This programme surpasses anything else in the market'*

> *'Excellent delegate list – everyone was here!'*

> *'…A really fantastic day: great list of talks, speakers and venue'*

> *'Loved it! Stayed all day!'*
>
> *'Great variety of topics'*

Let's keep the conversation going. Join the FUNDS CONGRESS discussion group on LinkedIn for updates throughout the year on issues affecting the asset management industry

2018 Register Interest **Tweet Us** **Connect With Us**

Funds Congress at a Glance

Funds Congress, co-organised by Dechert and Carne, is the biggest central London based asset management conference covering all asset classes.

Funds Congress at a glance:

- The only major annual event that brings together all major asset classes and fund jurisdictions.
- Focuses on the key themes that will define the year ahead in asset management. How will they affect your business? What are others doing and planning for?
- Who attends? Anyone helping to shape the strategy of their asset management firm, including C-Suite/MD/ Partner, legal and compliance, product development, risk management, business development and investor relations professionals.
- 40+ outstanding and inspirational guest speakers including regulators, senior investment professionals and politicians.
- 4+ hours of networking time.

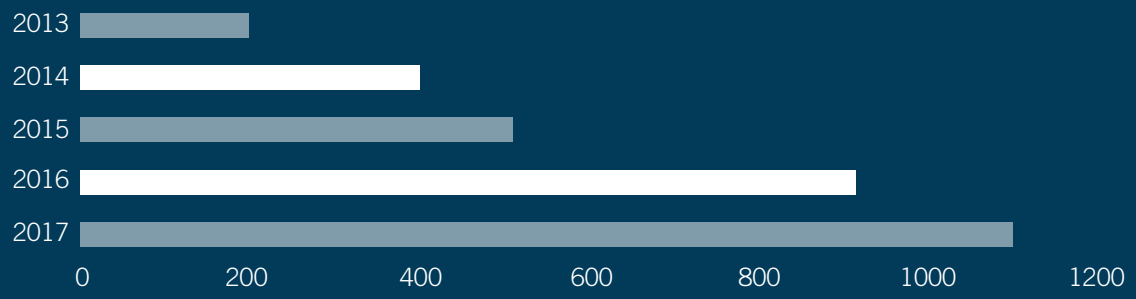
C-suite/MD/Partner level attendees

Legal and compliance professionals

Other core attendees:

Product development/ Risk management/ Business development/ Investor relations

Growth of Funds Congress by attendee numbers



About Dechert

In the sphere of investment management, Dechert has one of the largest and most distinguished practices in the world. We are a leading advisor on funds of funds, mutual and retail funds, hedge funds, private equity funds, private debt funds, real estate funds, structured debt products, BDCs and other closed end funds, as well as on insurance and derivative products and all related regulatory, advisory and transactional work.

We are the only major international law firm with a "one-stop shop" funds practice that spans all of the major heavily regulated European and non-European fund formation and investment centers – including Luxembourg, Dublin, London, Frankfurt, Munich and Paris. Our extensive network of offices in the United States, Europe, the Middle East and Asia, as well as an extensive network of preferred legal providers, gives us a unique reach, allowing us to provide truly "jurisdictional neutral" advice and access to the breadth of our international practice.

Our transactional groups support fund sponsor clients in their investment programmes and financing arrangements including fund finance, leveraged finance, the full range of M&A and other corporate work. In addition, our international disputes practice assists investment managers with litigation, arbitration and asset recovery, as well as regulatory and internal investigations and contingency planning.

"Best Law Firm Overall" - European Service Awards 2016 and US Services Awards 2016

Ranked in the top tier for hedge funds for ten consecutive years

Leading European Practice – London, Dublin, Luxembourg, Frankfurt & Paris

"Best ETF Lawyer" ETF.com European Awards 2016

Who's Who Legal 2017 ranks Dechert as the leading onshore law firm for private funds

Named the "Most Innovative Law Firm in Finance Law" in Europe

THANK YOU

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