



## Profile: Stuart Martin

A founding Partner of Dechert's  
London Financial Services Group

By HAMLIN LOVELL

**D**echert Partner, Stuart Martin, received *The Hedge Fund Journal's* 2017 award for "Law and Practice: Outstanding Contribution". During his career, Martin has repeatedly been associated with ground-breaking legal work. Following the post "Big Bang" regulatory reforms in the late 80s, he worked on the fledgling offshore fund structures, acted on the first UK unit trust to be authorised under the new Financial Services Act legislation and worked with clients

closely associated with the developing offshore fund industry, including the foundation of Dublin's fund and asset administration industry. As part of Dechert's nascent London team, he led the work on adapting US style master feeder structures for the London market and has played a leading part in the development of alternative fund structures in liquid and less liquid asset classes, including funds and structures investing in emerging markets and credit. More recently, he has been heavily involved in the development of alternative fund structures focused on loan origination.

As a student of Modern History and Politics at Manchester University, Martin's first ambition had been to forge a career in journalism, as a political correspondent, specialising in UK, Russian and Chinese politics but ultimately he resolved to become a lawyer. In the early 1980s it was not typical for aspirant lawyers to initially study a non-law discipline, unlike in the US (it is obligatory in Canada). Nowadays, a higher proportion of lawyers in the UK take this route and this is reflected in Dechert's and other law firms' trainee intakes. Today, many lawyers have first studied arts, liberal arts or literary subjects and some have studied science – such as Dechert's Boston-based tax partner, Adrienne Baker, who featured in *The Hedge Fund Journal's* Leading 50 Women in Hedge Funds 2015 report, and initially studied physics at MIT. Martin believes a more varied educational background amongst lawyers is beneficial to both law firms and clients.

Modern law firms increasingly have a culture that fosters highly specialised lawyers, and the investment fund area is no exception. Whilst Dechert's Financial Services group is, of its nature, highly specialised, it nonetheless advises on a wide range of funds, both private and retail. Martin sees this as a strength and believes that to add value fund lawyers need breadth in addition to depth of expertise. For Martin, fund lawyers need to be versatile enough to synthesise multiple skillsets: “for example, prospectus work done by corporate lawyers, technical work done by regulatory lawyers and structuring work done by tax lawyers”. Martin is grateful for the variety of assignments that his early law career entailed. A year as a tax lawyer, followed by seven years at Slaughter and May as a corporate lawyer working on a wide range of equity and debt capital market work, stood him in good stead for later specialising as a funds lawyer. At Slaughter & May he was introduced to retail, listed and offshore fund work with names such as Jardine Fleming, Robert Fleming, Schroders and Barings - who later made him a job offer. Martin contemplated moving offshore to Hong Kong, Guernsey or the Cayman Islands to specialise in fund work, but decided that Barings would provide the wide spectrum of responsibilities that he sought. “Barings managed a broad range of investment products, from London listed property, emerging market and country funds to retail and private funds in the UK, Luxembourg, Ireland and the Channel Islands. In addition, they had a strong institutional segregated portfolio client base and an impressive onshore and offshore administration and custody operation,” he recalls.

### Baptism at Barings

What Martin could not have anticipated was the impact on his Barings career of Nick Leeson. “It was a challenging time. One morning I was en route to a skiing holiday in France. By the evening I was



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unexpectedly back in the office and somewhat fully engaged,” he remembers. With hindsight, Martin sees it as a formative experience. “It was one of the most interesting professional periods of my life. We had to deal with a wide range of legal and practical issues affecting the business and its product range in the midst of discussions with a wide range of players,” Martin reflects. “The issue of client money protection for cash balances with counterparties such as custodians and prime brokers was, and will always be, one of the most important issues for the industry”. Ultimately, Barings was sold and the UK's system of regulation and asset protection passed the test.

Varied and stimulating though the position at Barings was, Martin scented opportunity when Dechert established its financial services group in London in 1997. “At that time no law firm offered a one stop source of UK and US advice to financial services businesses,” says Martin. Dechert was also one of the first firms to do a transatlantic merger (with Titmuss Sainer Dechert in 2000), according to Martin, and this in turn spawned further innovation. The genesis of the first master feeder structure was “a client that had UK and US principals and wanted to offer an attractive structure through which US and non-US investors could invest in a single pool of assets,”

Martin explains. He recalls fondly the close work with his US and UK colleagues involved in developing the structure.

The other founder of Dechert's London financial services group, Peter Astleford, had joined in May 1997 and Martin did so in October 1997. Over nearly 20 years, this group has grown from two partners and a few associates in 1997, to no less than 30 lawyers including 8 partners, one of whom, Karen Anderberg, is a US qualified financial services partner, and featured in *The Hedge Fund Journal's* Leading 50 Women in Hedge Funds 2017 report, as did partner Abigail Bell. This is only one part of Dechert's global growth trajectory. “We started as a one stop solution for US and UK advice. Additional offices in Belgium, Ireland, Luxembourg, Bonn, Frankfurt, Munich, Paris, Dubai, Singapore and Hong Kong mean we now offer US, UK, European and broader international financial services advice as well,” says Martin. Dechert received *The Hedge Fund Journal's* 2017 award for “Leading European Practice - London, Dublin, Luxembourg, Frankfurt & Paris”. Globally, the group has grown from some 33 lawyers to some 200; the largest financial services group in any firm globally.

### Jurisdiction neutral advice

Martin emphasises the importance of the “jurisdiction neutral” nature of the advice it provides in London. “We are jurisdiction neutral in approach when it comes to recommending a domicile for an investment product and can help clients to choose both the optimum fund structure and domicile without any in-built bias”. Dechert's experience of domiciles is wide-ranging. Dechert is able to use its European offices to advise on the establishment of fund structures in France, Luxembourg, Ireland and Germany as well as advising on UK based fund structures. Martin observes that Cayman remains a leading offshore jurisdiction and the firm also advises on structures in the Channel Islands, Malta, Bermuda and the British Virgin Islands, not to mention its impressive full-service capability for public and private funds in the US. Martin believes that the bandwidth of Dechert's international financial services practice adds considerable value for clients because “we have readily accessible views internally and so can deliver advice quickly and cost effectively on a wide range of regulatory, tax and legal issues”. In addition, where Dechert does not have a local office it has long-standing contacts with the leading local firms and offers clients its ground breaking “World Compass” legal service. Of course some structures involve multiple domiciles. A recent new development, flagged up by Dechert in one of its regular OnPoint alerts, is the potential to set up certain non-US funds feeding into ‘40 Act vehicles. As tax and investor requirements get ever more complex, there is often a need for structures to be domiciled in multiple jurisdictions. However, often Martin finds “a more

simple structure is often the best outcome; but to get there you need to help clients do the maths in terms of what does and does not achieve their objectives”.

This diversity of expertise and experience has allowed Dechert to be agile in configuring its offering according to evolving client and industry needs. In the early days, Martin anticipated that retail and closed-ended listed fund work would represent the largest part of Dechert’s London practice but in response to industry developments Dechert also developed a market leading reputation in hedge funds. Martin’s practice also focused on clients developing alternative investment strategies in the emerging market and credit area. “This helped the practice to grow as clients developing strategies in distressed debt, credit and loan origination required advice on structuring a new generation of alternative funds,” Martin observes. In a legal business environment where specialisation is increasingly the norm, Martin’s description of Dechert’s practice is much more reminiscent of the broader capabilities of the legal practices which drove the development of the fund industry post Big Bang and where his teeth were cut in the early years of his career. His vista across a wide spectrum of fund structures helps with “finding solutions to difficult issues and developing new and innovative structures”. For instance, Martin observes that whilst investing in some less liquid strategies can suggest a closed-ended structure where committed capital is drawn down with investors having no redemption rights, some less liquid strategies are nonetheless able to accommodate shorter maturities or more hybrid structures offering forms of liquidity during the life of the fund. In either case, investing in less liquid assets (that are usually harder to value) can also imply more innovative and varied management and performance fee structures.

Investment terms sometimes need to be flexible. The impact of the financial crisis, warranted creativity in how investment funds operated. Martin recalls how the evaporation of liquidity, often from normally liquid markets, precipitated liquidity mismatches and forced the industry to “devise innovative liquidity management solutions achieving fair treatment for investors”. For Martin, the financial crisis illustrates the resilience of the alternative investment fund industry. “Few funds failed, demonstrating why the fund model of pooling capital can be more robust in financial turbulence than the banking model,” he says.

### Credit strategies

Indeed, alternative investment funds are now both complementing and replacing bank finance in the real economy, and becoming an important source of finance. Martin underscores the many surveys and reports that predict how credit strategies will continue to grow in stature and assets. “The energy that led to the growth of alternative investment strategies is also evident in the developments in wider asset

strategies such as credit and non-bank lending,” says Martin. “AIMA is involved with a much wider range of alternative strategies and the establishment of the Alternative Credit Council (ACC) is an accolade to the big bang explosion in innovation in the industry,” he goes on. Last year the ACC formed the Alternative Credit Technical Group, which Martin chairs, to support the ACC and AIMA’s advocacy work on behalf of the private credit sector. This discussion and thought leadership forum “looks very closely at developments over a wide field, including law, regulation and tax, as they affect private credit funds and their operation,” he adds. “Tax structuring is particularly important for credit strategies,” Martin emphasises.

This year, Dechert and the ACC are carrying out the third annual Private Credit research survey entitled “Financing the Economy” (ACC published two previous versions in 2015 and 2016, in conjunction with Deloitte). “Alternative Lenders are very important in terms of contributing to the real economy, particularly where bank finance is constrained. The asset management community offers investors the ability to invest and participate in the financing of the real economy. This exciting survey invites managers to explain their role in supporting businesses and to help inform the ACC’s advocacy work with policymakers and borrowers about the benefits of private credit” Martin explains.

### Appropriate regulation and governance

Martin “is in no doubt that UK asset management – and UK plc – benefits from the alternative investment management industry.” He views the UK as “the pre-eminent financial services centre together with the US” and “a good home to investment managers from the smallest boutiques to the largest institutional managers”. Yet this could be threatened by regulatory overkill. “If unnecessary regulation continues to increase, higher barriers to entry will reduce the number of manager start-ups, which will harm the industry and ultimately the real economy,” Martin fears.

Martin views AIFMD as unnecessary and misguided in important respects. Unnecessary because the UK system of regulation already worked well although he acknowledges that this might not have been the case elsewhere. Misguided because many of its requirements sit uncomfortably with the role of fund boards and other service providers. One example, is the valuation function. Martin finds it is odd from the investor protection perspective that the manager should have responsibilities in relation to valuation functions hitherto discharged by such boards and for which other service providers are commercially responsible. In Martin’s opinion, “AIFMD was not Europe’s finest hour either in terms of logical or pragmatic regulation. European politics got in the way.”

Martin is an advocate for strong fund governance. “In relation to UK managed private funds the role of the fund board has always been considered to be very important. This put UK managed private funds in a very strong position in the crisis, with directors playing an important part in ensuring satisfactory outcomes for investors”. Martin is in no doubt that “the crisis has increased the importance of the role of fund directors and most manage their number of directorships well”. Dechert lawyers do not act as directors of funds but Martin has a balanced view about service providers who do. “Though there can be conflicts, these are capable of being properly managed in law and by suitable conflict of interest policies. Having directors with administration, custody and other experience on boards contributes to good fund governance,” says Martin.

### Brexit dividends?

For Martin, the regulatory burden is “a much bigger issue than Brexit, which is both a challenge and an opportunity for the UK”. Dechert has no corporate view for or against Brexit. Martin sees potential benefits from it. Martin envisages scope for a “dual UK regime” allowing managers to opt into AIFMD equivalent style regulation or operate under a MiFID equivalent regime. “The Brexit dividend could therefore be a more international and sensible regulatory environment driven by a better balance of regulatory, investment and investor related requirements and not by narrow political diktat,” he hopes. For Martin, “a happy medium achieves an appropriate level of regulation, recognises the importance of good governance, and creates a much more friendly and innovative environment for asset managers and investors”. Yet to seize the opportunities, “the UK must modernise its capital market, fund and securitisation structures to ensure that it has a full modern pack of cards post-Brexit”.

Martin believes that the firm’s global breadth will help clients with their Brexit planning. “If they decide not to have an EU presence or to set up a local office or access a third party management company in the EU (e.g. in Luxembourg and Ireland), we are well placed to help them,” he says. Equally we can help our clients do business in the US and other non-European markets”. He reiterates that “law firms need much more sophistication to service clients in a time of rapid regulatory, political and fiscal change”. After more than 30 years as a City of London lawyer, Martin’s enthusiasm is undiminished. “The next 20 years in asset management should be very exciting and the City and the wider UK should do very well – with a bit of forward planning and innovation. I am not at all pessimistic about the future of the UK fund management industry. The only thing we have to fear is a lack of confidence in ourselves and, of course, complacency and a failure to innovate,” he concludes. **THFJ**