

# The NED

Independent intelligence on fund director issues

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## Shock U turn on Weaving

Directors Stefan Peterson and Hans Ekstrom no longer have to pay damages of \$111 million each for being in breach of their duty of supervision of the Weaving Macro Fund. On 12 February 2015 the Cayman Islands Court of Appeal reversed the judgement of Judge Jones, made in August 2011. The Cayman Islands Court of Appeal found that their neglect wasn't "wilful," as Judge Jones had found, just incompetent.

The liquidators of the Weaving Macro Fund had argued that the independent directors, Stefan Peterson and Hans Ekstrom, had breached their duty of supervision. It was claimed that they failed to identify that a substantial proportion of the fund's investments were interest rate swaps the counterparty of which was entirely controlled by Weaving founder and CEO, Magnus Peterson. It turned out that the value of these interest rate swaps was in fact largely fictitious. This was missed by the directors. Their incompetence is not in dispute.

The liquidators therefore brought a case against them claiming that that they had breached their duty of supervision, and for a failure to exercise independent judgment as well as to exercise reasonable care and skill and to act in the best interests of the fund.

In what turned out to be probably the most widely publicised legal judgement in the offshore investment industry, at least with regard to fund board matters, the Cayman Court found that Peterson and Ekstrom were guilty of wilful neglect and default in the discharge of their duties. [Continued on page 6 >>](#)

## NEDs to be regulated under the SMR regime in the UK

Non-Executive Directors with responsibilities, such as Chairman, will come under the new Senior Managers Regime (SMR), the Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA) has confirmed. It was also decided the regime would not apply to those NEDs who do not perform delegated responsibilities.

Martin Wheatley, Chief Executive of the FCA, said: "Our approach is driven by wanting to ensure firms are managed in a way that reflects good governance and promotes the right culture and behaviours. Having a narrow SMR will also allow the FCA to focus regulatory resources on those responsible for key business areas and board committees. We want those senior individuals to be held accountable for the decisions they make and oversee. This is what people inside and outside the banking sector expect. [Continued on page 2 >>](#)

## Contents

Shock U turn on Weaving	1
News	
NEDs to be regulated under the SMR regime in the UK	1
Weaving's Magnus Peterson to appeal	2
Directors need to get up to speed with BEPS	3
BEPS will damage real estate investment	3
Wealth management shift from offshore to onshore identified by Deloitte	4
News from the domiciles	5
BVI court issues valuation guidance	5
Caledonian Bank files for bankruptcy	5
From Weaving to Weaving: the view of investors	9
Goodbye VaR, hello forward looking boards	11
ManCo governance: the fund industry's Balkans?	14
Are directors doing enough due diligence on depositaries?	16
The NED Directory	19
<i>Information on how to join the database</i>	

## Companies and Associations mentioned in this issue:

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Dassault	PRA
Deloitte	Weaving
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