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DISCUSSION

Who's Who Legal has brought together Stephanie Breslow of Schulte Roth & Zabel, New York and Andrew M Ostrognai of Debevoise & Plimpton LLP, Hong Kong, to discuss issues facing private funds lawyers today.

WWL: This year we have heard that there is much more activity in the market, with more capital available to funds. Have you seen this in your jurisdiction and how has this affected the sort of work you have been doing?

Andrew M Ostrognai: Yes, we have certainly seen much more activity in Asia. We have a number of funds that are returning to market, even over the summer, which is somewhat unusual for us. We have consistently seen new entrants in the market, and with existing investors writing larger cheques.

Stephanie Breslow : Yes, this year has been stronger than the recent past in terms of fund raising on both the hedge and private equity side.

WWL: What types of funds have you seen being the most active over the past year? Is this a change from previous years?

Andrew M Ostrognai: No real change.

Stephanie Breslow: We have seen a lot of activity in the areas of credit funds, including those focused on distressed investing; constructive activism; and multi-strategy funds. In general, many types of strategies have been active for managers already running relatively large assets under management. For example, our largest launch of the year will probably be for an existing manager in the energy space.

WWL: As the global regulatory market continues to tighten with the introduction of common reporting standards and further scrutiny on tax liabilities, has this affected how your clients approach deals and investments?

Andrew M Ostrognai: I would note that the introduction of AIFMD has had significant impact on the marketing of Asian funds. I know of a number of high-quality Asian funds that have decided to limit their EEA marketing so as to avoid some of the more onerous country regulations. So it is unfortunate that some

EEA investors are being deprived of exposure to some high-quality Asian managers.

Stephanie Breslow: The main regulatory issues we have been focusing on are developments in European marketing restrictions (AIFMD and ESMA) and focus on evolving SEC regulatory priorities in the US.

WWL: What trends are you expecting to see develop over the next 12 months? How is your firm prepared for these potential changes?

Andrew M Ostrognai: I think one of the most interesting and important trends to watch is the rise of the separate account and bespoke investing arrangements. Funds of funds and standard pooled multiple investment vehicles were a terrific introduction to private equity investing in Asia for many investors from outside the region. But as some of these investors have become more knowledgeable about the region, and more comfortable investing in the region, they have often increased the size of their commitments, and also looked for different arrangements to suit their own needs more precisely. So I think for many leading managers, their flagship pooled vehicle may be the only traditional core investing option offered, but there may be other tailored or non-traditional products offered in addition to this which may invest alongside the core fund or in other complementary ways.

As for preparation, we have worked on a number of these structures over the years, so we have a strong grasp on what the "market" is, even if this is an area in which there is less of a "market" standard since they are so bespoke.

Stephanie Breslow: We expect to see continued regulatory developments. We have positioned ourselves for these through expansion of our compliance capabilities in both the US and the UK. We have also seen expanding interest in business development companies and other permanent capital products, and have expanded our capability in these areas.

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For further information please visit www.whoswholegal.com.