



What's the best way to fundraise Cross-Border?

Author: Jennifer Howze interviewing Cathy Brand, CEO

Efficient Cross-Border Distribution: Throw spaghetti at the wall and see what sticks? Or focus on “low-hanging fruit”?

Increasingly, Alternative Investment Fund Managers (AIFMs) and Asset Managers are fundraising outside their home country to access pools of institutional capital from leading investors in foreign jurisdictions seeking unique sources of alpha.

Since 2006, Global Sales Compliance (GSC) has worked closely with AIFM/Asset Manager marketing teams to ensure compliance with cross-border marketing rules. In our experience, cross-border marketing compliance and fundraising (distribution) efficiency are inextricably linked and positively correlated.

In this article in our new SRMO Blog & News section, we ask GSC CEO Cathy Brand to share GSC's real-time observations of client cross-border distribution (marketing) strategies, including those strategies which are most “efficient” and those strategies which are less “efficient”.

Q: (JH): Let's talk about what you mean by cross-border distribution (marketing) “efficiency”. What would be a generally accepted industry standard definition of financial product/services cross-border distribution “efficiency”?

A: (CEO): Firstly, we can empathise with AIFMs and Asset Managers who wish to fundraise in their funds and financial services cross-border (overseas) outside their home jurisdiction. Country specific regulatory requirements are overwhelming in their diversity and complexity. We believe a reasonable industry standard for the definition of “efficient” cross-border distribution is overseas fundraising campaigns that result in:

1. raising assets (legally) in compliance with local country regulations
2. fundraising quickly (in less time)
3. incurring fewer costs
4. mitigating 5-key distribution risks





Q: (JH): GSC uses the analogy of the “Marketing Tree” when advising clients on cross-border marketing efficiency. Can you explain this concept?

A: (CEO): We explain to clients that when marketing outside your home country, you are choosing target clients in jurisdictions where you want to market your funds and/or financial services. Think of the “Marketing Tree” visual: at the bottom of the tree (within reach) are those jurisdictions which constitute “low hanging fruit”, defined as countries where there are robust regulatory exemptions (for example, from fund registration or licensing requirements) and easy marketing laws with which to comply.

At the top of the “Marketing Tree” are “high hanging fruit”, defined as countries where the regulations are restrictive, the country has undeveloped laws, onerous requirements and/or the regulations require lots more compliance and legal work to target investors in these countries.

We help clients understand which countries constitute “low hanging fruit” and those “high hanging fruit” countries where regulations are more difficult, costly, high risk or time consuming to fulfil.

Of course, a strategic cross-border marketing approach could always carve out a smaller number of countries which constitute “opportunistic plays” (higher hanging fruit). But from a cost, time and risk perspective, a focused cross-border distribution approach can reap many benefits.

Q: (JH): Is time on AIFM/Asset Managers’ side for cross-border fundraising campaigns?

A: (CEO): No. Time is not your friend for cross-border fundraising campaigns.

That’s especially true for cross-border marketing of closed-end funds such as limited partnerships. There is a limited-time window to cross-border market partnership interests to limited partners, getting as much committed capital in the door as quickly as possible before LP close. Even with open-ended funds – which are marketed cross-border on an evergreen basis – practically speaking, we have never met a client whose management was content to fund (and run) distribution cost centres for a long time without any expectation of successful asset raise in open-end funds.





Q: (JH): If AIFMs/Asset Managers generally don't have the luxury of lots of time to cross-border fundraise, then isn't the approach of "throwing spaghetti at the wall to see what sticks" a faster distribution approach?

A: (CEO): No. A non-strategic cross-border marketing approach like "throwing spaghetti at the wall to see what sticks" does not save time.

Let's define what a non-strategic cross-border distribution (marketing) approach means in practice.

The AIFM/Asset Manager has an in-house sales team and/or has engaged a third-party distributor to market their funds/financial services cross-border. Under this cross-border distribution scenario, the local country's marketing rules are not investigated up front, so neither the sales team nor compliance know what the local country marketing restrictions or requirements are. The goal for this distribution approach is to randomly target as many countries around the globe as possible. It's a scattergun approach.

Sales teams proactively contact potential clients in every country around the globe about their products and/or services. They hope that some of their mass marketing approach "sticks" and they get responses back from interested clients about their products/services. Then sales teams contact the CCO/compliance/legal team with numerous and continuous queries about regulations for a wide range of countries across the globe. Here is a selection of inbound real time sales queries to compliance:

- "Can I send our 2-pager into [name of country]?"
- "I'm at the airport getting on a plane in 5 minutes to fly to [name of jurisdiction] to market our fund. Any issues?"
- "We just received a fund ticket from a client in [name of jurisdiction]: Can you provide clearance of this subscription?"
- "We got a response from a client in [name of country] who wants to buy shares in our fund: Do we need to register our fund or register for a license in [name of country]?"

"Throwing spaghetti at the wall to see what sticks" inevitably results in compliance team burnout and staff turnover. We have seen it in practice.

In our experience, legal & compliance want to be supportive and helpful to the business for overseas marketing efforts. However, it is always best for compliance to be on the front foot vs. the back foot in reaction to the business. When sales teams send numerous jurisdictional queries to legal & compliance,

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a lot of time can be spent investigating jurisdictional regulations in a way that's not time efficient. This approach ultimately increases legal fees budgets, while monopolizing the compliance department's time on cross-jurisdictional queries, keeping them from managing their other compliance duties.

Ultimately, we believe the scattershot, non-strategic marketing approach is a drag on internal resources and requires more time than strategic cross-border marketing campaigns that focus on "low hanging fruit".

Why would anyone want to waste time investigating country marketing regulations in jurisdictions where it is not possible to legally market there?

Q: (JH): What about costs: do non-strategic cross-border marketing campaigns ("throwing spaghetti at the wall approach") result in higher costs to fundraise?

A: (CEO): Almost always, YES.

If you take that approach, prepare to spend more of the firm's budgets on legal fees. To investigate the maximum number of jurisdictions across the globe increases legal or other consultant costs to research the local country's regulations. You may even need to hire more in-house legal & compliance headcount to handle the volume of country requests from sales.

Q: (JH): And finally, what about risk? Is it riskier to conduct cross-border marketing via a non-strategic "throw spaghetti at the wall" approach?

A: (CEO): Almost always, YES.

All 5-Key Distribution Risks are higher with a non-strategic cross-border distribution (marketing) strategy.

Your risk of breaches of local regulations and potential sanctions risk is higher without the initial preparation work with a strategic cross-border marketing approach.

Cross-border marketing without checking the local regulations first could result in taking tickets/accounts from investors where the marketer was in breach of local marketing regulations – that is, when it's too late! This could increase the AIFM/ Asset Manager's risk of investor rescission rights claims and/or litigation risk.

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When investors become disgruntled, they could sue the AIFM/Asset Manager and file a complaint with the local regulator, claiming the AIFM/Asset Manager breached their country's regulations for the marketing and sale of the product/service and therefore the contracts are null and void.

Getting sanctioned by the local regulator or dealing with an investor lawsuit can inevitably lead to reputation risk and business franchise risk for the AIFM/Asset Manager. Why put your business franchise at risk when this risk can be easily mitigated?

Key Takeaways: Cross-border distribution under a strategic, focused, regulatory compliant approach reaps potential benefits to AIFMs/Asset Managers including:

- AUM (business) growth
- faster asset/committed capital raise
- lower costs
- less distribution risks
- less time needed to fundraise (and sales teams receive their bonuses faster)

Overall net result: higher firm profitability.

Our advice to clients is: Forget “throwing spaghetti at the wall”.

Focus on a strategic cross-border marketing & distribution approach (targeting the “low hanging fruit” jurisdictions) in compliance with local marketing regulations. While good investment performance is important too, we have seen that a strategic cross-border marketing approach is a proven formula for successful cross-border fundraising.

We've got the client success stories to prove it.

HOW WE CAN HELP

Global Sales Compliance Ltd.® (UK) is a unique compliance boutique that specialises in cross-border marketing advisory and has advised Clients on marketing compliance in 70+ countries for nearly two decades. With our online cross-border marketing compliance RegTech Tool Sales Road Maps Online®, we provide AIF marketing SRMO Sales Road Maps® based on realistic cross-border business models, available in the latest technology at your fingertips, 24/7.

Sales Road Maps Online®: “Transforming marketing compliance®”

