

SEC/CFTC's Final Form PF supports the Open Protocol's 'Harmony' Solution

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SEC/CFTC (The Commissions) recently confirmed the final version of its Form PF. It includes a crucial change that allows advisers (managers) to use reporting procedures or practices which are consistent with those used for reporting to their clients. The Commissions have also indicated that they aspire to share information collected through Form PF confidentially with international regulators. Taken in combination, this fits perfectly with the 'Harmony' solution that the Open Protocol working group had suggested in its comment letter to the SEC.

Just to recap, the letter had suggested 'The 'harmony' solution would be for world's authorities to allow the definitions laid out in the Open Protocol to be used when AIFM fill in regional variants. Using a unified data structure will not only facilitate each regional regulator individually but will also help regulators to share and aggregate information across the globe.

These changes will also help the managers as they now have the option to use the Open Protocol manual to fill in the Form PF thus reducing the overall burden of having multiple reporting obligations.

In all, the Commissions have made around 46 changes to their original proposed template, of which 26 will lead to an increase in alignment with the Open Protocol, 16 will require further additions to the Open Protocol and 4 will have no impact. Albourne does not envisage any amendments to the Open Protocol being necessary.

Many changes in the final version of Form PF make it more aligned with the Open Protocol. For example, the addition of questions regarding parallel-run managed accounts, investments in external funds and the breakdown of investor base by type, were already covered by the Open Protocol. Form PF now also gives managers the option to report their interest rate sensitive exposures on a 10 year bond equivalent basis rather than the previously inconsistent duration based methodology.

To yet further support alignment, the Open Protocol Working Group (OPWG) will consider making some additions. For example OPWG will look at adding a section that breaks down the assets and liabilities of the fund into fair value hierarchy Level 1, 2 and 3 as per ASC 820

(FAS 157). This is very useful information. Albourne, and other industry participants, have been asking for this information for some time through the Administrator Transparency Report. The OPWG will also look at adding sections for liquidity and private equity funds. The OPWG will consider making these changes once ESMA confirms its AIFM directive which is scheduled to be finalised later this year.

Overall it is Albourne's view that the Commissions have done a great job at not only listening to the comments by the industry but also in providing clear reasons for the decisions they have taken. They have provided detailed explanations and rational behind the questions asked. They have also interacted with other regional regulators like FSA, ESMA, IOSCO and SFC and have attempted to align the forms.