Presenting today

Moderator

Speakers

Benjamin Bada
Partner | CMS Luxembourg
CMS Funds Group
T +352 26 2753 82
E benjamin.bada@cms-dblux.com

Richard Bamforth
Partner | CMS UK
Dispute Resolution
T +44 20 7067 3641
E richard.bamforth@cms-cmno.com

Antoine Reillier
Senior Counsel | CMS Luxembourg
Dispute Resolution
T +352 2627 531
E antoine.reillier@cms.dblux.com

Bart-Adriaan de Ruijter
Partner | CMS Netherlands
Dispute Resolution
T +31 20 3016 426
E bart-adriaan.deruijter@cms-dsb.com

What will we cover?

1. Why is early dispute management important
2. What sort of disputes can I expect to see?
3. What should I look out for at the start of the dispute?
4. Practical matters
5. How to handle disputes
6. What is a good agreement?
7. Future trends in funds litigation
8. Multidisciplinary risk and crisis management

! **Why early dispute management is important**

What sort of disputes can I expect to see?

People

Management Disputes (LP/GP)

LP activism

Disputes with the GP Board

Disputes with the Management Board

Disputes with the Service Providers

Money

Disputes over carry / partner entitlement

Fund valuations

Disputes within the GP board

cms.law

What should I look out for at the start of the dispute?

Under what agreement(s) does the dispute arise?

Who are the parties to the dispute and where are they located?

What is the dispute resolution procedure (litigation, arbitration, expert determination)?
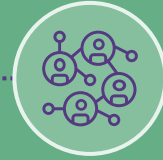
Dispute escalation process to be followed

What are the local rules?

cms.law

Practical matters

Document preservation

People / information gathering
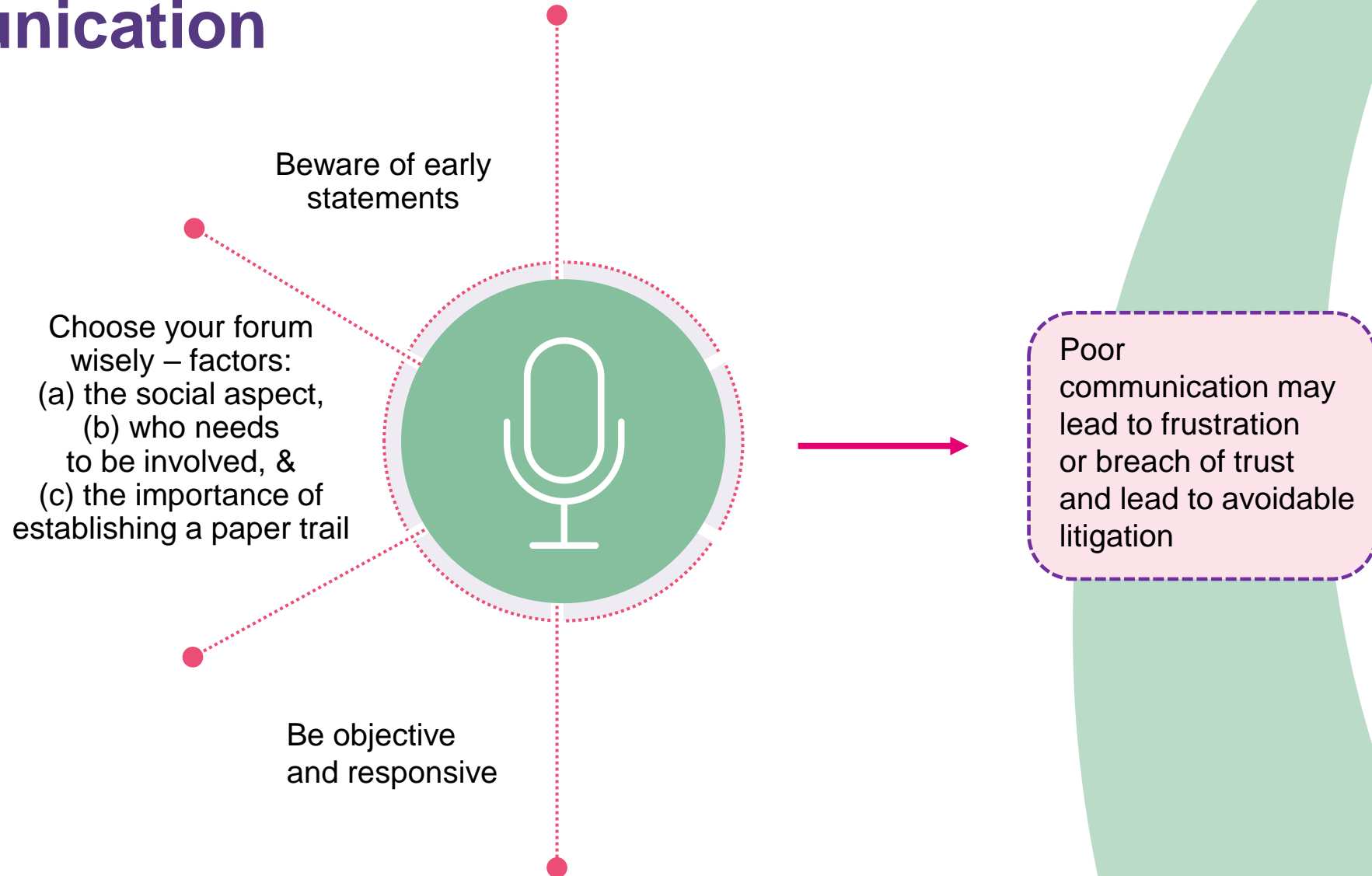
The role of legal counsel and external experts

Ensuring Privilege

"Without prejudice" and negotiation

How to handle disputes: communication

Beware of early statements

Choose your forum wisely – factors:
(a) the social aspect,
(b) who needs to be involved, &
(c) the importance of establishing a paper trail

Be objective and responsive

Poor communication may lead to frustration or breach of trust and lead to avoidable litigation

cms.law

How to handle disputes: prepare for negotiation

Know your strengths and weaknesses

Identify your goals and your counterparty's goals

Determine an acceptable range of negotiation

Identify the alternatives to a negotiated solution – impact for you and your counterparty
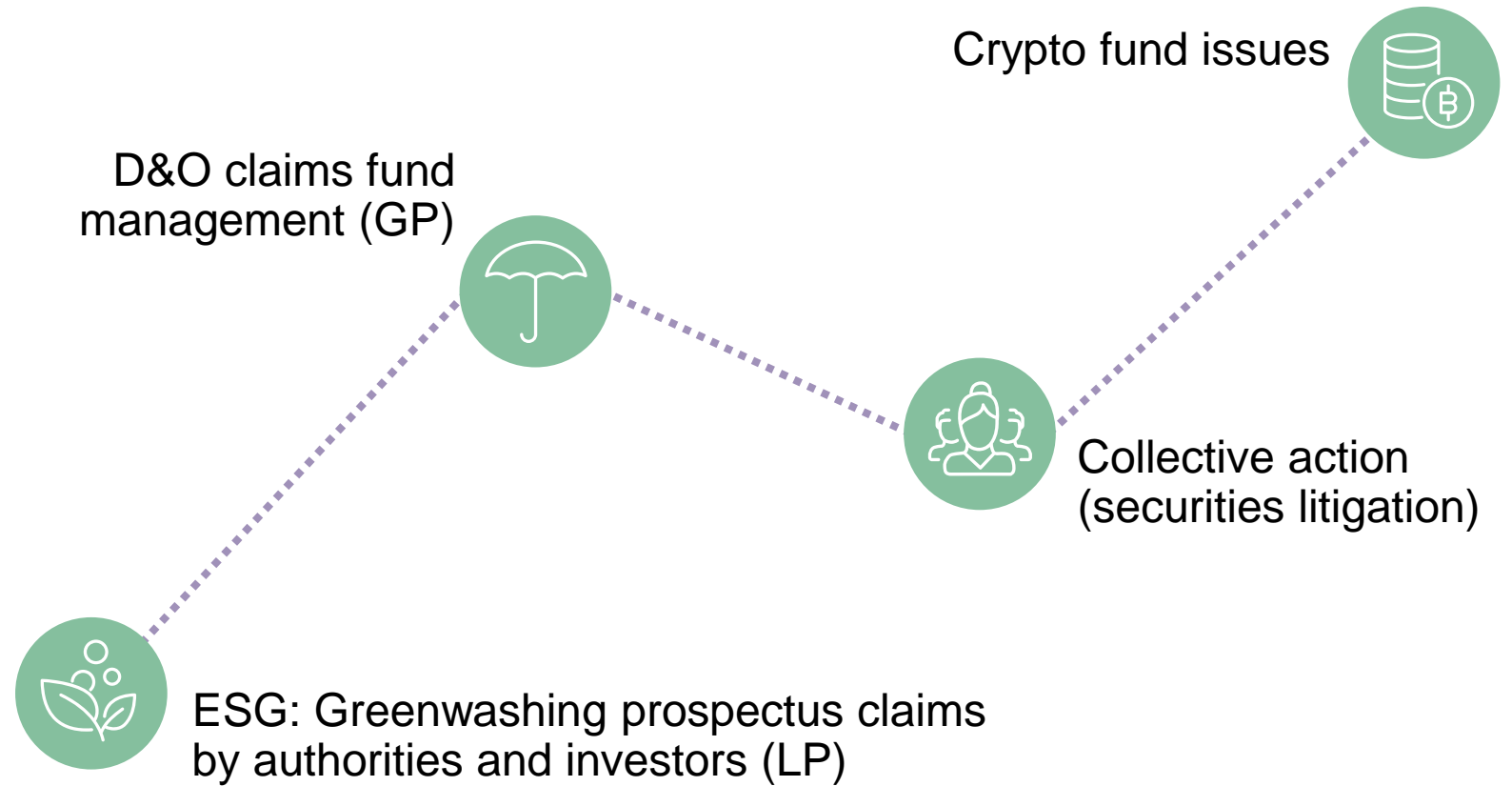
What is a good agreement?

Ends the dispute for good

Involves all the necessary parties

Is practical to implement

Re-establishes trust

cms.law

Future trends in funds litigation

Crypto fund issues

D&O claims fund
management (GP)

Collective action
(securities litigation)

ESG: Greenwashing prospectus claims
by authorities and investors (LP)

Multidisciplinary risk and crisis management

Reputation is key (ESG claims with media attention create direct reputational damages)

Multidisciplinary risk management: climate expert, communication, legal, finance, valuation

Monitor contractual risk allocation and insurance coverage claims/costs

Proactive stakeholder management with authorities (regulatory) and important stakeholders

CMS Law-Now™

Your free online legal information service.

A subscription service for legal articles on a variety of topics delivered by email.
cms-lawnow.com

CMS locations:
Aberdeen, Abu Dhabi, Algiers, Amsterdam, Antwerp, Barcelona, Beijing, Belgrade, Bergen, Berlin, Bogotá, Bratislava, Bristol, Brussels, Bucharest, Budapest, Casablanca, Cologne, Dubai, Duesseldorf, Edinburgh, Frankfurt, Funchal, Geneva, Glasgow, Hamburg, Hong Kong, Istanbul, Johannesburg, Kyiv, Leipzig, Lima, Lisbon, Liverpool, Ljubljana, London, Luanda, Luxembourg, Lyon, Madrid, Manchester, Mexico City, Milan, Mombasa, Monaco, Munich, Muscat, Nairobi, Oslo, Paris, Podgorica, Poznan, Prague, Reading, Rio de Janeiro, Rome, Santiago de Chile, Sarajevo, Shanghai, Sheffield, Singapore, Skopje, Sofia, Stavanger, Strasbourg, Stuttgart, Tel Aviv, Tirana, Utrecht, Vienna, Warsaw, Zagreb and Zurich.

----

cms.law