

Us Too: A Due Diligence Survey and
Analysis on the Current State of
Sexual Harassment In the
Investment Management Industry

The Investment Management Due Diligence Association Survey on Sexual Harassment

Abstract

The #MeToo movement entered the cultural conversation in late 2017 when The New York Times exposed the scale of sexual harassment in the entertainment industry. In doing so, it provided a wake-up call to other industries, investment management among them. While progress is being made to address inappropriate behavior in the workplace, sexual harassment against women in the investment management industry remains a serious concern. As such, the Investment Management Due Diligence Association (IMDDA) commissioned a survey to identify these issues and provides recommendations on how best investors can address them.

The survey defines the risks and recommends ways that professional allocators can incorporate the topic in Operational Due Diligence (ODD) reviews. Investment professionals will discover methods to identify and respond to perceived workplace harassment in its various forms – whenever and wherever it occurs. The failure to investigate sexual harassment could lead to an incomplete ODD assessment, exposing investors to unchecked reputational and financial risk.

On February 14, 2018, the IMDDA closed its anonymous sexual harassment survey with responses from fund investors. Investor respondents included endowments, pensions, insurance companies, private banks and funds of funds. The geographic breakdown of the respondents is as follows: 68% US/Canada, 25% Europe, 7% Asia/ Australia. This report is based on the results of the survey.

Executive Summary of Survey Findings & Recommendations

It is estimated that the investment management industry handles \$84.9 trillion in assets worldwide, representing the collective wealth of tens of millions of individuals and entities. With this reach and size, the industry is highly vulnerable to the legal repercussions and financial liabilities of workplace sexual harassment. The IMDDA's groundbreaking survey sheds light on how investors, allocators and other professionals who disperse assets to these managers might use the ODD process to do a better job of assessing the less transparent risks at the investment management firms they select.

The potential costs of not adding sexual harassment to ODD processes are severe:

- **Reputational damage.** The reputation of an investment management firm and its employees may suffer irreparable harm from bad press
- **Loss of key employees.** Sudden removal of a fund's top investment professionals subsequently could put future returns and liquidity at risk.
- **Litigation entanglement.** Plaintiffs could name fund investors as defendants or call them as witnesses in litigation.
- **Mismanagement scrutiny.** Investment committees may raise questions about an investor's capability.
- **Capital outflows.** An investment manager may lose the ability to raise new capital, face extensive outflows, and ultimately shutter.

As the first annual survey on sexual harassment the data is a good benchmark for how investors are thinking about these and other human resource issues.

Inquiring about inappropriate behavior of all kinds at companies where allocators place trust and assets is the (welcome) new norm in today's society.

Despite the aforementioned costs of not exploring this risk, our survey identified the following:

- 89% of allocators do not inquire about sexual harassment in the workplace.
- 82% of allocators do not ask follow-up questions about sexual harassment if a manager declines to answer questions.
- 76% of allocators would still consider or invest with a fund manager who has had issues with sexual harassment.
- 67% of allocators limit background checks to only principals and senior staff.
- 36% of allocators are not checking social media for red flags (e.g., inappropriate pictures and comments disparaging women), indicating harassment is likely not on their radar.

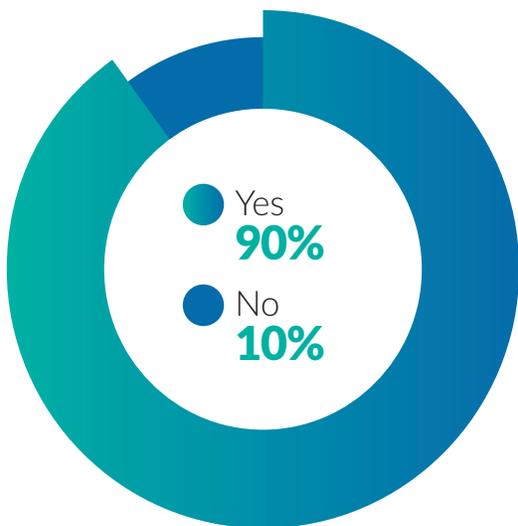
Based on these findings, the IMDDA recommends incorporating the following action items as part of the organizational review to assess sexual harassment risk:

1. **Examine HR processes.** Is there a procedure for employees to follow to make confidential complaints about sexual harassment? Is an independent individual designated to receive employees' complaints?
2. **Ask why departures have happened.** What percentage of departures were women vs. men – and why did women leave the firm?
3. **Challenge background-check conventions.** These firms aren't looking into sexual harassment claims against fund managers, generally. Independent investigation is necessary.
4. **Investigate NDA history.** When it comes to NDAs, the deeper you dig, the more you can find.
5. **Interview former employees.** Not all, but many will help you discover the truth about a fund manager's culture and sexual harassment record.

IMDDA Survey Results and Commentary

The following are the questions, summarized responses and commentary from the 2018 IMDDA Survey on Sexual Harassment. Professionals involved with allocating capital to investment management firms were asked the following questions:

Q *When speaking to a reference, do you ask about the leadership's management style and the culture of the company?*

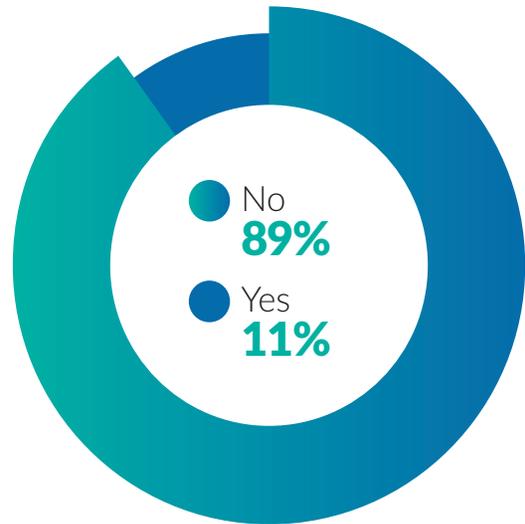


IMDDA: Ninety percent of respondents replied yes to this question, which does not surprise us. The culture of the company dictates whether or not the investment manager is compliant or flouts the rules.

What is surprising is that 10 percent didn't inquire about culture. These respondents may miss key indicators of potential organizational risks including sexual harassment and related risks.

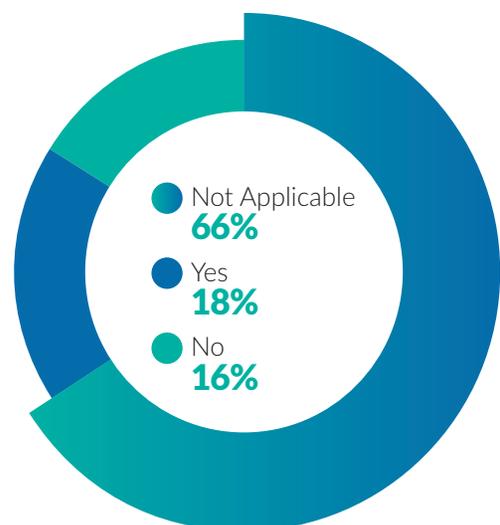
We need to ask tougher questions – questions not just about culture, but rather the DNA of a company as it relates to sexual harassment.

Q *Do you specifically inquire about sexual harassment in the workplace?*



IMDDA: The level of magnitude of the sexual harassment problem – or at least awareness of it – is new. As a result, with 11 percent of respondents replying yes to this question, IMDDA was encouraged that some investors are already asking about the issue.

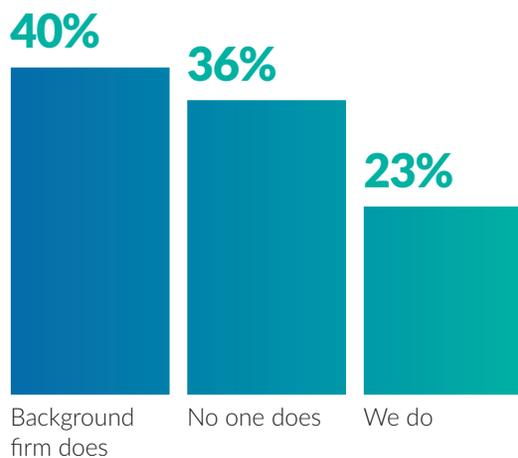
Q *If people do not wish to answer your questions regarding: sexual harassment, would you ask them for names of others to contact?*





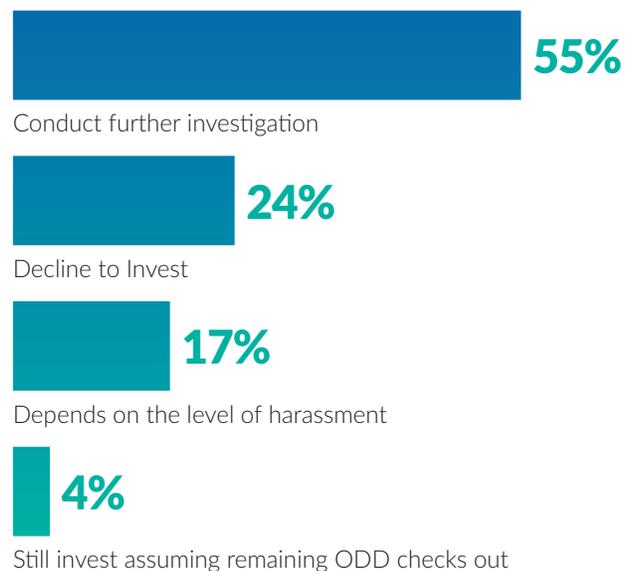
IMDDA: We found that investors who weren't asking follow-up questions about sexual harassment were not posing the question about it in the first place. The remainder of applicable respondents, however, appear to be trying to reach out to people – like former employees – who may have information regarding the topic. This represents the kind of active due diligence that fund management teams should all be engaged in. The ODD effort needs to go beyond current employees who are not forthcoming with what we now know is critical information with financial ramifications. The quickest way to find former employees is to ask the management firm directly or peruse LinkedIn.

Q *Do you, or the background-check firm, review social media and lawsuit history for complaints or indicators of sexual harassment or sexual misconduct?*



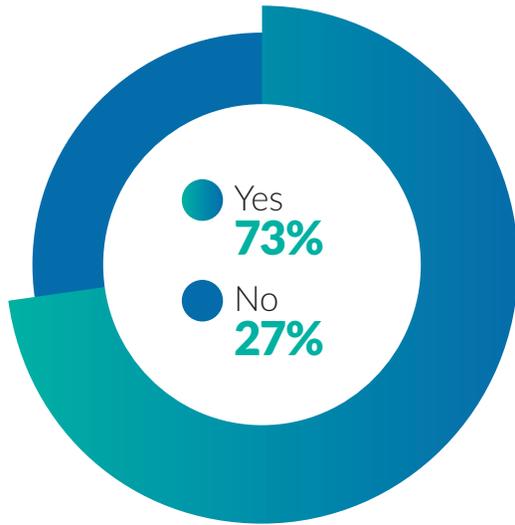
IMDDA: Scrutiny of social media is another way of checking on the soundness of an investment firm's culture. Some 36 percent of investors are not using this basic due diligence technique, whether it has to do with sexual harassment or not.

Q *If you identified a manager through due diligence who has had issues with sexual harassment, would you do one of the following?*



These bottom two answers are very alarming. Failing to investigate further investment managers who during the due diligence process reveal that they have had sexual harassment problems is a huge oversight of reputational and financial risk.

Q Do you ask about employee-related litigation and any confidential settlements with former employees such as a non-disclosure agreement (NDA)?



IMDDA: When it comes to NDAs, the deeper you dig, the more you can find.

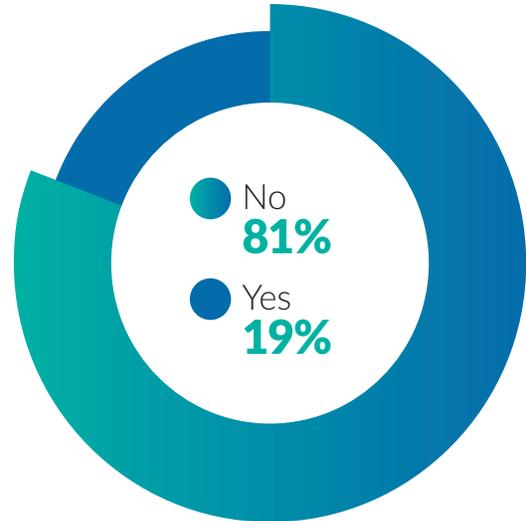
Asking about NDA settlements is a common due diligence technique. But to date, according to the survey, that line of questioning includes scant reference to sexual harassment. If sexual harassment were added to this question, we think responses would be drastically lower.

If sexual harassment claims were settled, the information could be located in the NDAs. And when investors discover NDAs, they need to find out exactly what it was for, especially if a settlement is involved. For example, the NDA may be related to compensation, harassment or other issues.

If the management doesn't cooperate by providing requested NDA information, consider that a red flag and an issue to address prior to investing.

Using public information

Q Do you ask if any executives have had any complaints filed against them by the EEOC or Human Rights Commission?

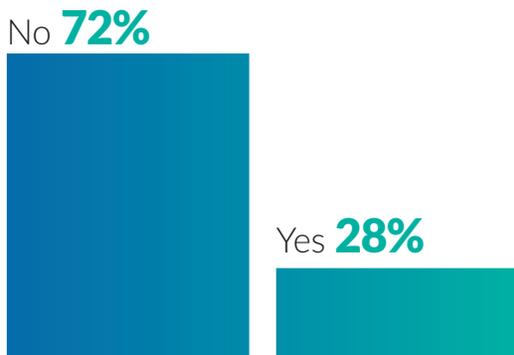


IMDDA: Equal Employment Opportunity Commission (EEOC) data is useful and publicly available, but often remains untouched.

It is our assumption that the respondents were not aware that they could ask about the EEOC or Human Rights Commission complaints. Neither did the respondents believe it was an applicable question.

In the future, getting a hold of EEOC and HRC data will help investor due diligence glean important information more easily.

Q Do you ask about employee complaint filing procedures such as an independent hotline?

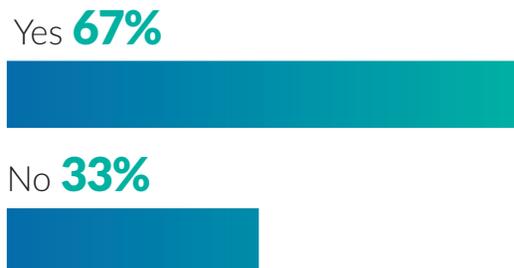


IMDDA: One significant problem with investment managers is that victims may have nowhere to go to file a complaint confidentially and expect to have it handled fairly. In small companies, the person with whom the complaint is filed could also be the harasser.

Funds need to make sure that there is a way for the employees to file a complaint with an independent third party, rather than going to the firm's leadership.

Eyes wide open

Q Do you hire an outside firm to conduct background checks?



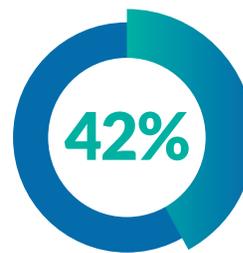
IMDDA: Background-check companies typically look into senior management's legal history. However, if there was an out-of-court settlement for a sexual harassment case, they probably wouldn't discover it. Third-party background checks are very expensive, which discourages some ODD professionals to do a deeper dive into the qualitative risks that can be the most costly.

Investors' due diligence needs to have a more hands-on component when investigating potential bad behavior by an investment manager's staff. If only a surface-level due diligence is conducted, this potentially exposes the investor to significant vulnerabilities.

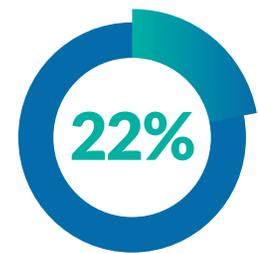
It's not easy to investigate the culture of a manager, but the cost of not doing so outweighs the risk of inaction. What's the worst that can happen? Perhaps the firm loses its ability to raise new funds and has to have a fire sale of its best assets, driving down its net asset value. Or its top portfolio managers are spending more time in court than they are investing capital, causing a loss of faith in the manager and its liquidity.

Our role is to keep investors out of unknown situations, particularly where the loss could go beyond the amount invested.

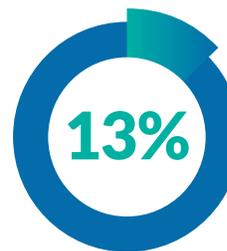
Q How deep within an organization do you conduct background checks?



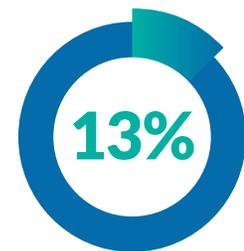
Senior management only



Principal-level and above



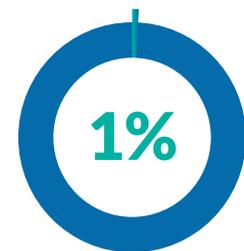
All Staff



We do not conduct background checks



Mid-level and above



Senior managers only

IMDDA: We believe that investigating only a handful of individuals at a fund is incomplete due diligence. ODD professionals should conduct more background checks on influential middle managers and support staff.

Taking Action: Recommendations

While small minorities of fund investors ask tough questions about sexual harassment, the picture that emerges is of a majority that's failing to broach the issue at all – leaving unchecked reputational and financial risk and an incomplete ODD review. The following recommendations should serve as a start to making your sexual harassment ODD process robust:

1. **Examine HR processes.** What's in the investment manager's employee handbook regarding sexual harassment prevention and reporting? Is there a person designated to receive complaints? What's the procedure? If there is nothing in the handbook, the investor has found a new risk to weigh in its assessment. Does the firm have a director of human resources, and if so, will that person be the point person for sexual harassment complaints? Look at the lines of reporting. Could the designated resource for an employee complaint also be his or her supervisor? If so, this must be changed to an independent resource.
2. **Ask why departures happened.** Are exit interviews taking place? Why did the employees leave the investment management firm? What percentage of

the departures are women vs. men – and what was the reason the women departed vs. the men?

3. **Enhance background-check procedures.** Go beyond hiring an outside background-check firm. These firms may not identify sexual harassment history or claims against fund managers generally, so this puts more responsibility on investors to ask the hard questions, dig deeper and get past evasive answers.
4. **Investigate NDAs.** The NDAs should be investigated because they are a powerful source of information, especially about the existence and terms of out-of-court settlements.
5. **Interview former employees.** These people are an invaluable source of information. Not all, but some former employees will help you find the truth about the firm's culture and its past sexual harassment history.

For the ODD professionals who want to integrate sexual harassment questions and processes into their due diligence, we are here to give you the tools to do so.



About the IMDDA

Founded in 2015, the Investment Management Due Diligence Association® (IMDDA) is the only international investor-centric organization dedicated exclusively to due diligence and the professionals who investigate facts concerning all aspects of investment programs. The IMDDA's mission is to work with the investment management community to set the standards for due diligence around the globe. Through its professionals-only membership, seminars, website, customized educational training and in-development due diligence certification program, the IMDDA provides a forum for interaction among peers to share ideas and learn from each other while developing extensive curriculum and standards for due diligence professionals.

The IMDDA focuses on educating individuals on best practices for conducting due diligence on hedge funds, private equity funds, venture capital funds and mergers & acquisitions. The IMDDA operates in North America, the United Kingdom, Singapore and Hong Kong. Members include representatives of financial institutions, regulatory bodies, law enforcement agencies and industry sectors.

