



THE HEDGE FUND FORMATION PROCESS

Step I. Initial Consultation

During our initial consultation, we will discuss your strategy, whether you intend to trade liquid or invest in illiquid assets, the profile of your target investors, regulatory and compliance requirements applicable to your particular situation, the initial and ongoing costs associated with running the fund, the structuring of your management company and all other relevant considerations and concerns.

Step II. Fund Formation Questionnaire

During the fund formation process we will ask that you review and complete our fund formation questionnaire. We will review the questionnaire together in depth and advise you regarding the core considerations involved in establishing a fund, including advice in connection with the following:

- Principal investment strategy, instruments traded and use of leverage (if illiquid strategy a private equity fund questionnaire will be substituted);
- Target investors (e.g. US taxable, US tax exempt or offshore);
- Proposed fund structure and naming of entities;
- Information regarding management company's principals and how decision making authority will be divided between principals; disciplinary history, if any
- Compensation of the GP, including management and performance fee and imposition of hurdle, if any;
- Conflicts of interest, use of soft dollars and new issue restrictions;
- Liquidity terms including lock-up, gate and frequency of withdrawal provisions
- Fund dissolution terms and key man provision;
- US regulatory matters including state investment adviser registration and federal commodity pool, commodity trading adviser, broker dealer or investment adviser registration;
- Election of fund exempt under Sections 3(c)(1) or 3(c)(7) of the Investment Company Act;
- Accreditation of investors (non-accredited, accredited, qualified client or qualified purchaser);
- States of initial investor residence (blue sky state notice filing requirements);
- Use of placement agents or finders and compensation thereof;
- Selection of service providers including brokers, administrators, auditors and marketers;
- Relevant Tax and ERISA matters;
- Use of side letter and third party managers.

Step III. Structuring the Fund

A domestic hedge fund is typically structured as a Limited Partnership (LP) with its General Partner (GP) organized as a limited liability company (LLC) to protect the personal liability of the GP's principals. The LP is usually domiciled in Delaware and the GP in the state where the manager provides the investment advice. An operating agreement is prepared for the management company and a limited partnership agreement for the Fund (LPA). A private

placement memorandum (PPM or offering memorandum) is provided to each investor along with the Fund's LPA and subscription agreement.

Step III. Introduction to Service Providers

To be marketable, a fund should have a broker, administrator and auditor engaged before taking on outside investors.

Step IV. Preparation of the Fund and Management Company Operating Agreements and Offering Memorandum

A domestic hedge fund is typically structured as a Limited Partnership (LP) with a management company organized as a limited liability company (LLC) acting as its General Partner. An operating agreement is prepared for the management company and a limited partnership agreement for the Fund (the "LPA"). A private placement memorandum (or offering memorandum) is prepared and provided to each investor along with the fund's LPA and subscription agreement. In connection with the Fund formation our firm will draft and file the following documents:

Limited Partnership Agreement

The operating agreement for the Fund that sets forth the powers, duties, and rights of the General Partner and Limited Partners and provides for all relevant terms governing in fund including compensation of the GP, valuation of assets, withdrawal terms, indemnification, dissolution, and

Private Placement Memorandum (PPM)

The disclosure document required under the securities laws needed by prospective investors to make a fully informed decision regarding an investment in the Fund. It contains full and fair disclosure regarding investing in the Fund, including specific information to the investment strategy, the background of the principals,

- Provides description of Fund's structure and GP's managerial authority
- Gives comprehensive description of investment strategy, risk management procedures, and instruments traded
- Outlines the management of the Fund, including history of entities and biographies of key personnel
- Summarizes the terms used in the Memorandum
- Describes general and specific risks relating to investment strategy, instruments traded, management *etc.*
- Valuation policies and procedures;
- Potential conflicts of interest
- Names service providers: legal counsel, auditor, prime broker, administrator and so on
- Brokerage and custody
- Qualification of investors eligible to participate in the Fund
- Federal tax aspects and ERISA considerations
- Limitations on transfers of interests

Subscription Agreement

- Investor Questionnaire, including questions regarding investor sophistication, net worth, accreditation
- Subscription Agreement

Manager Operating Agreement

- Outlines equity interest of the principals and managerial authority

Step IV. Compliance with federal and state securities laws

Form D

- Most investment funds offer interest in their fund under an exemption provided to registration under Rule 506 of Regulation D of the '33 Act;
- Rule 506 requires that a Form D be filed electronically with the SEC within 15 days of the first sale of interests in the Fund;
- Form D contains basic information regarding the Fund, management company, the size and duration of the offering, and the accreditation of investors.

State "Blue Sky" Notice Filings

The securities regulatory authorities of each state require that they be provided notice upon the initial sale of an exempt offering to a resident of their state. The timing and content of the notice and fee payable differ between states.