ARMOR
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Hedge Funds: Future Investors Drive the Present Fund Structure

Emerging managers who are looking to launch a new hedge fund must look into the future to develop the optimal structure of the present. Such managers are required to anticipate the types of investors that will invest in their fund to create the most tax efficient structure. A manager needs to consider whether the fund will consist of taxable U.S. investors, tax-exempt U.S. investors and/or non-U.S. investors.

If a manager determines that its fund will consist of only taxable U.S. investors, the ideal structure is to create a stand-alone Delaware limited partnership or limited liability company to serve as the fund. To offer interests in this fund to taxable U.S. investors, the manager must deliver a potential investor the following documents:

1. A private placement memorandum that describes the fund, its investment objective and strategy, terms, a description of its management team, risk factors, ERISA and other benefit plan considerations, and U.S. federal income tax considerations;
2. A limited partnership agreement/operating agreement that provides the terms of the agreement between the general partner/managing member and the limited partners/members investing in the fund; and
3. Subscription documents in which an investor provides representations, warranties and other information to the fund.

In addition, the manager needs to form the fund as well as the general partner/managing member, acquire tax identification numbers for these entities, and draft an operating agreement for the general partner/managing member. Finally, the manager needs to file Form D with the SEC within 15 days of the fund's initial closing and make any necessary state blue sky filings. It is recommended that a manager also make an appropriate filing with the National Futures Association to comply with the Commodity Exchange Act and CFTC rules and regulations.

In terms of cost for launching a hedge fund for taxable U.S. investors, Armor Law Group can handle all of the tasks described above for a fixed fee that includes all legal work except for state filing fees. Managers who wish to solicit U.S. tax-exempt investors or non-U.S. investors in their funds should consider a master-feeder structure or mini-master-feeder structure Please contact Douglas F. MacLean at Armor Law Group at 617.350.5250 if you would like more information or want to discuss your proposed hedge fund.