

## Ricardo Davidovich in Hedge Fund LCD: Key Considerations for Hedge Fund Managers Working with Outside Sales Consultants (Part Two)

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**PRACTICES** Fund Formation and Management, Investment Management

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Fundraising continues to be one of the greatest challenges facing hedge fund managers today. Recent industry reports show that at least one in five North American-based institutional investors intend to decrease their allocations to hedge funds in the coming year, a rate which for the first time in 10 years outpaces more optimistic investors—by a factor of two. Competition for capital is fierce, and hedge fund managers whose core expertise is managing portfolios for investors, not necessarily fundraising, must find new ways to navigate the current environment and engage increasingly sophisticated, and ambivalent, investors. One solution hedge fund managers utilize for approaching and attracting new investors is retaining the services of outside sales consultants, or third party marketers.

Third party marketing firms, or TPMs, are typically seasoned investment marketing and sales experts who raise assets for hedge funds through their relationships within distribution channels, including institutional investors, broker-dealers, investment platforms, financial advisors and high net worth individuals. Retaining their services entails a variety of operational and contractual considerations, including due diligence, fees, indemnifications, representations and warranties, how to handle pre-existing relationships, and possibly coordination between the hedge fund manager's in-house sales and marketing team and the TPM. This article, the second in a two-part series, explains appropriate due diligence hedge fund managers should conduct to choose the right TPM for their firm, standard fee levels and contract terms to include in engagement agreements, and considerations for terminating the outside sales consultant relationship if a marketing campaign is unsuccessful. The first article explored why managers hire outside sales consultants and detailed the regulatory requirements and prohibitions TPMs are subject to and that fund managers engaging them should know...

Sunset provisions provide that the fees paid to a TPM for introducing relationships that result in investments with the manager will decline over a period of time until they disappear entirely. Sunset provisions should be negotiated in advance, and are an effective way to account for investors introduced by the TPM who invest with the manager after the contract has lapsed or expired...

"You need to consider a provision that states how long the investment window for a pre-approved investor stays open post term. If a pre-approved investor invests in a fund six months after termination, does the third party marketer get paid?" [Ricardo Davidovich](#), a partner at Haynes Boone said.

**Excerpted from the *Hedge Fund Legal & Compliance Digest* (part two of two). To read the full article, please [click here](#) (subscription required).**

**Read an excerpt from part one [here](#).**