Cashing In on Litigation

A NEW CROP OF FUNDS INVESTS IN AN ASSET CLASS THAT HAS NOTHING TO DO WITH THE MARKETS: LAWSUITS.

LEGAL EAGLES JURIDICA'S RICHARD FIELDS AND TIMOTHY SCRANTOM ARE BULLISH ON DISPUTES.

WHILE HEDGE FUNDS around the globe are watching their investments go up in smoke, one fund—Juridica Investments—has been enjoying nice returns. How? It puts its money in lawsuits. Launched in December 2007 by two lawyers, Richard Fields and Timothy Scrantom, Juridica gives money to *Fortune* 500–size companies or their lawyers in the early stages of corporate lawsuits in exchange for a share of the payout if the plaintiffs win or settle. (Think of it as a different form of investing in distress.)

With $200 million under management, Juridica has invested in 17 suits so far—and is two for two in decisions. Though Fields, 53, and Scrantom, 52, are based in New York City, they raised money by selling shares on the London Stock Exchange's small-companies market. The fund paid a dividend of about $5 million to investors last month after a big suit was settled. Juridica signs nondisclosure agreements, so it can't name names, but this one involved one hedge fund suing another for stealing an employee. Shares are up about 20% since the launch.

Investing in litigation is a small but growing asset class—valuable because the investments' performance isn't tied to the economy or stock market. Companies like LawCash (of late-night TV ad fame) front small sums for personal-injury suits, and several small hedge funds have emerged to back them too. In the tech world, meanwhile, investors like Nathan Myhrvold, former CTO of Microsoft, buy disputed patents in hope of using them to earn licensing fees.

But investing of the kind Juridica does, in commercial litigation, is only starting to grow. It's big in Europe, where lawyering is riskier and more expensive, since many countries require litigators to pay both sides' legal fees if they lose a suit they bring. Insurance companies like Allianz in Germany and several independent investors have launched funds to invest in suits. (Even AIG was said to be considering such a fund before the company collapsed.) Like Juridica, these funds invest amounts typically between $1 million and $5 million in cases where companies sue each other for anticompetitive behavior, contract breaches, and so on.

Juridica is betting this kind of investing will grow in the U.S., where it has been tried in small doses. Investors paid some of the costs of a class-action suit against vitamin manufacturers in the late '90s. Credit Suisse has a litigation finance unit, and some multi-strategy hedge funds, like York Capital Management, are said to be exploring the concept. "It's still a pretty new and interesting idea," says Bill Isaacson, a Washington-based litigator with Boies Schiller & Flexner. "I expect to see it grow."

To be sure, lawsuit finance is not risk-free. Lengthy litigation means some payoffs could take years, and the practice is sometimes seen as controversial, since it may encourage excessive litigation. Third-party funding for lawsuits is illegal in some states, though many states have moved to legalize it.

But Juridica's Fields, who previously worked at Dickstein Shapiro and once launched a failed dotcom company that traded legal claims, is optimistic. "Once people get to know us, if they see us backing a case, they'll want to settle," he says. "This isn't so much investing science as it is behavioral science." —*Telis Demos*

ALTERNATIVE BETS

Investments in lawsuits aren't like stocks. They do well (or poorly) based on the merits of the case, not on what happens to the market. It's one of several ways to invest in so-called noncorrelated assets. Here are some others. —*T.D.*

THE WEATHER
Derivatives created by insurers like Swiss Re pay out in the event of a hurricane or other "act of God" natural disaster.

POLITICS
Online markets let investors buy shares in either side of an election. Holders of the winners' shares get a payout.

ACTIVISM
Shareholder activists make money by forcing big changes at companies. That depends on their ability to win proxy votes.

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