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Litigation is the new strategy

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Where there is market turmoil, you can bet your bottom dollar there will be a lawsuit. And indeed, more than betting, these days investors are handing over money on a long-term basis to fund managers who will pick out lawsuits that are likely to pay out. Juridica Capital Management is one such manager. Juridica began operations in December 2007 and its net asset value is up at the end of its first year. When returns for the aggregated hedge fund index were minus 18%, it is no surprise that the strategy is gaining favour.

Competition is still limited, however. Juridica focuses on the UK and the US. "The US corporate litigation market is a \$30 billion-plus litigation market and we have very little competition other than one major investment bank that provides its own capital. There were some players before the crash but we believe they are facing liquidity constraints. In intellectual property there are more players," says Richard Fields, chief executive of Juridica. Investments might include cases that involve shareholder, antitrust, and contract disputes.

Juridica provides capital to companies or lawyers that might require finance to continue a case but more often are seeking to transfer a proportion of the risk of litigation in exchange for a percentage of the possible proceeds of the litigation.

Juridica faces the same risk that a plaintiff faces, including the merits of the case, solvency of any defendants, the quality of the lawyers prosecuting the case and the likelihood of the case settling. Fields says: "We only look at cases where lawyers are already involved, and then we do our own independent due diligence into the case."

Fields has 25 years' experience as a corporate plaintiff's lawyer. "We look at legislative risk also – we don't want to find out that law is about to change and have an impact on the case result," he says. "We make background checks on the firms to ensure we are not going to suffer reputational risk, and we look for the interests of the lawyers to be aligned with those of the companies." The whole process of due diligence can take between 30 and 90 days. In 2008, Juridica looked at 122 cases and invested in 17. It had two wins. Typically cases end up settling, says Fields.

In the present environment, there are more cases to choose from, and Fields expects the number to grow. "We are approached by CFOs and major law firms who are looking for finance as credit is tight. If you are involved in major litigation but earnings are dropping and there is pressure on cashflow, funds like ours can fill the financing gap."

Fields says that in the financial markets more cases are developing. Juridica tends to focus on investment-related disputes rather than securities class action cases. "For obvious reasons we do not disclose the names of cases to investors but we are transparent about the types of cases."

Institutional investors are showing more interest, he adds. Juridica Investments Limited, the fund managed by Juridica Capital Management, is listed on London's AIM junior market, and UK institutions Hendersons, Jupiter and Invesco Perpetual are all large shareholders.

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