HEDGE FUND legal & compliance digest

www.hedgefundlcd.com September 8, 2016

Tailoring a Human Resources Strategy to Your Hedge Fund's Needs (Part One of Two)

By Jennifer Banzaca

The allocation of a hedge fund's human resources depends upon a wide range of factors. Larger hedge funds are well-situated to employ a full operational staff, from deep compliance and legal benches to human capital and finance teams. They are also able to—and need to based on the complexity of their staffing—have an in-house human resources function. Given the relatively small size of the average hedge fund, however, a full-bore HR function usually isn't necessary, and for a substantial number of firms is a luxury they can ill-afford.

Still, someone needs to be responsible for the functions that would normally be within the purview of an in-house HR team, including payroll, benefits management, employee conflict resolution, ensuring compliance with company policies and procedures, hiring and firing, and developing employment contracts and other administrative forms. Some firms will choose to outsource functions such as payroll and benefits management. At other firms, the burden oftentimes falls to the legal and/or compliance executives since performance of certain HR duties is subject to federal and/or state regulations. While this presents a less-expensive option for hedge funds to address HR and employment issues, when the multi-tasking executive inevitably becomes overextended, HR responsibilities quickly can fall to the bottom of an ever-growing to-do list.

External pressures further increase the stakes of not having a dedicated HR strategy and team in place. Recent enforcement actions demonstrate the regulator's willingness to sanction firms for violative terms included in employment agreements. And even where the SEC doesn't get involved, the pressure from investors, both real and perceived, is on hedge funds to ensure that employees expound a positive image, and when they don't a traditional HR function must deal with the fallout. Additionally, federal, state and municipal laws are constantly evolving in breadth and complexity, as the recent updates to federal trade secrets laws and sick leave mandates in New York City evidence.

This article, the first in a two-part series, examines the HR functions most relevant to hedge fund managers, key laws and regulations that HR operations must contend and comply with and HR-related critical risks hedge fund managers face. The second article will look at how hedge fund managers are currently handling certain HR issues, considerations for determining when and what HR functions to outsource and best practices for hedge fund managers implementing a human resources strategy.

Essential HR Functions for Hedge Funds

Standard human resources functions at a hedge fund that require a dedicated HR professional or team, whether in-house or outsourced, include: hiring; managing and terminating employees; drafting employment and compensation agreements; payroll and benefits administration; communicating performance expectations and conducting annual reviews; setting the tone of, and expounding upon, firm values and culture; implementing and maintaining firm policies and procedures and an employee handbook; and managing employer liability and insurance.

Julie Gottshall, partner and head of Katten Muchin Rosenman's employment law and litigation practice, explained the human capital issues at play. "HR is responsible for building the organization's infrastructure for all employee-related issues. They decide how the HR function is going to be handled and put into place the policies that govern the employment relationships. They are responsible for overseeing the drafting of the employment agreements, implementing benefits packages, identifying applicants, interviewing and hiring individuals, managing interpersonal issues, and overseeing any performance issues that arise."

Federal, State and Municipal Regulations Hedge Funds Must Reckon With When Developing HR Strategies

Allan Bloom, co-head of the wage and hour practice group at Proskauer Rose and a partner in the firm's labor and employment law department, explained that employment and HR functions encompass diverse legal issues which hedge fund managers must understand and incorporate into their HR strategy. In fact, compliance with the following laws may form the basis of a fledgling HR strategy:

- ***Anti-discrimination laws and regulations***. Anti-discrimination statutes must be taken into consideration "when recruiting people, hiring them, promoting them or firing them. These laws outline the things you can and cannot take into consideration," Bloom explained.
- ***Wage and hour laws***. Generally speaking, wage and hour laws govern how to pay people and whether or not they are entitled to overtime, said Bloom. They also help firms determine how frequently, and minimum standards for how much, employees must be paid.
- ***Tax laws, as they apply to executive compensation***. According to Bloom, "If you're paying people and doing quasi-equity compensation or giving them a piece of the firm's profits, a carry or something other than a straightforward salary, you need to understand the rules around doing that."
- ***Background check and "ban the box" laws***. Considered human rights issues, Bloom said these laws govern "what you can ask before you hire someone, and what kind of notice you have to give employees before checking their backgrounds."
- ***Leaves of absence and reasonable accommodation.*** "From time to time, employees will request leaves of absence for health reasons or personal matters, so you need to understand [the Family Medical Leave Act and what it mandates about] what you can and cannot do," Bloom said.
- ***Financial whistleblower regulations***. These programs outline what firms can and cannot do should an employee report a securities violation, Bloom explained. They also protect employees from retaliation by an employer and constrain the financial terms employers can tie to employment and severance agreements should an employee become a whistleblower.

Of the broad range of federal, state and municipal regulations implicated, and the legal considerations hedge fund managers must take into account, firms should pay particularly close attention to applicability of the Fair Labor Standards Act, the Defend Trade Secrets Act, New York Human Rights laws and the Whistleblower Protection provision in the Dodd-Frank Act.

Fair Labor Standards Act

The Fair Labor Standards Act establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in the private sector and in federal, state, and local governments. [1] Hedge fund managers are subject to FLSA requirements even though hedge fund employees may be compensated through an alternative structure, such as a combination of salary and cash or equity incentives based on various performance factors.

Holly Weiss, a partner at Schulte Roth & Zabel noted, "There are many laws governing compensation, but the most basic issue that comes up is whether people are paid properly and are classified properly. Employees who are not exempt from overtime laws must receive overtime pay for work done in excess of 40 hours in any given work week. Some employers run afoul of these laws, often unintentionally, by assuming that if they pay people a high salary they do not have to pay overtime." For certain employees, then, an alternative compensation structure does not necessarily discharge hedge fund managers from compliance with FLSA's requirements.

According to David Lewis, president and CEO of OperationsInc., a human resources outsourcing and consulting firm, "One of the biggest mistakes in the industry is that managers think that if they pay employees well they do not have to pay overtime. That is a false assumption. With that in mind, one of the biggest mistakes we see is a manager not paying an employee appropriately as it relates to the law. That's not to say the employees are not being paid well, but they should be logging their time, they should be paid time and a half for hours worked beyond eight hours a day or 40 hours a week. Fund managers tend to simply not understand what is required under the FLSA."

Of particular importance to hedge fund managers, the FLSA has several exemptions for employees who must be paid at least minimum wage and/or overtime. These employees include executive employees [2]; highly compensated employees [3]; and outside salespeople [4]. There are also compensation requirements relating to meeting and training time, travel time and for salary and non-salary employees.

Defend Trade Secrets Act

The Defend Trade Secrets Act creates a federal civil cause of action for trade secret misappropriation, granting hedge funds access to a federal forum to seek recourse in the form of actual, unjust enrichment, "reasonable royalty," or in some cases, exemplary damages against employees for theft of confidential information or trade secrets. (For more on trade secrets see, "New Protections for Trade Secrets Require Fresh Look at Employment Agreements") Simultaneously, the DTSA includes whistleblower immunity provisions which absolve employees from criminal and civil liability if they provide trade secrets to government officials or confidentially to their attorneys for the same purposes of reporting a suspected theft.

Anne Patin, a partner at Seward & Kissel explained how the DTSA could impact human resources functions. "[The DTSA] gives a federal cause of action for the misuse of trade secrets, and employers need to be aware they should be including a clause in their employment agreements that to the extent trade secrets are used by an employee for whistleblowing or bringing a cause of action, employees have to be notified of their right to do that." Firms must include language in confidentiality and non-disclosure agreements advising employees of the DTSA's whistleblower provisions.

New York State and Municipal Human Rights Laws

The New York state Human Rights Law prohibits discrimination on the basis of "age, race, creed, color, national origin, sexual orientation, military status, sex, marital status or disability" in employment, housing, education, credit and access to public accommodations. [5] New York City has a similar law that additionally includes protections based on lawful occupation, family status and any lawful source of income. It also prohibits retaliation, bias-related harassment, bias-related profiling by law enforcement and discrimination against interns. [6]

According to Weiss, "There were laws that New York City enacted recently that changed the rules on background checks and affect what can be asked during the course of recruiting or interviewing a potential employee. Employers cannot ask about criminal convictions until after a conditional offer of employment has been extended — a 'ban the box' law. There are very tight restrictions on credit checks now in New York City."

Weiss added, "When you look at changes in the New York City Human Rights Law, for example, a human resources executive at a larger firm may be on a mailing list or simply on top of that issue, whereas a person at a smaller firm wearing multiple hats may not be up on that issue. These smaller firms are looking to outside counsel to keep them apprised of developments in the laws and whom they can call for advice on a wide range of questions and issues."

Patin further advised, "Employers need to make sure they understand the processes and procedures for obtaining background checks, as they are subject to a conditional offer of employment. Credit checks are limited to employees that meet certain exceptions under the statute and regulations that have been promulgated by the Human Rights Commission in New York City."

Whistleblower Programs

The Dodd-Frank Act amended the Securities Exchange Act of 1934 by, among other things, adding Section 21F, dubbed "Securities Whistleblower Incentives and Protection," which directs the SEC to award eligible individuals who voluntarily provide original information that leads to successful enforcement actions that result in monetary sanctions over $1 million. (For more on whistleblower programs see, "Best Practices for Promoting Internal Reporting of Compliance Issues Without Violating SEC and CFTC Whistleblower Rules Part One" and "Part Two")

Bloom explained the thrust of how the SEC's enforcement of whistleblower protections has affected human resources functions. "The SEC has been active in the last few years in going after companies that the agency believes are limiting the ability of employees to report unlawful activities through language in confidentiality and non-disclosure agreements, settlement agreements, separation agreements and company policies. To the extent any such agreements or policies contain language that could reasonably be viewed as prohibiting or limiting the right of employees from making protected whistleblower complaints or otherwise making certain disclosures to the government—or penalizing them for doing so—they may well raise scrutiny from the SEC. The SEC, just like the EEOC, would expect such agreements and policies to specifically preserve the right of employees to make such disclosures to government agencies and to participate in government investigations."

Specifically, "There have been three enforcement actions that have been announced by the SEC in this area," Weiss explained. (For more on the enforcement actions see, "Active August: SEC Approves ADV Changes, New Broker Type; Targets Anti-Whistleblower Provisions, Fee Disclosures") In 2015, KBR, Inc. was sanctioned for including in its form confidentiality agreement signed by employees participating in internal investigations a provision whistleblowers from discussing their allegations with anyone, absent specific authorization from the company. [7] Just last month, BlueLinx Holdings and a California health insurer were fined for illegally using severance agreements requiring outgoing employees to waive their ability to obtain monetary awards from the SEC's whistleblower program. [8]; [9]

"Investment managers should ensure that employment, separation and confidentiality agreements do not run afoul of Rule 21F, specifically that they do not discourage whistleblowing activity and do not prevent employees from receiving a bounty or seeking to receive a bounty," Weiss summarized. Patin added that the recent enforcement actions counsel that employment and separation agreements go one step further and explicitly "notify an employee of their right to use certain information to pursue a whistleblower cause of action or allegation of wrongdoing to government agencies."

Human Resources-Related Risks for Hedge Fund Managers

Human resources issues are constant and evolving, and an investment firm's action, or inaction, on issues as myriad as employee performance and termination, healthcare and other benefits administration and the protection of trade secrets, could increase its vulnerability to regulatory censure, civil litigation or investor redemptions. With these risks in mind, hedge fund managers should understand the issues and how to mitigate their risk.

Bloom pointed out, "From an employment standpoint, the biggest risks are complaints of discrimination or harassment. Those can happen at any company, no matter the size, and they attract the attention of lawyers, investors and regulators. Those types of cases can really create reputational harm, and for a lot of hedge funds, your brand and your integrity and reputation are sometimes as important as your track record. If something like this comes up, no matter who is handling your HR function, you need to have outside counsel involved immediately." In addition, "Any allegation by an employee or former employee of financial impropriety is another risk and red flag and something that should also be immediately elevated to outside counsel."

Fund managers should also carefully craft offer letters and employment agreements to avoid the risk of unintentionally offering an incentive or promise that they are not prepared or willing to honor. Weiss advised, “An offer letter or a separation agreement is not something that one without experience in this area should take care of because mistakes will be made. The most common mistake I see is the unintentional promise that could be enforceable. If you want to be able to terminate an employee at will, you do not want something in your offer letter that indicates that employment is not at will.”

As a corollary, employment agreements and other employment contracts should clearly outline the terms of employment and compensation arrangements. In particular, hedge fund employment agreements for key employees should clearly differentiate between wages, which are subject to New York state labor laws, and incentives, such as deferred equity-based compensation, which are not, because they are contingent and dependent on continued employment and the financial success of the fund.

Another risk for fund managers is incomplete or inconsistent handling of employee concerns, which Lewis said most commonly involve complaints about supervisors or coworkers. “If you don’t handle these problems appropriately you could turn a small issue into a very large issue.” Similarly, workplace harassment issues routinely arise in the financial services industry, and they need to be dealt with competently and comprehensively, said Lewis. “Employers and employees need to understand what constitutes a hostile work environment and how to adapt and adjust your behavior in the workplace so you minimize your risk there, and that you immediately address any complaints that do come forward.”

HEDGE FUND legal & compliance digest

www.hedgefundlcd.com September 15, 2016

Tailoring a Human Resources Strategy to Your Hedge Fund's Needs (Part Two of Two)

By Jennifer Banzaca

Human resources tends not to receive the attention that it rightfully should, and yet the price of a hedge fund not having a bespoke HR strategy in place is only increasing. Firms are battling for talent, while simultaneously becoming more selective in hiring practices and prone to firing employees, even for infractions that aren't performance-based. For some firms, a general market malaise has resulted in the elimination of entire departments, or layoffs. For still other firms, any lapse in monitoring employee behavior on mobile devices, computers and social media platforms could put a manager in regulatory or reputational jeopardy. And for all hedge fund managers, ensuring that policies, procedures and employment and confidentiality agreements are carefully crafted and implemented is an ongoing priority, as the National Labor Relations Board's complaint against Bridgewater Associates this summer warns.

HR is a fundamental aspect of business management. The issues facing hedge funds are various, but they're not uniform across funds, so the optimal HR strategy for each fund may differ. Some firms hire a dedicated HR professional or in-house team, some delegate HR responsibilities to an existing executive, some outsource HR-related functions, and still others employ some combination thereof. However HR operations are handled, someone must be on staff or employed by the firm to address issues such as hiring and firing, payroll, employee online behavior, employee disputes, performance issues and workplace litigation, and the solution should be tailored to the needs of the particular hedge fund.

This article, the second in a two-part series on HR issues hedge fund managers contend with, will outline how hedge fund managers are currently handling certain HR issues, considerations for determining when and what HR functions to outsource and best practices for hedge fund managers implementing a human resources strategy. The first article examined the HR functions most relevant to hedge fund managers, key laws and regulations with which HR operations must contend and comply, and HR-related critical risks hedge fund managers face.

How Hedge Fund Managers Typically Handle HR Issues: Size Matters

A hedge fund manager's HR strategy, and whether it handles HR operations in-house or outsources them, will be largely influenced by the hedge fund's size. According to Anne Patin, a partner at Seward & Kissel, "How a hedge fund handles the HR function depends on the size of the manager and how long they've been in business. I think hedge funds approach HR in a number of different ways: They heavily outsource to outside counsel with an employment specialty; they hire someone internally; they have someone internal, such as the CFO, COO or GC take on the HR responsibilities; or they use professional employer organizations for some HR resources, such as payroll or benefits."

Small Hedge Funds: Outsourcing HR Functions to PEOs

Since HR is not typically a core competency within most new fund managers, many consider outsourcing certain functions to PEOs, which provide many human resources-related functions, including employment administration, benefits management, retirement services and payroll services. For the average fund that's relatively small in size, initial human resources issues, such as payroll and benefits, may be fairly straightforward.

According to Allan Bloom, co-head of the wage and hour practice group at Proskauer Rose and a partner in the firm's labor and employment law department, "Given the size of many hedge funds, particularly at startups, having a full-time dedicated HR person is not possible. If there is not a dedicated HR person, what a lot of smaller hedge funds and other companies do is outsource the human resources function to a third-party vendor, particularly for things like payroll and benefits."

The decision to outsource is unique to every firm. However, Holly Weiss, a partner at Schulte Roth & Zabel noted, "When firms decide to outsource or to hire a full-time HR professional, it is usually driven by the person in-house who is wearing multiple hats and overwhelmed. At some point, you just have too much coming at the person and it's too much to handle, and you need to bring in someone to deal with the human resources function solely."

Lance Zinman, a partner and global co-head of Katten Muchin Rosenman's Financial Services practice said not many firms choose to outsource HR functions. "We don't usually see many instances of asset managers outsourcing their employment functions to a PEO, partially because of the regulatory overlay. Besides the standard need for managers to comply with employment laws and performance requirements, they are also faced with additional regulations and laws specifically related to their business."

In his experience, David Lewis, president and CEO of OperationsInc., a human resources outsourcing and consulting firm, said, "In the hedge fund community as a whole, when funds get started they tend to rely on PEOs for turnkey services such as payroll services, benefits, 401ks, worker's compensation, human resources and data storage. The HR these firms provide is very basic and often non-strategic and designed really to make sure firms stay compliant with state and federal laws."

Small Hedge Funds: Relying on Outside Counsel

In addition to outsourcing non-strategic HR responsibilities to PEOs, smaller and startup managers will often rely heavily on counsel, both in-house and outside, to guide the firm through the legal aspects of HR requirements. Zinman said, "Generally speaking, what we've experienced is that at the early stages of a manager's business, the founders will rely on outside counsel to help manage their employment matters. Thereafter, we typically see the legal personnel or general counsel really becoming specialists in labor and employment law because there has to be someone in the organization that fully understands those laws, in addition to the regulatory environment. The in-house counsel will initially rely on outside counsel to get them up to speed on labor and employment issues, and then will eventually administer the program themselves. I don't think there is a one-size-fits-all approach, but there is often someone in-house that serves as the de facto HR person until the manager reaches a stage where it makes sense for them to hire a dedicated HR professional."

Weiss agreed that an in-house point person often teams up with outside counsel to navigate the legalities of a variety of HR issues. "Outside counsel helps with matters like drafting employment agreements, confidentiality agreements and restrictive covenant agreements and, advising on hiring, firing and disciplining."

Exactly which executive should be responsible for (overseeing) HR operations will vary depending on the firm, its investment strategies and employee workloads, but the HR administrator should always be a member of the upper echelons of management. "In my experience, it is a C-level executive who is responsible for human resources and personnel issues," Weiss added. "Compliance officers should not be responsible for human resources. They have too much on their plates and they have access to too much information about personnel that could muddle decisions. In addition, investment-side personnel (including investor relations personnel) should not be responsible for human resources. They do not need to be distracted."

Even for small firms, however, adding a second set of business management responsibilities to an executive's plate can have consequences, Bloom pointed out. "To try to do HR in-house by having someone else fulfill that role, it means some other operations person, founder or other

C-level executive is going to be charged with taking care of HR issues on top of their typical day-to-day functions and this will cause them to rely on outside counsel a great deal. There is a long list of things for a non-HR professional to deal with. Do you really want to add those duties to what is already required of the person's position?"

The question may seem rhetorical, but hedge fund managers at small funds must grapple with how to configure their HR "team" because a failure to dedicate resources to the function can have significant legal and regulatory repercussions. Perhaps unsurprisingly, Julie Gottshall, partner and head of Katten Muchin Rosenman's employment law and litigation practice, said HR often takes a back seat at the hedge fund managers she's seen. "Typically we see a laissez-faire approach to the HR function in start-ups. The founders and COO will have some historical knowledge of how things were handled at their past employers, and they import that wholesale to the new organization. For example, they will use offer letter templates or entire handbooks from their prior workplace. Sometimes that is a good strategy, but oftentimes what they are bringing with them is better-suited for a larger organization and does not fit the needs of their fledgling fund. The challenge for a startup is not only having enough infrastructure, but having it appropriately tailored for the size of the organization. For example, we would recommend any employer have a handbook, but the one you need for a firm that has 200 employees will be very different from the one you need for a firm with two employees. The challenge for startups is to have the appropriate baseline documents and procedures in place without overdoing it on the one hand, or completely ignoring the fact that there are laws and regulations they have to comply with no matter how small they are, on the other."

Growing and Larger Hedge Funds: Onboarding a Dedicated HR Employee

As an investment firm grows, the human resources function evolves, and the services or strategy relied upon at the outset may no longer be sufficient for the firm's needs. Lewis explained that, "As firms get larger or more sophisticated, they start to realize the PEO option lacks substance on the HR services. Many of our clients are hedge funds that have outgrown these turnkey solutions and want a strategic and customized human resources function, but don't yet have the resources or need to hire a full-time dedicated HR person."

Alternatively, growing firms that can afford to may hire at least one dedicated HR professional. According to Gottshall, "When a hedge fund reaches a certain size and can support it, it often has at least one dedicated HR professional. For the startups, I typically see the COO handling those functions during the very early days of the organization. As the organization gets a little bit bigger it may retain someone who fills the legal function, the general counsel, and that person then becomes the go-to person for the HR function."

The expense of hiring a full-time dedicated HR employee can often be outweighed by the benefits added. Bloom noted, "As firms grow, it may well make sense to have a dedicated in-house HR person to handle employment issues like recruiting, onboarding, writing offer letters, developing policies and practices, performance management and employee relations. Some smaller firms will have other people in the firm take on these things but that, to me, is the least ideal because it's a full-time job to perform all of these functions. These HR functions will take time away from what they would normally be doing."

Specific Considerations for Firms Outsourcing HR Operations

For firms that do decide to outsource HR functions, due diligence and contract negotiation are critical. Weiss advised, "When outsourcing any human resources function, you should ensure that the PEO has experience within your industry. It's good to have a firm that has an understanding of how investment managers compensate people and how the businesses are structured. Investment managers do things differently than a large corporation or other businesses."

Added Gottshall, "I would advise any fund to look very carefully at the agreement they are given by any PEO organization to make sure the contract terms do not favor that organization. You want to take a close look at how the liabilities and responsibilities are assigned between the two entities. Beyond that, I would encourage any fund not to abdicate its HR function entirely to a PEO. PEOs are not specialists in the financial field and may not be well-equipped to address issues unique to hedge funds, such as restrictive covenant enforcement and compensation structure. A hedge fund should utilize its own outside counsel to take a look at some of those employment issues."

Additionally, Bloom suggested that managers pay attention to their contracts with any PEO and negotiate them in a balanced way that ensures the PEO is legally responsible for agreed-upon functions. "When outsourcing any HR function, you are looking for experience, national reputation and industry reputation. You want to make sure that they understand your business. Probably the most important thing is to make sure your agreement with the PEO protects you, because the whole point of doing this is to take the risk off your books. You never want to engage a third party to do HR outsourcing, payroll, benefits administration and things like that if you're not taking all, if not most, of the exposure to employment and tax-related risks off the table. You want to have a robust services agreement where you make it clear that if anything goes wrong, you won't end up paying for those mistakes down the line."

Additional Considerations for Developing Both In-house and Outsourced HR Strategies

The exact HR strategy each hedge fund adopts is based on the organization structure, the business lines, available capital, goals of the business and culture within the firm. The key strategy elements, though—payroll, benefits and whether to retain in-house or outsource HR operations—tend to remain constant.

With payroll issues, managers need to determine how much and how often to pay employees, and ensure that all the taxes are accurately calculated and collected. Managers also need to consider whether employees will be W2 employees or W9 independent contractors, a critical distinction that can draw IRS scrutiny if mis-handled.

Benefits are also a critical component of human resources, and managers must consider what type of benefits program is best for their firm and what services—medical, dental, vision, retirement plans and/or life insurance—they will offer.

The most advantageous strategy for payroll and benefits may also vary over time as a firm grows.

Developing the right HR strategy for a firm may also involve assessment of non-obvious characteristics—those unrelated to performance metrics—of existing executives, such as temperament, interpersonal skills and diligence. Patin advised, "It's important to have a person that is dedicated to that function that has a sensitivity to human resources matters and is adept at dealing with sensitive situations. You want someone who is going to rigorously review policies and procedures, makes sure performance issues that come up are properly documented and dealt with, and who is really going to be responsible for staying on top of changes in the law so the company can be current and compliant."

But if a firm does not employ a full-time HR employee, outside counsel should be engaged as soon as possible to advise on HR issues. "If you don't have a dedicated HR person, you should be working with your outside counsel to address issues as they arise," said Gottshall. "Ideally, we would see the funds have outside counsel involved early on to help put in place an HR infrastructure—for example, by having the right policies and a reporting procedure in place—which goes a long way toward mitigating risks. If a claim does come in, get your counsel involved right away so they can help you navigate through the litigation or settlement process."

Whatever form the firm's HR strategy takes, Weiss cautioned managers that "Personnel matters should be top of mind when launching a fund. From the beginning, it is important to establish a framework to properly pay employees and address any issues that may arise. For investment managers, the people who work at the firm are the firm's most important assets, and you need to make sure that while you are getting your firm up and running that you are also thinking about employment matters and how you are going to take care of that important human capital."

Best Practices for Hedge Fund HR Operations

Establishing HR best practices need not be a black box for hedge fund managers unfamiliar with HR demands. For instance, Gottshall suggested that simply having HR issues on the radar from a firm's inception is a straightforward best practice that firms simply neglect. "I would like to see a greater focus on HR early on. Doing so serves the firm's long-term interests by facilitating compliance from the outset. If a firm neglects to incorporate the best practices at the beginning, the shortcomings in its approach are perpetuated and multiplied, and the potential liabilities grow with the business. The reality is, however, that HR often takes a backseat to larger financial concerns."

Drafting and continually revising an employee handbook tailored to the size and needs of the business can also go a long way toward establishing a foundation of best practices at fledgling and growing firms, Bloom said. "The most important thing is to get an employee handbook in place right away. You want to have a set of policies in place dealing with personnel issues, and you need to have that in place day one because that is going to protect you. It's a document that tells your employees what your practices are, what your policies are and where to make complaints. The handbook gives employees a lot of information and protects you in the event someone violates a policy.

Perhaps the best practice, regardless of whether a firm chooses an in-house, outsourced or combination strategy, is to be open to the fluidity of HR operations and their dependence on how a firm evolves. Bloom said, "Whether you have an internal HR function or outsource, I would say best practice is to have an open door, have a great set of policies, have a great set of template documents and contracts, have credibility with the employees and management, and understand your corporate culture and what matters most to your firm and your individual employees. Finally, if you're ever unsure what to do in a given situation, you need to call outside counsel."