

Relocation of a Private Fund Manager: Issues to Consider

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In the wake of the coronavirus-induced lockdown and the realization that technology allows firms to operate virtually anywhere, many private fund managers have relocated their headquarters to other locations in order to take advantage of lower taxes, better weather and/or cheaper labor and overhead costs. In fact, from April 2021 to April 2022 alone, nearly 100 firms managing almost a quarter of a trillion dollars in capital moved their main offices to locations such as Florida, Connecticut, North Carolina, Texas and Puerto Rico. While the pre-pandemic climate presented strong arguments against relocation, such as the need to have face-to-face meetings with clients in central locations like New York, the current, post-pandemic state has negated the significance of many of those reasons. Face-to-face meetings are less prevalent, and employers have found that many employees can be productive working in a remote or hybrid setting.

Personnel

While relocation generally is not an overly complicated task, it is nonetheless important to be organized to ensure that all boxes are checked in order to avoid future complications. The manager should have dedicated personnel assigned the tasks of notifying important relationships, as well as amending all relevant documentation. Not to be overlooked, before pulling the relocation trigger, the manager will also want to ensure that key personnel will want to make the move (if they are needed in person) and that the new location will fit their needs from a cultural and economic standpoint.

Notices

Notices will need to be given to clients, friends, service providers, vendors, regulators and other relevant parties. In addition, determinations will need to be made as to whether the relocation gives rise to any special consent, termination, filing or other obligations.

Document Updates

In addition to notices, there are many documents that will be affected by a decision to relocate. These documents can be broken down into the following principal categories: (1) investor-related documents; (2) manager-related documents; and (3) miscellaneous documents:

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- There are many documents relevant to a manager's investor base that will require amendment as part of any manager relocation. Among other things, the manager will need to revise fund offering memoranda, subscription agreements, limited partnership agreements and any marketing materials. In addition, US blue sky and other regulatory filings, as well as possible offshore regulatory filings will need to be reviewed to determine whether updating is required.
- The manager will also need to coordinate the amendment of key operating documents, including vital financial documents associated with bank and brokerage accounts, insurance policies, taxes, payroll and pension plans. Moreover, documents such as office leases will need to be reviewed to see whether an early termination or a sublease are options for the manager to consider. Finally, the manager's SEC (or state) investment adviser registration status will need to be revisited to determine if it may have changed and to make any required amendments to the Form ADV it may have on file.
- While perhaps not quite as pressing as the items enumerated above, there are numerous miscellaneous materials that will be impacted by an office move. These include business cards and stationery, web sites, trademark filings and publication subscriptions.

Doing Business in a New Locale

Note that as part of the relocation process, it will also be very important for the manager to familiarize itself in advance with the new jurisdiction from a regulatory and operational perspective. Among other things, employment and tax laws can vary significantly from state to state, and there may be additional licensing and other requirements imposed in the new location.

As the private fund industry continues to evolve and adapt due to covid, technology and other factors, it remains to be seen if the relocation trend will continue or whether some managers will return to their original locations. However, regardless of the outcome, for those managers who do make a move, they must think about the myriad considerations affected by such a decision and handle them efficiently, in order to ensure a successful transition of the business.