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What a Fund Manager Should Know About Entering the Litigation Finance Industry

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The term “litigation finance” (also known as “litigation funding”), refers to several forms of funding transactions, some of which do not involve the actual funding of a specific litigation. For an industry that, until recently, was little known in the legal and finance markets, litigation finance has grown sharply — not only due to broader acceptance but also because of the high potential returns and the uncorrelated nature of the investment. While private funds in 2018 were able to marginally outperform the S&P for the first time in a decade, the returns for the industry have been generally inconsistent and lackluster for many private funds. Managers are seeking more unique asset classes. Litigation finance offers the prospect of higher returns than traditional investment strategies and of being uncorrelated to equity market movements, both of which are particularly alluring during periods of market downturn and volatility. In this article, partners Stephanie Breslow and Boris Ziser and associate Yasmin Naghash discuss why litigants seek financing, types of litigation finance, assets funded and the structure of a litigation finance vehicle.

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