

LITIGATION INVESTING: PALM BEACH CAPITAL ADVISORS

Sovereign Litigation Investment Trust - SLIT IV

Profile: The SLIT IV trust will invest in patent infringement cases, such as the case currently filed against Intel. The trust will invest more money per case, and have only a few cases (probably 10 or less). Investors will receive an accumulated 25% annualised priority yield - and stand to receive an additional 30%. Some of these cases will take quite a while to settle, but returns can be very big or completely wiped off

Focus: patent infringement

Strength: high rewards

Weaknesses: long drawn legal settlement process

Opportunities: many poor plaintiffs

Threat: if the plaintiff loses the cases or agrees to a very low settlement

Risk: High. Patent cases are initially tried and often lost at the initial District Court level because the judge is not a patent expert. He may be swayed by a law firm hired by a strong defendant, such as Intel. Upon appeal, the case goes to a panel of expert judges. About 40% of cases are reversed on appeal. This increases the time to settlement considerably (as with the Intel case) and therefore cost. Settlements can be large and are not restricted to only cash awards, but are also required to compensate for past and future sales, ongoing license fees etc. Triple damages are awarded if the violator had been exposed to the patent violation and continued to ignore it. Many major firms can afford to ignore patent rights since the patent holder may be an individual or a small company unable to afford the legal fight. This is where the trust would participate - and it tends to level the playing field with the violator.

Ability to identify litigation cases that will be funded: Most intellectual property attorneys do not litigate on contingency. Since intellectual property has become a major asset source for companies there are specialists that seek patent violators. The trust has via its venture capital arm - access to a network of intellectual property attorneys who have clients that cannot afford to sue, but have legitimate patent infringement cases

Level of litigation expertise: very specialised - lawyers are typically MSc or PhD's in technical fields, and team up with experienced intellectual property litigators

Ability to procure relevant documentation: mandatory under US law and not too difficult under discovery rules

Ability to actually claim the proceeds due: if the plaintiff loses the case - there are no returns
After going through the appeal process, a strong defendant would normally not try to exit a judicial settlement agreement

Ability to efficiently allocate capital: not difficult as the trust has multiple sources of potential and existing cases

No. of litigation cases held in trust: a maximum of 10 cases at a time

Avg. duration litigation case last: until claims are paid out: variable - could last between 1-5 years

Life of the trust: 6 years, but returns are paid out annually as received

Reward: Offers uncorrelated returns

Scope for litigation trusts: this is slated to develop into a growing industry due to relatively high yields offered

Barriers to entry: expertise; ability to raise capital; most investors have never heard of litigation investment - educational process involved

Competition: limited thus far, but growing

Investment Criteria: Target audience - accredited investors under US Reg. D requirements for US citizens and residents.
access to investors: globally

Trust size: USD1 - 4mn

Liquidity provided: Need to be invested for the life of the trust - normally three years.
Transparency provided: Quarterly distributions when available

Authorities trust is regulated by: Formed as a Delaware Statutory Trust (ie a Business Trust) and Regulation D 506 offering documents under SEC private placement rules.