

Developing a Web Presence for Hedge Funds

Written for Presentation at Hedge World 2001 Boston

*By Marya Triandafellos, MET Design, Inc. and
Ron Geffner, Sadis & Goldberg LLC*



MET Design, Inc.
info@metdesign.com
<http://www.metdesign.com/>
212.665.4155 phone
212.665.4892 fax
www.metdesign.com

Developing a Web Presence for Hedge Funds

Various publications estimate that there are from 3,200 to 5,500 separate hedge funds in existence, with assets under management totaling between \$200 billion and \$300 billion. Hedge funds are being organized at a rate of more than one per day. Regulators and the press are focusing more attention on the hedge fund industry than ever before. As a result of the dramatic growth of this industry and some of the recent negative publicity, money managers are experiencing increased competition to obtain new investors. The following explains some of the legal limitations under federal and state securities laws pursuant to which money managers may contact new investors and how a web site can be employed.

(Although this outline is believed to be accurate, it is general in nature and does not purport to be complete or tailored to the circumstances of any specific money manager. Prior to adopting any specific course of action in reliance on this outline, we suggest that you contact your counsel.)

ACCEPTABLE METHODS OF MARKETING

Overview of the Prohibition of General Solicitation

The offer and sale of securities within the United States is subject to concurrent federal and state regulation. In order to avoid the registration of securities offered to investors (e.g. interests in a domestic limited partnership or shares in an offshore corporation), the securities of hedge funds, domestic and offshore, are typically offered under the private placement “safe harbor” provisions of Regulation D or the safe harbor for offerings outside the United States pursuant to Regulation S of the Securities Act of 1933.

A hedge fund and any person acting on its behalf may not offer or sell its securities by any form of “general solicitation” or “general advertising,” including but not limited to the following:

- Any advertisement, article, notice or other communication published in any newspaper, magazine or similar media or broadcast over television or radio; and
- Any seminar or meeting whose attendees have been invited by any general solicitation or general advertising.

To prevent the staff of the United States Securities and Exchange Commission (the “SEC”) from deeming your solicitation to be a general solicitation, the following elements are required:

- There be an existing prior relationship between the hedge fund and the prospective investor prior to the solicitation; and
- At the time an investment is made, the hedge fund has knowledge regarding the sophistication or financial condition of the prospective investor.

Establishing a Substantive Pre-Existing Relationship

Substantive pre-existing relationships are ordinarily established by word-of-mouth. Often a money manager has managed other peoples’ funds prior to forming a hedge fund. These former clients, along with the manager and other friends and family, usually provide funds to seed newly formed hedge funds. It is not necessary, however, for prospective investors to have previously had their funds invested by the money manager. In the case of any relationship established as a result of a general solicitation or advertisement, however, it is important that sufficient time elapse between the establishment of the relationship and an offer so that the offer is not considered to have been a general solicitation or advertising.¹

¹ E.F. Hutton & Co., Inc., pub. avail. Dec. 3, 1985.

Suitability

Prior to accepting an investment, the money manager should have knowledge regarding the sophistication and financial condition of the prospective investor. Ordinarily, the manager will obtain knowledge of an investor's sophistication and financial condition by requiring a prospective investor to complete a questionnaire.

Legal Issues Surrounding Use of the Internet

Improper use of the Internet can expose a hedge fund and its manager to enforcement action by the SEC and jeopardize their ability to rely on the safe harbor of Regulation D or Regulation S of the Securities Act of 1933. A fundamental requirement of Regulation D and Regulation S is that there be no general solicitation or advertisement used in connection with the solicitation of an investment in a hedge fund. Hedge fund managers may not provide offering materials on a website, unless the offering materials are only provided to prospective investors who have a pre-existing substantive relationship with the manager.

Hedge fund managers establishing websites are advised to keep nominal information on the home page of a website, indicating the name of the hedge fund and requesting the viewer to provide their name and password to access additional information on any interior page. Contact information, past performance, investment strategy, experience of management and all other material specific to the hedge fund or the sponsor (assuming the sponsor is not registered as an investment adviser) should not be contained on the home page or any page that is accessible by the public. Hedge fund managers should not link any of the interior pages of their website to other websites.

Building A Web Presence

After conferring with your legal counsel and making the decision to build a web presence, following is the general procedure that should be followed: define your internal and external web team, evaluate current marketing strategies, plan your Web presence, activate your plan, and analyze performance and enhance it accordingly.

Defining Your Team

Before embarking on developing or enhancing your Web presence, you should define who in your company will be working on the project. The size of your company will determine who is involved. For small-companies, it may be the owner. In larger companies, the director of marketing, creative director, CIO, should all participate as well as other departments in the companies who will contribute to the content of the site.

The internal team should also decide what external resources are required. Your company can decide to choose one external company that will serve all of your needs or select different companies for creative development, marketing, programming and hosting. When using outside resources, a Request for Proposal (RFP) should be sent to prospective vendors. In the RFP, the requirements of the site are defined so that a comparison can be made among the prospective vendors. Without a RFP, an extremely wide range of interpretations for the project requirements will result. Even with a RFP, expect a wide range of fees due to the various levels of expertise and company size, reputation and location.

How to Locate Vendors

The best way to locate vendors is through word-of-mouth. If no referrals are available from associates, try a search on the web using keywords such as web design and remember to include your city. Usually, it is best to hire a local company because face-to-face meetings are helpful, at least in the beginning of the project. Also try contacting organizations that either represent your industry or the online industry for suggestions.

Evaluate Current Marketing Strategies

Is your company successfully branded? Do you have all of the collateral materials necessary? Are your potential clients clearly defined? Although there are legal restrictions on marketing a hedge fund, it is important to distinguish your hedge fund's brand from your 5,000 or so competitors. Your brand should be properly reflected on your site through the content, design, functionality and usability. Keep in mind that your Web presence is part of your total business and marketing strategy. Make sure that the level of professionalism exhibited through other communications to clients and prospects is consistent and integrated across all touch points.

Planning Your Site

Be clear on the objectives of your Web presence and how to achieve them over time. Most hedge funds will utilize their Web presence for communicating with existing clients. In this case, be sure you know who your user is, what their needs are, at what speed they be accessing your site, what hardware they will use, what their screen resolution is. Know how much traffic to anticipate—this will be important information to know when choosing your host.

Talk with clients before finalizing objectives using either a formal or informal approach. Ask them through an online survey what would be useful for them. Or conduct a focus group test, by employing a third party, to discover what information, resources and functionality would be beneficial to your clients.

Determine what your budget is based on an your finances, not the fees you receive from your RFP inquiry. Site development costs can range from a few hundred to hundreds of thousands of dollars. Consider the long-term costs of your Web presence, not just the cost to build a site. There should always be at least one person responsible for the maintenance and future development of the site.

Activate Your Plan

There are several components that constitute your Web presence: strategy, branding, architecture, design, development, hosting, marketing and assessment. Make sure your internal or external teams are aware of these components and how they will be addressed.

Analyze performance and enhanced accordingly

It's important to plan your site in phases. Build a core site first, then add functionality as your budget and requirements increase. Typically, a site will evolve from static to functional to interactive. Make sure to assign the evolution of your site as a job function. We like to use the term evolution rather than maintenance. Maintenance implies that something requires "fixing". However, your site should evolve with the needs of your business and your clients. It is also important to continually assess and improve your site based on feedback from users and employees.

Web Site Functionality

One of the primary functions of a Web site can be communication with your clients. You can create a more transparent relationship between you and your clients by allowing for portfolio management, correspondence, deal management and conducting surveys. Your site can also be used as an educational tool to inform potential investors about market information, provide product and service information about your funds and allow for research. As your site grows, you can also include interactive components such as investment tools, video press kits, and Web casting for announcements.

What Returns Can Be Expected

A successful Web presence can increase brand awareness, streamline your business operations, increase your client base, reduce costs and facilitate transparency in communications. Remember to consult with your legal counsel and plan!

If you have any questions about this article, please feel free to contact Marya Triandafellos at marya@metdesign.com. Or visit the MET Design website (www.metdesign.com) to fill out your website evaluation valued at \$2,000 or use our RFP generator to create an instant RFP for your site's development.