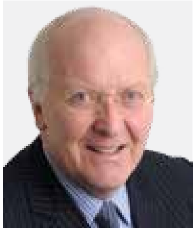
FOCUS ON

# STRUCTURING A HEDGE FUND

Anders Kvamme Jensen and Tom Mackay of AKJ Accelerator discuss how to set up a hedge fund efficiently

**Anders Kvamme Jensen**
founded the FINRA brokerage AKJ Inc in 1995, and is the chairman of the group company AK Jensen Group Limited. In 2002, he established the European FSA brokerage AK Jensen Limited, and grew it into one of the main electronic DMA houses globally.



**Tom Mackay**
was head of legal departments at London Stock Exchange when it also carried out much of the regulatory function now carried out by the FCA, and 3i plc, then the biggest VC in Europe. He was also for many years a partner in New York and London international law firms.

"The road to success and the road to failure are almost exactly the same."

These words of a famous conductor of the London Symphony Orchestra should be ringing in the ears of emerging fund managers when setting up a hedge fund, according to Anders Kvamme Jensen, founder and CEO of AKJ and Tom Mackay, AKJ general counsel.

"Of course, setting up a fund structure isn't a problem if cost isn't an issue," says Mackay. "But where it is, all too often service providers will lock the emerging fund manager into a service where the cost doesn't reduce with volume, so it's difficult to make the fund attractive to institutional investors. Fund managers should also be careful of those fund platforms that merely introduce external providers."

AKJ is an institutional brokerage with roots in providing a high-level trading infrastructure for hedge funds, brokerages and investment banks. With institutional clients in 37 countries, the company has the regulatory infrastructure to address issues globally. Its network, developed over the past 18 years, gives it the scale necessary to bring down costs for its clients. Since 2012, it has packaged a complete, fully regulated hedge fund solution for emerging hedge fund managers.

The AKJ Accelerator solution is designed to ensure a fund manager can attract sophisticated investors while operating within a trading infrastructure that doesn't limit the fund's performance. It lets smaller funds, some with starting assets as low as €2m ($2.7m), operate as if they were already in high demand with tier-one providers.

> "AKJ ACCELERATOR MANAGES ALL NECESSARY COMPONENTS OF RUNNING YOUR FUND WITH MINIMAL DISTRACTIONS – BOTH WHILE YOU'RE PUTTING THE FUND TOGETHER AND WHEN YOU'RE OPERATING IT"

"You also need a good lawyer to set up a solid hedge fund," says Jensen. "It seems about 50% of fund failures are due to operational and legal issues. So, logically, investors will have as close an eye on a fund's structure as on its performance record."

Which is why the general counsel in charge of analysing problems and developing options for AKJ Accelerator's fund managers is Mackay, who was previously the head of Legal Department at the London Stock Exchange at a time when it performed much of the regulatory role of the FCA. Mackay has been advising AKJ for many years, and has now been appointed as general counsel at the company to drive and manage the legal and regulatory structure.

AKJ Accelerator manages in-house all the necessary components of running a fund – from trading infrastructure to the legal and regulatory umbrella. And to reassure investors, external tier-one providers such as PwC have been appointed auditors. All functions, including fund administration, are coordinated by AKJ Accelerator.

As a result, there are minimal distractions for the fund manager when putting the fund together – and, perhaps more importantly, when operating it.

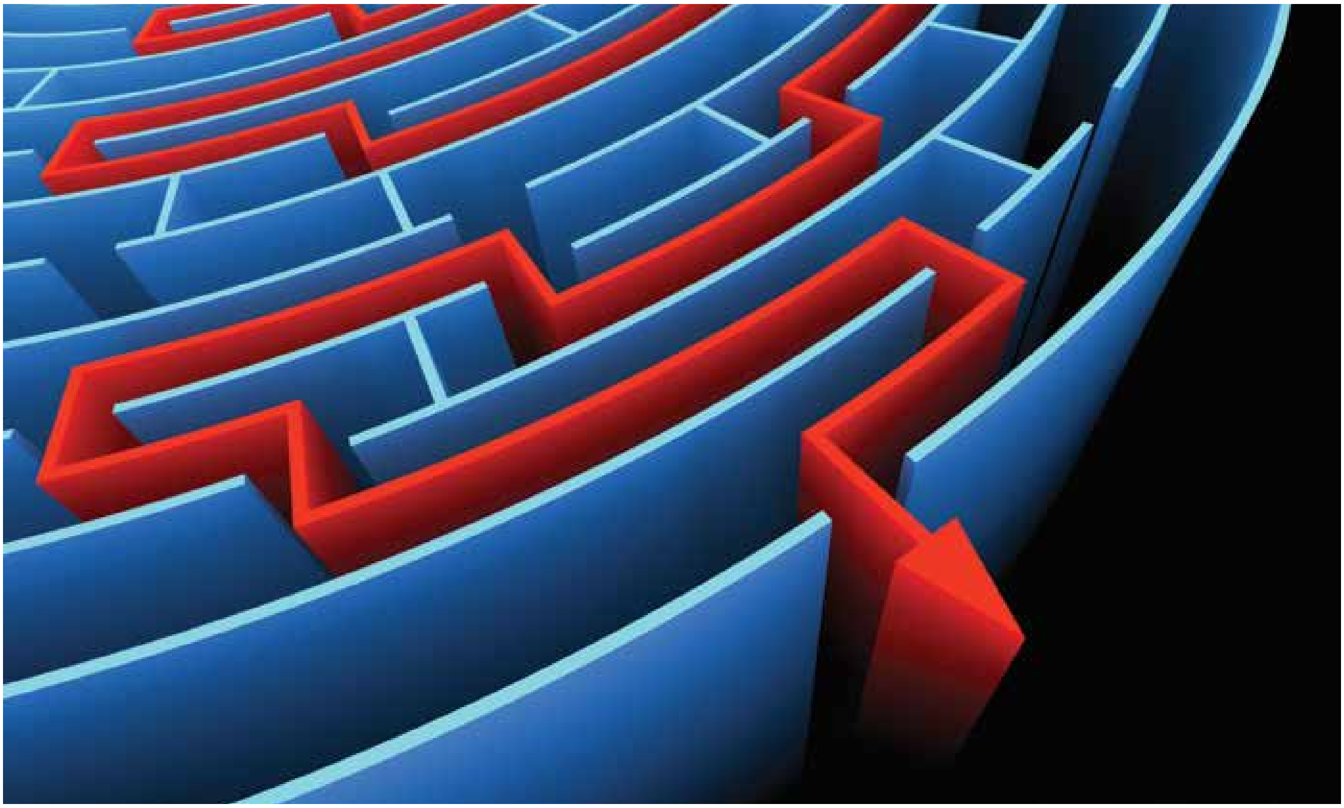
> "AKJ ACCELERATOR IS DESIGNED TO ENSURE YOU'RE OPERATING WITHIN A TRADING INFRASTRUCTURE THAT DOESN'T LIMIT YOUR PERFORMANCE"

## INTEGRATION AND CONSOLIDATION

"Through integration, we've reduced the operating costs of each fund component," explains Jensen. "We've consolidated the trading infrastructure with our established network and systems, and with our clearing and custody product. This increases flexibility and reduces transaction costs for fund managers. They enjoy direct electronic access to more than 100 equity, derivative and FX markets in an institutional trading structure. And these are all at their fingertips from day one of operations."

Since the Madoff Ponzi scandal, investors demand more transparency, and are reluctant to invest in anything they don't understand. "AKJ Accelerator solves this structurally," continues Jensen. "All legal agreements dovetail, while dealings with regulatory bodies are simplified and processed within a hub environment. AKJ's compliance staff manage all regulatory issues on behalf of the fund manager. Simplifying regulatory dealings for the fund manager in this way is invaluable when it comes to navigating the onslaught of new directives, such as the AIFMD."

"An emerging fund manager has to crush costs while maintaining quality," adds Mackay. "The beauty of AKJ Accelerator is the way economies of scale reduce costs compared with a stand-alone fund – and at the same time, each fund has the inbuilt flexibility to grow, becoming attractive to institutional investors once it has achieved a decent track record."



"The pay-off increases when responsibility is focused efficiently," says Jensen. "The best performing hedge funds seem to be where the fund managers focus solely on trading and investors, with minimal distractions from administrative, legal and regulatory matters."

### LEGAL AND REGULATORY STRUCTURE FROM DAY ONE

The legal aspects of AKJ Accelerator are also several notches above market standards, using segregated platforms in domiciles like Malta. "The traditional route for fund platforms in many jurisdictions is a sub-fund within a single legal entity, and limitation of liability being dependent on internal rules," observes Mackay. "The sub-funds are not separate legal entities. And this is a fatal flaw."

"Courts in many jurisdictions have difficulty agreeing that a sub-fund within a single legal entity can be ring-fenced from other creditors of that legal entity. So a shareholder of a single sub-fund could have all the other sub-funds of the single entity placed into a 'Chapter 11' type bankruptcy. To say the least, this would upset the payment expectations of investors."

To avoid this situation, AKJ Accelerator pioneered funds that are incorporated cells (ICs) with separate businesses, separate legal personalities, and individual limited liability. Mackay describes the benefits of this: "The main difference is that an IC is treated as a separate company, whereas a sub-fund in a traditional structure is not a body corporate and has no separate legal identity. We worked with the regulators, and incorporated the first IC in Malta in June 2012. This allowed our fund managers complete legal segregation – much to the comfort of larger institutional investors."

Many emerging fund managers complain about the costs that keep coming in from providers and lawyers. They are frustrated by small-print charges or surprisingly high transaction costs that weren't disclosed upfront. With AKJ Accelerator, the cost structure is fully transparent and all-inclusive, and as a result of resource sharing, the solution comes at a fraction of the median costs for equivalent funds. Also, the assembly line approach AKJ Accelerator uses to put the fund together reduces development time. "There's no need to reinvent the wheel," says Mackay. "Our target time for setting up the fund is just eight weeks – from the fund manager's initial commitment to the day he executes his first trade."

> "OUR COST-EFFECTIVE SOLUTION LETS YOU FOCUS ON DELIVERING WHAT YOU PROMISE TO YOUR INVESTORS. AND, AS YOU SUCCEED, IT LETS YOU GROW AND DEVELOP YOUR FUND WITH FLEXIBILITY"

"Going into business as a hedge fund manager is the financial market's modern-day equivalent of pioneering on the old frontier," comments Jensen.

"We figure that if you quit your day job and set up a fund, you'll want to focus your energies on trading, and leave the rest to us." ■