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Investors in Defunct Bear Stearns Funds Seek Control

By Jed Horowitz

NEW YORK - Investors in two highly leveraged Bear Stearns Cos. (BSC) hedge funds that went belly up in the summer are taking an unusual tack in an effort to probe possible wrongdoing in the fund's operations, said a person involved with the effort.

Investors who lost about \$650 million in the Bear Stearns High-Grade Enhanced Leverage fund, known as Hegel, are scheduled to vote at Bear Stearns headquarters in New York on Nov. 7 and in London on Nov. 14 on whether to install a forensic accounting and restructuring firm in place of Bear as controlling party.

More than 10% of investors in two so-called feeder funds have petitioned for the change, setting up the vote, the person said. If more than 50% of investors, as measured by capital invested in Hegel, approve, Bear will be replaced as controlling party by FTI Capital Advisors, a broker-dealer subsidiary of FTI Consulting Inc. (FCN) in Washington, D.C.

Lawyers at Reed Smith and some other firms representing institutional investors in the funds have complained that Bear is not cooperating in providing information on the names of all investors or on the activities that led to the funds' demise. FTI would be charged with conducting an investigation to see if there is cause to sue.

Getting approval could be difficult because a wide array of investors are pursuing different paths to try to reclaim some of their lost funds, and because Bear Stearns under fund guidelines is charged with coordinating the vote. Under the funds' governance documents, the vote will be canceled if holders of more than 50% of each fund's initial capital are not present within half an hour of the meeting's start time, the person said.

The vote in New York would decide whether Bear Stearns Asset Management would be replaced as general partner on the U.S. fund; the one in London would oust five directors who are designees of the firm's asset management unit.

By installing an investigative firm at the center of the funds, which were heavily invested in collateralized debt obligations tied to subprime mortgages, investors hope to pressure Bear Stearns to cooperate, another person said.

Jacob Zamansky, a plaintiff's lawyer in New York who is representing about 25 Bear Stearns hedge fund investors, said he is discussing with clients whether they should participate. He has already filed arbitration claims on behalf of some individual investors in the funds.

A Bear Stearns spokeswoman and an official at FTI did not return calls for comment.

Separately, Massachusetts securities regulators are investigating whether Bear Stearns had a conflict of interest by improperly trading with the two in-house hedge funds,

saddling investors with added losses. Bear infused about \$1.6 billion into one of the funds in an effort to save it prior to its collapse.