

CADWALDER

Random Fund Finance Observations

November 30, 2018 | Issue No. 5



By Michael Mascia
FFA Board Member

We hope many of you got some much-needed rest and downtime over the Thanksgiving holiday. Our email traffic last Friday was almost exclusively European, so we are optimistic the U.S. fund finance markets did indeed spend a little time with family. The market has been very active the past few weeks. Below are some random observations:

- A fair number of our October and November transactions stalled awaiting the closing of investor fundraising rounds; we suspect the dislocations in the public markets have generated some caution with investors.
- One of our clients last week caught an error in a borrowing base certificate delivered in connection with a borrowing request that resulted in an overadvance. It was a good reminder: An error in an investor classification or even a formula bust in a spreadsheet cell can easily put a lender out of balance. The personnel reviewing borrowing base certificates need to be well trained.
- Banks are hiring. Almost everyone continues to add staffing. Further announcements are coming...
- We visited Texas this week. It is really a burgeoning submarket with a lot of vibrant activity. We forecast it increasing in relevance to the fund finance market in the future.
- Fund of one transactions and facilities for BDCs are up materially. We are seeing significantly more this fall than before. We predict this trend will continue into 2019.
- Umbrella facilities are challenging. A lot of judgment is required to determine how much structural optionality you build in at the outset to accommodate the needs of future funds' potential structures, while maintaining speed and cost efficiency for the initial fund.
- We have seen an increase in technical amendments as funds and banks are completing their year-end reviews.
- The number of new entrants into the lender market continues to increase, particularly in the middle market space and with the regional banks.
- KYC and beneficial ownership certification needs are real. Borrowers and their counsel continue to begroan the increasing level of deliverables.
- "Dupe" deals are increasingly becoming a fiction. Structural changes to accommodate investor and tax needs coupled with regulatory updates are keeping lawyers busy.
- Luxembourg continues to be the go-to European fund jurisdiction, with the number of deal touchpoints significantly up from last year.
- End-of-year closing requests and mandates also appear to be up from last year. Will make for a busy holiday season for everyone and hopefully have a spillover effect into next year.

Private Equity International Further Reports on Abraaj Financings

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Private Equity International published an article on November 26, contemplating possible enforcement options for the subscription line lender in its efforts to recover outstanding amounts under its credit facility with Abraaj Group's Private Equity Fund VI (APEF VI). The article also states that the fund reportedly bought an investment via a borrowing on the subscription line, which to our knowledge is the first time the press has reported on the purpose of the outstanding borrowings.

[PEI Update on Abraaj](#)

Crestline Investors Providing Unique Financing Solutions

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Crestline Investors, through its Portfolio Financing strategy, is providing unique fund financing solutions for private equity funds based on the funds' investment portfolio and net asset value ("NAV"). The Portfolio Financing strategy offers bespoke and flexible capital in a variety of structures ranging from short-term bridge loans to medium-term fund financing solutions to private equity funds and other private investment firms in need of additional capital. The strategy is particularly well-suited for investment vehicles that are liquidity-starved, yet asset-rich, with sufficient remaining portfolio holdings to serve as borrowing base. The goal is to open up access to additional capital for these vehicles for accretive or protective opportunities within their portfolio companies.

The strategy, led by Managing Directors Amit Mahajan and Dave Philipp, customizes every transaction structure based around the particular fund's needs and asset composition, taking into account any structural limitations or requirements posed by existing fund agreements. Since October 2016, Crestline Investors has closed transactions in excess of \$580 million and is actively pursuing new financing opportunities.

Some of the unique circumstances where the fund financing solutions has been put to use include:

- A new fund wants to pursue an attractive investment but has not yet closed on enough limited partner commitments;
- A fund wants to close on an investment but a syndication partner co-investor needs more time to complete diligence;
- A portfolio company needs a follow-on investment for growth to complete a new acquisition or to maintain covenant compliance on its credit facility, but the fund has insufficient uncalled capital remaining;
- A limited partner would like a partial return of capital, but the fund does not want to prematurely sell a successful portfolio company.

Fund financing innovations like those provided by Crestline offer funds additional flexibility to optimize their capital structures.

Women in Fund Finance's Screening and Networking Social: RBG, the Documentary

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By **Katie McShane**
Special Counsel | Fund Finance

Women in Fund Finance (WFF), in partnership with Morgan Stanley, recently held an intimate screening of the documentary *RBG*, followed by a networking event for its members.

The documentary, directed by Betsy West and Julie Cohen, highlights U.S. Supreme Court Justice Ruth Bader Ginsburg's (also known as "the Notorious RBG") breathtaking legal legacy, and her unexpected path to pop culture icon and champion of women's rights.

Ginsberg, instantly recognizable with her oversized glasses, also speaks in the documentary about her late husband, Martin Ginsberg, and the film is as much a captivating love story as it is a showcase of this remarkable woman's achievements.

The event was extremely well-received and WFF's members had the opportunity to discuss the documentary over a glass of wine and refreshments after the screening.

FFA Hosts Diversity Initiative

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The Fund Finance Association's Diversity Initiative hosted its inaugural event yesterday at Baruch College in New York City.

A panel of FFA constituents, moderated by Natasha Puri of Lloyds Bank, presented an introduction to fund finance to the students. The students were members of Baruch College's Financial Leadership Program, which consists of high-performing college juniors interested in a career in finance. A networking reception followed for the approximately 25 students that attended.

If the resumes that were collected would be of interest, reach out to to the FFA. And, if you are interested in getting involved with the FFA's Diversity Initiative, please email Liz Carroll at lc Carroll@sequence-events.com.

On the Move – Fund Finance Tidbits

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- Michael Sinclair recently joined People's United Bank to head their Private Equity banking practice. Michael was most recently at East West Bank, where he was the Market Manager for the Eastern U.S. and a founding member of the Private Equity group. At People's, Michael will provide fund-level financing to private capital funds and their managers, as well as providing sponsor coverage to identify portfolio banking opportunities.
- First Republic Bank recently welcomed back Jason Birnbaum as a relationship manager with more than 13 years of experience in fund banking. He joins from Signature Bank, where he was a Group Director responsible for capital call financing and fund banking. Prior to Signature Bank, he worked for First Republic Bank from 2005-2016. Jason will focus on providing high-touch service to private equity, asset manager and hedge fund clients, with a focus on deposit banking, subscription facilities and professional lending (partner loans). He was named Senior Managing Director and will work at First Republic's office at 1230 Avenue of the Americas in New York City.
- Cadwalader recently announced the firm's new Special Counsel and Counsel for 2019. Among those attorneys who were promoted were Trent Lindsay and Holly Loftis -- both well-known to our fund finance clients. Congrats, Trent and Holly!

Trent Lindsay, Special Counsel, Finance, Charlotte – Trent's practice is focused on fund finance, including the negotiation of syndicated subscription credit facilities involving leading private equity sponsors. He received his J.D. from the University of North Carolina School of Law, an LL.M. from Georgetown University Law Center and his B.A. from the University of South Carolina.

Holly Loftis, Counsel, Finance, Charlotte – Holly has extensive experience advising banks on the structuring, documentation and negotiation of subscription credit facilities. Holly received her J.D. from Wake Forest University School of Law, where she served as one of the Executive Editors on the *Wake Forest Law Review*. She also received an LL.M. in Banking and Financial Law from Boston University School of Law and earned her bachelor's degree from Texas A&M University in College Station. Prior to joining Cadwalader, Holly was an associate at another AmLaw 100 firm and interned at a prominent wealth management firm in Boston.

Fund Finance Hiring

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- First Republic Bank is looking for a Credit Analyst to join its Business Banking Department in their Palo Alto office to work on venture capital and private equity loan facilities. The job posting is available [here](#).
- Validus Risk Management is looking for an Associate/Vice President (2-6 years experience) to join its team, focusing on Fund Finance Advisory for Alternative Investment Funds across Europe. The scope of transactions include: wide range of financing solutions to private equity, credit funds, secondaries, real estate and infrastructure funds. If interested, email Sarah Lobbardi, Head of Funds Finance Advisory, at sarah.lobbardi@validusrm.com.
- Cadwalader is looking for fund finance associates in New York and Charlotte. To apply, contact Sally Licandro at sally.licandro@cwt.com.