

CADWALDER

Fund Finance Market Observations for May

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By Michael Mascia
FFA Board Member

The fund finance markets have remained active and vibrant into May, building on a solid first quarter. Much of what the market forecasted as likely in the beginning of the year has been occurring in fact. While the markets are steady and there is not much by way of breaking news, below are a few of our recent observations.

Transaction Volume and Pipeline. Transaction volume and forward indicators both continue to hum along. Our new deal count is trending mildly higher than the comparable period in 2020, and our hours accrued in March and April 2021 actually exceeded 2020, which surprised to the positive because last year there was such an avalanche of deal work when the pandemic initially took hold in our market. Prospective deal hours and LPA reviews remain elevated, and when combined with the very robust first quarter PE fundraising numbers *PEI* and *PitchBook* have been reporting, our forecasts remain very optimistic.

Bank Utilization. While our January forecasts around spread compression and hold size increases have been trending as predicted, my forecast around utilization coming down a few points has not happened. My assumption was that valuations being frothy and SPACs stealing opportunities would slow PE deal flow and hence, negatively impact utilization. But anecdotal feedback suggests utilization has been hovering on the high end of historical levels. And multiple press reports suggest that sponsors are not seeing extensive competitive impact on deal flow from the SPAC side.

Deal Issues. Several hot topics on the deal side:

- Revlon language is an increasingly frequent negotiation point. More to come on this.
- Rated feeders issuing note-like structures to investors, particularly for insurance companies, are increasingly hitting our plate. Lenders often need to address the debt commitment risk, and so it is important to work with funds counsel early on to get proper language into the feeder LPAs/note agreements so that the underlying investors get full borrowing base credit.
- SMAs and bespoke structures with equity commitments and backstop guarantees are getting banked. What a difference a year makes.
- ESG linkage is up materially.

Europe. The London market continues to be very active. Our team closed a EUR 6 billion subscription facility last week that included both an ESG component as well as 27 participant banks. Quite the deal: possibly the largest consummated in Europe year to date. In addition to a number of very large subscription deals, we also continue to be very busy with NAV-oriented transactions across the European market. Several of them in progress are innovative and of first impression, and we look forward to discussing the structures if post-closing the clients permit.

Family Offices. We continue to see robust deal activity with family offices. In recent years, family offices have increasingly hired internal portfolio managers, invested in compliance and risk management, and become more sophisticated users of financing. Many have large, diversified pools of investments in hedge funds, private equity funds, and public and private companies. All of this makes them attractive borrowers. We have noted a steady increase in the size and sophistication of family office financings.

Mom. Thinking about my mom a lot today. Happy Mother's Day Sunday to all the moms.

Thank You. Cadwalader appreciates our clients, counterparties and friends. If we can do anything to be helpful for you, please ask.

First Republic Bank Publishes Part 1 of Three-Part Primer

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First Republic Bank this week published the first of a three-part, high-level primer on capital call credit facilities, written by Managing Director Alex Bolton. Part 1 provides an overview, covering topics such as what is a facility, when and why private equity funds may seek to put a facility in place, and key terms for a facility, including borrowing availability under a facility. Part 2 will provide a look at structuring considerations and facility uses, and Part 3 will examine fund structures and documentation considerations.

Click [here](#) to read Part 1.

IFLR1000 Women Leaders 2021 Q&A with Fund Finance Partner Samantha Hutchinson

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Cadwalader fund finance partner Samantha Hutchinson has been recognized as an industry leader among the 2021 *IFLR1000* Women Leaders.

The annual [guide](#), in its fourth edition, represents the “most prominent female lawyers” working within their jurisdictions in *IFLR*’s researched areas of financial and corporate transactions and contract, licensing and regulatory project work.

In this Q&A special as part of the Women Leaders series, Sam discusses a range of issues and trends related to gender parity in the legal profession, including the importance of flexible work, examples of successful firm and industry initiatives, and some key insights based on her own career.

Read the Q&A [here](#).

PitchBook on ESG Developments in the Private Markets

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“ESG is really about risks,” *PitchBook* analysts write in *PitchBook Analyst Note: ESG and the Private Markets* published in April. More specifically, the authors explain that ESG factors measure and address risks that have not historically been captured in financial statements – risks that could harm a company that fails to take such risks into consideration. In the private markets, LPs are increasingly including ESG criteria into their due diligence and investment processes. The *PitchBook* article is available [here](#) (subject to registration).

From our vantage, we see the ESG mark on fund finance expand almost daily through funds raised with an ESG mandate, facilities structured to incorporate ESG toggles, new announcements of banks forming ESG-dedicated groups and an acceleration in ESG-focused hiring activity. We’re not alone in concluding that ESG is rapidly gaining prominence: *FactSet* recently reported that one in four S&P 500 companies referenced ESG on earnings calls for Q4 2020.

Fund Finance Friday readers will undoubtedly already be aware that we’re intent on increasing the resources available to lenders in this area. Here’s a quick summary:

Top 10 Items to Consider When Structuring Your ESG Facility. Wes Misson addresses the credit facility terms that are most relevant in the ESG facility context.

ESG Loans – The Next Big Wave in Fund Finance. Katie McShane and Wes Misson review what, why and how questions related to sustainability-linked loans.

‘Fund Finance Friday: Industry Conversations’ – EQT Discuss Their ESG Capital Call Facilities. Nathan Parker hosts a discussion on the ESG-linked capital call facilities put in place by EQT in the second half of last year.

Cadwalader Advises Bank of America on \$4.1 billion ESG-Linked Credit Facility Tied to Board Diversity. We highlight transaction specifics on the largest ESG-linked fund finance facility closed to date.

As always, we’re eager to answer questions in this area and to hear what future resources will be most helpful.

Private Funds CFO: Safeguarding Against Unknown Risks in Fund Finance

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In his *Private Funds CFO* guest column, Shiraz Allidina of Citco Capital Solutions, Inc. explains the role of a fund's service providers, and discusses how subscription facility lenders should consider the quality and reputation of those service providers when evaluating new fund finance clients. Read [here](#) for more on how a fund's attorneys, auditors and fund administrators can help fund finance lenders guard against unknown risks.

On the Move – Fund Finance Tidbits

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On the Move

Deutsche Bank International Private Bank recently appointed James Nash as Head of its EMEA Fund Finance lending business, based in the UK. James is focused on building on the private equity business across subscription lending and GP and LP finance, covering all asset classes. Deutsche Bank is a long-term provider of fund finance products in the Americas, and James' appointment supports the growth strategy for the European market.

James joins after 17 years at Commonwealth Bank of Australia, where he held various positions related to fund finance in coverage, risk and structuring across subscription, NAV and hybrid facilities.

Fund Finance Hiring

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Fund Finance Hiring

RBI is hiring a senior associate for its fast-growing European fund finance team in London.

For more information, please visit [here](#) or connect with [Andreas Schmidt](#), [William A. Lamain](#) or [Adam Heaysman](#).