

CADWALDER

## Fund Finance Observations for June

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By Michael Mascia  
FFA Board Member

The fund finance markets continued their healthy clip into June, with activity levels remaining elevated. Below are our observations since my last update.

Transaction Volume and Pipeline. Transaction volume remains double digits ahead of 2020 year-to-date, with a strong push to get a number of matters closed by the end of Q2. While the majority of that timing drive is emanating from the funds, we are seeing banks push to book assets by the end of the quarter as well. We do not see any material headwinds for the market in the short term as both forward indicators and anecdotal feedback suggest demand will remain robust for the foreseeable future.

LIBOR Transition. Incorporating LIBOR transition language in multi-currency transactions, particularly in amendments, is a complicated task and takes longer to accomplish than most business people's initial expectations. We are all trying hard to get the technicals into the documents properly. Deal lawyers need to better forecast the scope of the project when these amendments are requested. There are also multiple variations of LIBOR fallback and some non-SOFR based alternative rates that are floating in the market. While this is adding optionality, it is also adding more complexity on syndicated transactions as the parties look to find a common approach.

ESG. One of our early 2021 suggestions for banks was to get their ESG facility game plan together. That suggestion has proved on point. We are fielding a lot of calls with questions on KPIs and structuring options. Wes Misson and Katie McShane are doing a host of presentations and updates in the coming weeks to try and keep the market informed. YTD we have worked on 7 ESG-linked facilities and expect this to grow. This is a rapidly expanding market and we hope to share some insightful trends later in the year.

FFA Updates. The Fund Finance Association has been very active the last month. The Miami conference (in person!!!) is now scheduled — February 16-18, 2022. Jeff Johnston did a sensational job working with the Fontainebleau hotel over the last year under very difficult COVID-driven circumstances. The negotiations around our 2021 cancellation, postponement and rescheduling were very difficult for both sides, and Jeff did a terrific job steering a great outcome for the FFA. Sponsorship and ticket price information will be distributed in early fall, but please be sure to reserve budget for a full 2022 slate of FFA events! The FFA also received over 60 applications for the European and Asia-Pacific Executive Committees, and the Board was thrilled with the level of enthusiasm for the roles. Way more submissions were received than we expected, so please bear with us over the summer as the team works through the process. Our hope is to communicate further on the Committees by the end of July.

All the Best. Earlier this month, Jeremy Cross moved on from Cadwalader. Jeremy has been a great friend and colleague to many of us, and we wish him nothing but the best in his new role. Jeremy, thanks for your contributions to our clients and Firm.

Kristin Rylko. Kiel Bowen called me Monday to share the tragic news that Kristin Rylko passed away. I was heartbroken to hear this. Kristin was a terrific colleague to me when I was at Mayer Brown, a wonderful person and an immensely talented fund finance lawyer. She was a longtime supporter of our industry and contributor to the FFA. She will be dearly missed by many. Mayer Brown is collecting notes that people would like to share or to pass on from others, and will send them to Kristin's family. If you would like to share a memory of Kristin or send a message to her family, please send it in before June 25th to the following email address: [KristinRylko\\_Memorial@mayerbrown.com](mailto:KristinRylko_Memorial@mayerbrown.com). If you would like to make a donation in Kristin's honor, you can donate to Pancreatic Cancer Action Network here: [www.pancan.org](http://www.pancan.org) (you should indicate that the donation is an honoree or memorial gift and then record Kristin's name as the honoree) or to the Hooved Animal Humane Society here: [www.hahs.org](http://www.hahs.org) (Kristin was an accomplished equestrian and found great joy through horses).

Mom. As many of you know, my mom passed away at the end of May. She was an incredible mom to my brother and me and a terrific wife to my dad. We will miss her terribly. My family and I are incredibly grateful for the support and positive wishes we have received from so many. Thank you.

## SEC Chair's LIBOR Comments Touch on BSBY

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Gary Gensler, Chair of the SEC, delivered prepared comments to the Financial Stability Oversight Council on June 11, in the main reiterating that the SOFR index is based on a large number of observable transactions but also criticizing the Bloomberg Short-Term Bank Yield Index (BSBY) as a LIBOR alternative. SOFR's reliance on a broad base of observable transactions has, of course, been well-telegraphed since 2017 when a New York Fed-convened committee identified the index as its preferred replacement rate. An introduction to BSBY, including a more fulsome explanation of source transactions and supporting historical daily transaction volume, can be found [here](#). Gensler's comments can be found [here](#).

## WFF Events Announced

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The FFA's Women in Fund Finance group has announced several upcoming virtual events, including two next week.

WFF US: Women in Boston will host a panel discussion next Wednesday, June 23 at 12 p.m. EDT titled "A Focus on DE&I in Fund Finance," with speakers including moderator Emma Wallace (Silicon Valley Bank), Julia Adam (Exeter Capital), Jennifer Dumas Hall (CrossHarbor), Patricia Lynch (Ropes & Gray) and Stephany Lapierre (Tealbook). To register, click [here](#).

Next Thursday, June 24 at 9 a.m. BST, WFF Europe will host a breakfast discussion event titled "Raising Your Professional Profile," which will feature Emily Rose (Silicon Valley Bank), Emily Fuller (Haynes and Boone) and Emily James (Clifford Chance). To register, click [here](#).

Coming up in July, WFF U.S. will host an event titled "ESG III Green and Blue Infrastructure Finance" on July 14 from 10-11 a.m. EDT. Also next month, WFF Global will host "Current Topics for Fund Solutions" on July 21.

Please stay tuned for further information on both of these July events.

## Private Funds CFO Article on Stifel Fund Finance

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*Private Funds CFO* this week covered Stifel's fund finance business expansion to the West Coast and its hiring of Charlie Smith. The subscription-required article is available [here](#).

## The Drawdown Article on ESG in Fund Finance

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*The Drawdown* ran an article this week written by Michael Mbayi of Wildgen and Thomas Hallett of Barclays on how private equity funds can embrace ESG fund finance solutions. The subscription-required article is accessible [here](#).

## Fund Fanatics Episode on the Reopening of New York

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Scott Aleali and Jeff Maier hosted an episode of Fund Fanatics this week featuring Michelle Kleger, a Vice President at Kensington Vanguard National Land Services, LLC, for a discussion on the reopening of New York City, trends in commercial real estate and mindfulness. To view the episode, click [here](#).

## **Strafford CLE on ESG in Fund Finance Announced**

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Strafford's live CLE video webinar series this week announced an upcoming webinar titled "Structuring ESG Provisions in Finance Transactions: Performance Targets, Key Indicators, Reporting Obligations, Remedies," featuring Wesley Misson and Katie McShane of Cadwalader. The live webinar is July 15th at 1 p.m. For more information or to register, click [here](#).



## On the Move – Fund Finance Tidbits

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On the Move



Antoine Fortier-Grethen, a well-known name in the Luxembourg fund finance market, has moved to SJL Jimenez Lunz as head of its fund finance practice. SJL will be the first boutique law firm in Luxembourg with full fund finance capacities. Read the announcement [here](#).