



FUND FINANCE FRIDAY

Goodbye Summer

September 2, 2022 | Issue No. 191

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Welcome September

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September has arrived and Labor Day Weekend is upon us in the U.S., so it's almost time to put away the pool floats, fishing poles and other summer fun accessories. Yes, the summer flew by, as it always does, but here's hoping that all of our readers have had an enjoyable summer, with lots of special times captured in photos and videos (and, yes, we know all about those family dance videos on TikTok). Wishing everyone a nice weekend and a few more summer memories. *Fund Finance Friday* will be back in full force next week.

ICYMI – The FFF Primer Navigator: New and Improved

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In case you missed it earlier this summer, here's our updated guide to primers we've previously published in *Fund Finance Friday*.

Capital Commitments, LPA Terms, and Related Investor Considerations

A Waiting Game...

Annual limits on capital calls in the LPA.

Cross-Referenced Debt Limits

LPA leverage limits that may be revised by advisory committee consent.

Not All Commitments Are Treated Equal

Investor commitments structured as both a loan commitment and equity commitment.

(Over) Call Me, Maybe

Types of overcall limits and their prevalence.

LP Sanctions Risk in Fund Finance: Issues for Lenders to Consider

Issues that arise once an LP has been identified as subject to sanctions.

European Financing Structures Involving UHNWIs and Family Offices

An overview of financing ultra-high net worth individual private fund interests in Europe.

Renewals: Commitment Period and Key Person Event Considerations

Reviewing commitment period and key person event capital call limitations at facility renewal.

Side Letters

Side Letters: A Round-Up of Common Issues for Lenders

Common side letter terms most relevant to subscription lenders.

Declaration of Sovereign Immunity: Navigating Side Letter Provisions

An overview of most favored nation, sovereign immunity and cease funding rights in side letters and their implications for subscription facilities.

Immunity Unlikely

Sovereign immunity and related concepts.

Political Contributions Cease Funding Rights

Cease funding rights tied to political contributions by a fund or its affiliated personnel.

Credit Agreement Concepts

It's My Equity, and I'll Pledge If I Want To

The exclusion event related to an investor encumbering its equity interest in a fund.

Concentration-Linked Overcall Limitations

Applying a use-of-proceeds limitation to address an investment concentration-linked overcall limit in the LPA.

Letters of Credit – An Increasingly Popular Tool?

Letters of credit in the subscription facility context.

Cash Collateralizing Letters of Credit

The interplay between outstanding letters of credit and credit facility repayment at maturity.

Call Me MAE-Be?

Material adverse effect clauses.

Whose Cash Is It Anyway?

Negotiating the available sources of payment available to service certain required payments by the borrower.

You're Out!

Lender replacement provisions in the credit agreement.

The Involuntary Bankruptcy Exclusion Event

Lender exposure related to an investor's involuntary bankruptcy during the typical cure period.

The Intersection of Overcall Limitations and the Investor Default EOD Trigger

The interrelationship between the cumulative default EOD and a fund's percentage overcall limit.

April Showers Bring ... Umbrella Facilities?

Considerations in structuring umbrella facilities.

Umbrella Academy: A Guide to Umbrella Facilities in Fund Finance

An update on applying an umbrella structure in various contexts.

Top 10 Items to Consider When Structuring Your ESG Facility

A top-10 list of structuring considerations for ESG facilities.

SONIA: A Primer

Differences between SONIA and SOFR, plus key terms for loan documents.

Syndication Considerations: Elements, Issues and Hot Topics for Bringing New Lenders into Deals

Borrower and motivations for syndication and a summary of how a loan is syndicated by amendment or joinder.

Minority Lender Considerations

Balancing alignment of interest and control terms for minority lenders in syndicated loans with a cornerstone lender or lenders.

NAV Covenants and Subscription Lines

Making use of NAV covenants in subscription lines when unfunded capital commitments have been largely drawn down.

Intercreditor Arrangements in Fund Finance Transactions

An introduction to taking a second lien on collateral (or consenting to a second lien on collateral) by using an intercreditor agreement.

Fast Cash: Swingline Loans in Fund Finance

A review of how swingline loans are incorporated into a revolving credit facility.

Blockers and Tackling

Constituent document and collateral structure considerations related to blockers.

NAV Facilities

Structuring Security for NAV Loans

Security for NAV loans and related concepts in the lender's disposition of collateral.

Considerations for Post-IPO NAV Financing

Considerations specific to post-IPO shares pledged as collateral.

Blurred Lines

NAV facilities to primary funds.

An Introduction to Secondaries

The private equity secondaries market.

Considerations in NAV Transactions When Collateral Includes Transfer-Restricted Assets

Dealing with transfer restricted assets in structuring NAV financings.

'NAV'igating Cayman Share Security – Lender FAQs

A question-and-answer overview of Cayman pledges of shares.

'NAV'igating Cayman LP Interest Security – Lender FAQs

A question-and-answer overview of taking security over Cayman LP interests.

Asset Valuation Issues for NAV Loans

Focusing on how private company and private fund interests are typically valued in NAV loan facilities.

Other Borrower and Transaction Structures

Top Considerations for Structuring an SMA

Key considerations in lending to an SMA.

One Is the Loneliest Number

Unique issues lenders face in lending to SMAs.

Key Issues for Loans to '40 Act Funds

Common issues that are addressed in loan documentation when the borrower is a registered investment company.

Get To Know Your BDCs

BDC basics and subscription facility considerations.

A Closer Look at Management Fee Facilities

Management fee line collateral, due diligence, credit support and common terms.

Getting Personal — Lending to Fund Executives

Diligence and structuring points related to loans to fund executives in a European context.

Diligence Considerations for Fund Executive Facilities

Due diligence demands with respect to the executives and their rights to receive distributions in their capacity as LPs of the co-invest vehicle.

Diligence Considerations for GP Facilities

Due diligence requirements specific to GP facilities.

Financial Covenant Protection in GP Facilities

Structuring of financial covenants in the context of GP facilities in Europe.

Lending to Venture Capital Funds

Points to keep in mind when structuring credit facilities with venture capital funds.

Open-Ended Funds: A Few SCF Considerations

Distinguishing factors of open-ended funds.

Preferred Equity — The Best of Both Worlds?

Preferred equity, particularly with regard to secondary investors.

ESG Facilities

ESG-Linked Fund Finance: Distinctions From Typical Subscription Facilities and Trends in Adoption (Part One of Two)

Tracing the path of the ESG fund financing market from inception to the current framework for pricing and performance measurement.

ESG-Linked Fund Finance: Two Most Prevalent Structures and Challenges With Use (Part Two of Two)

Understanding and implementing either a use-of-proceeds or a performance-based ESG structure.

Top 10 Items to Consider When Structuring Your ESG Facility

Addressing the credit facility terms that are most relevant in the ESG facility context.

The ABCs of ESG

A summary of the fundamentals of ESG fund finance.

Other Transaction Documents

Payoff Letters – Routine until Rocky

Fundamental legal principles underlying the use of and the market practice of payoff letters.

Investor Letters: Key Provisions

Investor Letters continue as a credit support tool for certain types of facilities.

Get Well, Keep Well

Credit enhancement through guaranties, equity commitment letters and keepwell agreements.

Equity Commitment Letters under English Law: Beware of the Pitfalls!

Key aspects of equity commitment letters and implications for lenders.

It Is OK to Be Noteless

The motivations for requesting a note, considerations that follow, and the alternative of going “noteless.”

Other General Topics

Ten Things Every Fund Finance Banker Should Know About the UCC

UCC building blocks relevant to fund finance.

ERISA in Fund Finance

An overview of ERISA and related concepts in fund finance.

A Brief Primer on Cayman Security

An introduction to capital call security interests in the Cayman Islands.

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The Fund Finance Association is thrilled to announce the expansion of FFA University, which now includes two fund finance courses. FFA University 1.0 will be the traditional program, designed for those relatively new to fund finance or seeking a refresher, and will be held virtually on September 21. FFA University 2.0 is a more advanced, in-person program for those seeking greater depth and networking opportunities. Class 2.0 will take place on October 6 in Cadwalader's New York office, with a reception to follow. To register and learn more about both opportunities, please click [here](#).