

CADWALDER

Family Office NAV Facilities

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As Net Asset Value (“NAV”) credit facilities continue to grow in popularity, we have seen a steady increase in non-traditional borrowers utilizing NAV loans, including family office borrowers. The term “family office” is used to describe structures established by ultra-high-net worth families to manage and grow their wealth. NAV facilities allow family office borrowers to unlock liquidity required to meet their needs without selling off investments. The purpose of this article is to explore a few key features that we often see in family office NAV facilities.

Asset Portfolios

One characteristic of family offices that sets them apart from traditional closed-end private investment funds is that family offices typically have broad mandates and thus invest in many different types of assets, (e.g., real estate, private equity, private credit, venture, hedge funds, etc.). Because family office asset portfolios are dynamic in nature and may cover a broad scope of asset classes, eligibility requirements for an asset to receive borrowing base credit may be treated differently in these facilities than in NAV facilities with more static asset portfolios. Whereas it is common in facilities with static asset portfolios to require approval for individual assets to receive borrowing base credit, family office NAV facilities may instead forego the approval requirement, which may be cumbersome for a large actively managed portfolio, and instead apply robust eligibility requirements as well as robust concentration and strategy borrowing base limits to make sure that the portfolio that a lender is underwriting does not fundamentally change over time.

Intercompany Loans

Because a family office is used broadly to manage the family’s wealth, there is often a need for family office NAV facilities to permit borrowers to incur other indebtedness, including intercompany/affiliate loans. Intercompany loans are common features of family office facilities due to the nature of these structures. If a family office borrower has existing debt pursuant to intercompany loans, lenders may require intercompany creditors to enter into subordination agreements pursuant to which such intercompany creditors agree that the obligations of the family office borrower owing to such intercompany creditors (the “Subordinated Debt”) shall be subordinated to the obligations of the family office borrower owing to the lenders. Lenders may also set limitations on Subordinated Debt, including (i) quantitative limitations, (ii) requiring any Subordinated Debt to be unsecured or restricting liens in connection with Subordinated Debt over certain assets or (iii) requiring Subordinated Debt to be restructured as equity.

In some instances, lenders may permit a family office borrower to make payments on Subordinated Debt while the NAV facility is still outstanding subject to certain restrictions, including requiring such family office borrower to be in compliance with all facility obligations at the time of such payment, including compliance with loan to value ratio limits.

Performance Guarantees

In order for lenders to ensure repayment on a family office NAV facility, it is not uncommon for such lenders to require an entity in the deal structure to enter into a performance guaranty in favor of the lenders wherein such entity (a “Guarantor”) guarantees payment of the obligations by the family office borrower. These performance guarantees are often provided by the parent company of the borrower or an ultra-high-net worth individual, and there may be financial covenants tied to creditworthiness of the Guarantor. In some cases, these guarantees are contingent upon the borrower becoming insolvent or the borrower breaching certain key covenants in the credit facility documentation relating to the collateral, liquidity and other covenants that may impact the borrower’s ability to repay the obligations.

Where the Guarantor is an ultra-high net worth individual, these credit facilities may include key person events tied to the death, incapacity or certain bad acts of the Guarantor. These provisions are typically events of default under the credit facility documentation, and any applicable cure period may require the borrower to submit a succession plan to replace the Guarantor under the credit facility.

Other Notable Features of Family Office NAV Facilities

There are several notable features of family office NAV facilities that differ from traditional NAV facilities. For example:

- **Evergreen Funds:** Unlike private equity fund borrowers, family office borrowers are typically evergreen funds with perpetual investment periods, offering greater flexibility to acquire investments without investment period limitations.
- **Valuation of Assets:** Given that family office borrowers do not always obtain audited financial statements, lenders may require the facility documentation to include a right of the lender to engage an independent auditor to value and verify the underlying assets in connection with calculating the borrowing base.
- **Use of Proceeds:** These facilities often require broad flexibility with respect to use of proceeds, and family office borrowers may use these facilities to upstream proceeds in connection with investments by related entities.

Family Office NAV Facilities Going Forward

We expect to see continued increase in family office NAV facilities as family offices continue to seek alternative leverage options and/or look for alternative sources of liquidity that lend well to bespoke structures and credit facility documentation tailored to the unique needs of each family office.

Fund Fanatics Features Jason Donner

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Join Scott Aleali, Head of Private Equity Finance at Citizens Bank, and Jeff Maier, Senior Managing Director - Private Equity Finance at Citizens Bank, with special guest Jason Donner, CFO of Veritas Capital, for the latest Fund Fanatics episode.

They discuss:

- The private market CFO: back-office operator to front-line strategist
- Why shifting communication styles are crucial for rising CFOs hoping to earn their seat at the partnership table
- How Veritas continues to lead PE leaderboards
- Jason's journey to becoming a wine sommelier and chasing MLB ballpark bucket lists

Watch [here](#).

Fund Finance Tidbits – On the Move

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CADWALADER FUND FINANCE 'ON THE MOVE'

The following individuals are on the move in the fund finance industry:



Fried Frank partners **Adam Summers** and **Ariel Zell** have been named Co-Heads of the firm's Fund Finance Practice, underscoring their continued leadership in this rapidly evolving sector.

Adam maintains a broad and sophisticated practice, focusing on subscription credit facilities, NAV loans and asset financings for asset managers, including for private equity and debt funds. He represents fund managers and lenders in financings of management company fees and other assets. Adam also advises investment banks, investment managers, private credit funds, bank and non-bank lenders across a wide range of complex credit and financing structures, including collateralized fund obligations, rated note feeders, NAV financings, hybrid facilities, back leverage facilities and subscription credit facilities. Adam has been lead counsel on many large and complex credit arrangements for preeminent lenders for leveraged buyouts and other corporate loans. He is adept at helping clients understand and evaluate existing debt capital structures for acquisition targets and in negotiating commitment letters for acquisition financings.

Ariel represents financial sponsors in arranging debt financings for their private capital funds and hedge funds, including private credit funds, secondaries funds, private equity funds and infrastructure funds. He leads transactions across a wide range of complex credit and financing structures, including collateralized fund obligations, rated note feeders, NAV financings, hybrid facilities, back leverage facilities, subscription credit facilities and cash flow facilities. Ariel also represents financial sponsors in achieving liquidity solutions for their management companies and carry vehicles by way of private placements and loan arrangements. He is particularly skilled in financing of management fee, performance fee and GP commitment fee streams, and is a market leader in GP stake securitization notes offerings and financings.

Both Adam and Ariel are widely recognized as thought leaders in the fund finance market. They are frequently tapped to speak at industry conferences and regularly contribute articles on fund finance hot topics and issues to prestigious outlets. Most recently, Ariel discussed GP stakes deal considerations in [a Q&A with *Private Equity International*](#), and Adam and Ariel together highlighted recent developments in fund finance in [an article](#) published by *Law360*. They have both spoken at many prestigious industry conferences over the years including those hosted by the American Bar Association Business Law Section, DealCatalyst, Fund Finance Association, LSEG and Strafford.

Fried Frank's market-leading **Fund Finance Practice** is comprised of 10 partners and more than 40 special counsel and associates across the firm's offices in New York, Washington, DC, and London. The firm is a leading advisor on a wide range of fund finance transactions, including commitments-based and NAV-based facilities, rated note feeders, collateralized fund obligations, securitizations and other bespoke secured and structured financings. The team's expertise spans transaction sizes and asset classes, from debt assets and secondaries to renewable energy projects

and real estate, making it a trusted partner for global asset managers. Since the beginning of 2019, Fried Frank has advised on over 200 fund finance transactions representing nearly \$45 billion in lending commitments. Year-to-date, the firm's Fund Finance Practice has acted for private equity sponsors and asset managers in closing on over \$4.5 billion of collateralized fund obligations, private equity-backed notes and rated note feeder commitments in the market's most innovative and cutting-edge transactions.

Welcoming the Next Generation of Fund Finance Professionals

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This week, Cadwalader had the pleasure of hosting students from Fordham University for an engaging introduction to the world of fund finance. Held at our New York office, the event drew students from across campus organizations for an afternoon of learning, insight, and connection.

Cadwalader Managing Partner **Pat Quinn** kicked off the program with opening remarks, followed by an in-depth discussion led by fund finance partner **Leah Edelboim** and **Trevor Freeman**, Head of Fund Finance at Axos Bank. They covered the fundamentals of the fund finance market, shared practical tips for building a career in the industry, and emphasized the power of networking and alumni support.

Cadwalader fund finance paralegal and Fordham alum **Abigail Hobika** also spoke, offering a personal perspective on her professional journey since graduating and transitioning into the legal finance space.

We were thrilled to connect with such an impressive group of students and look forward to continuing to support the next generation of lawyers and bankers in fund finance.

Cadwalader at the ABA Business Law Spring Meeting

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Last week, members of Cadwalader's fund finance and securitization teams traveled to New Orleans for the ABA Business Law Section Spring Meeting. With over 50 CLE programs and hundreds of substantive discussions, this marquee event brought together legal professionals from around the world to engage on the most pressing developments in business law.

Fund finance partners **Patrick Calves** and **Leah Edelboim** delivered a market update at the fund finance subcommittee meeting, while securitization partner **Skyler Walker** joined fellow industry experts for a panel on the growing area of capital call securitization. Patrick also took the stage during the CLE session on secondaries NAV, offering insight into this increasingly prominent area of the market.

Thank you to the ABA and especially the fund finance subcommittee organizers for a well-run and engaging event. We were thrilled to connect with so many industry friends and colleagues for meaningful discussions and collaboration.

Fund Finance Hiring

May 2, 2025

Fund Finance Hiring

Here is who's hiring in Fund Finance:

ATLAS SP is seeking an experienced Associate to join its growing Fund Finance business. The candidate will also have the opportunity to expand generalist background across other ABS asset classes. The ATLAS Fund Finance team provides financing to private equity funds and other asset managers through structured credit facilities, including subscription credit facilities, NAV lending, and GP/LP financing. The Fund Finance team is looking for a motivated and experienced Associate to help support the origination, structuring and execution of new Fund Finance credit facilities, as well as surveillance and maintenance of existing Fund Finance credit facilities. Learn more [here](#).

Mitsubishi UFJ Trust and Banking Corporation, New York Branch is seeking an Fund Finance Account Officer- VP to join its office in New York. The VP will work through all aspects of the transaction lifecycle to help the team originate fund finance transactions, including both subscription finance and NAV based facilities. Learn more [here](#).

Bayview Asset Management is seeking a highly motivated Analyst to join its growing Fund Finance team in NYC. The Analyst will support the origination, underwriting, and execution of NAV-based and other fund finance transactions. Responsibilities include financial analysis and modeling, preparing investment materials, assisting with due diligence, and collaborating with internal teams across risk, legal, and operations to ensure smooth deal execution. The ideal candidate will have strong analytical skills, attention to detail, and a desire to grow within a dynamic, fast-paced investment environment focused on private market financing solutions. If interested, please reach out to Shannon Schwab at shannonschwab@bayview.com.

Cadwalader, Wickersham & Taft LLP is seeking associates with three to six years of relevant experience for its Fund Finance practice in New York, Charlotte or London. Qualified candidates will have experience in syndicated lending, commercial lending, leverage finance, fund formation, CLOs, asset-based lending, NAV financings or acquisition financings. Candidates must possess excellent academic credentials and solid legal experience. Selected candidates will get extensive interaction with preeminent bank, asset manager and lending clients. If interested, please reach out to Margaret Cart at Margaret.Cart@cwt.com.