Our Commitment to Clients and Each Other: Cadwalader's 2025 Midyear Report

July 11, 2025

By **Pat Quinn**
Managing Partner

- **Our first-half performance is on pace to surpass the firm's record 2024**
- **We're achieving great results for clients and adding exceptional legal talent**
- **Our culture of community, innovation and inclusivity is stronger than ever**

With half of 2025 already in the books, I'm pleased to take this opportunity to thank all of our clients and friends for the opportunities that our firm has had to work together with you on important projects and matters. We greatly appreciate the trust that you put in us to help pursue important opportunities and overcome important challenges.

As America celebrated its 249th birthday last week, we at Cadwalader are in our 234th year of innovating and providing best-in-class services for clients. As Wall Street's oldest law firm, Cadwalader has successfully navigated challenges across our profession and the world throughout our history. The current environment is no exception: law firms today face unprecedented challenges and unprecedented competition for clients and talent.

At Cadwalader, we're incredibly fortunate to have had an outstanding first half of 2025, thanks to the trust our clients place in us and the commitment to excellence our people demonstrate every day.

Here are a few highlights.

Our First-Half Performance: We're Busier Than Ever

As reported by the press in both the **U.S.** and **UK**, Cadwalader delivered a record performance in 2024. I'm excited to share that, through the first six months of 2025, we're pacing ahead of that record performance. We're busier than ever because you continue to entrust us with your most pressing, sophisticated transactional, litigation and regulatory matters.

As our *Fund Finance Friday* readers may appreciate, the market has offered its share of challenges in 2025, with global private fundraising down 22% year-over year. Despite this adversity, Cadwalader's global Fund Finance practice has been busy helping over 85 clients these past six months navigate this environment – and we're growing our practice to support these record levels of activity.

Great Results Require Great Talent

The best measure of our first-half performance is the results we deliver for clients, including landmark deals and headline-grabbing matters over the past six months. Notably, we've advised on:

- The largest NAV facility of its kind in the secondary market.
- We are leading innovative, first-of-its-kind type fund finance transactions across an interdisciplinary team of 20 partners within the firm - utilizing our best in class fund finance, regulatory and capital markets expertise. We expect high demand for capital markets solutions within fund finance in the coming years and are well positioned to guide clients in this developing market.
- The first publicly rated UK middle-market CLO, which is also the first reinvesting CLO in the European direct lending market.
- One of the biggest trade secret matters of recent note involving a ride-sharing giant's alleged misappropriation of our client's technology.

Our optimism is fueled by investing in exceptional lawyers to help our clients achieve their goals. Cadwalader continues to be a destination for the profession's top talent during the first half of 2025 on both sides of the Atlantic:

- In the UK, we've welcomed Fund Finance partners **Bron Jones, Doug Murning and Matt Worth**; and Infrastructure Finance partner **Rebecca Crowley**.

- In the U.S., we proudly welcomed back two Cadwalader alumni to our partnership, including **Dan Meade** in Financial Regulation and **Doug Mintz** in Financial Restructuring.

Watch this space, as we plan to share more news about our growth in the months ahead.

We're Empowering One Another and Our Communities

Supporting our people to deliver the best legal services means giving them an environment in which to grow, the tools to demonstrate agility and ingenuity, and the lessons in citizenship that define our culture and values. Some highlights since January include:

- Cadwalader was honored by the *International Financial Law Review* as the **Career Development Law Firm of the Year** at its annual awards dinner last month. This recognition reflects our robust Center for Career Advancement and our commitment to inclusivity, including the training and mentoring programs we provide our lawyers at every stage of their careers.
- We were also recognized by *The American Lawyer* for our 1792 Accelerator, a firm-wide innovation program driven by our lawyers. We continue to be among the profession's leaders in using technology to increase efficiency, drive new business and develop proprietary products. Being named a finalist for the **New York Legal Award for Innovation** is something we're all very proud of.
- **Fighting hunger** remains at the heart of Cadwalader's long-standing tradition of serving the public good. During the first six months of the year, we led volunteer and philanthropic efforts in each of our communities, partnering with Food Bank Aid in London, Martha's Table in Washington, D.C., A Roof Above in Charlotte, and Food Bank for New York City. Through our **Justice Served** campaign, which we founded 10 years ago, we mobilized more than 40 law firms and corporate legal departments to fund the delivery of 1 million meals to New Yorkers in need.

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None of what I'm sharing here would be possible without our clients. Our success happens because you trust us to guide you through both great opportunities and complex challenges.

As we enter the second half of 2025, our focus remains unchanged. We understand how your needs are evolving, and we'll continue to grow Cadwalader to meet them. As we like to say, we're not a firm that claims to do everything – but we are among the best at everything we do. That commitment to legal excellence and client service is the promise we make to each of you, and the standard by which we hold ourselves accountable.

On behalf of our partnership and firm, thank you for your friendship, your support and the opportunities to accomplish great things together. I wish you a fantastic summer and look forward to keeping in touch.

Pat

Retail Investors: Challenges and Opportunities in Subscription Finance

July 11, 2025

By **George Pelling**
Partner | Fund Finance

The growth of High Net Worth Individual ("HNWI") allocations to alternative investments is a hot topic in fund finance. In what is widely acknowledged to be a challenging fundraising environment, fund managers have focused their attention on tapping up retail investors for additional capital. Global retail investors account for 50% of global invested AUM but only 16% of alternative asset AUM, according to Bain & Co. research. Top sponsors are now actively investing in infrastructure and marketing to grow retail capital sourcing.

So called "natural persons" have historically obtained access to private markets via closed-end funds but can today invest in an increasing number of evergreen strategies. The proliferation of these perpetual structures is reflective of the growing appetite from the public for access to private markets. According to some sources, recent market volatility has resulted in retail investors increasing their allocations in alternative assets, which are perceived as being less susceptible to market shocks than publicly traded assets. In addition, the rise of secondaries evergreen strategies (across multiple asset classes – including, notably, credit) has increased the range of investment opportunities for HNWIs: offering diversity, lower management fees and immediate access to a mature portfolio of underlying investments. Furthermore, many of the historic barriers to entry for retail investors are now falling away: minimum investment amounts have dramatically reduced whilst new technology and investment platforms have made it easier than ever to invest. This trend shows no signs of slowing down. As a result, lenders in the subscription finance market are seeing increased demand from their sponsor clients to lend against the uncalled capital commitments ("UCCs") of these investors.

Against this backdrop, this article focuses on some of the considerations for lenders when putting in place subscription finance facilities for funds with HNWI investors and family offices.

Closed-end fund or open-ended fund?

Whether HNWIs are investing through a closed-end fund (that has a fixed lifespan and that restricts investor withdrawals) or an open-ended fund (that permits investor redemptions on a semi-regular basis), will clearly impact whether a capital call facility can be put in place and how it is structured. For closed-end funds, subscription facilities are far more common. However, it is also possible to put in place subscription finance facilities for open-ended vehicles: this can often be achieved where the fund has an initial lock-up period (of, say, 1-3 years) during which time investors are restricted from unilaterally redeeming their interest in the fund. Whether a subscription line facility is feasible for an open-ended fund will also depend upon whether investors are required to advance their entire commitment up-front, or if such amounts can be drawn down throughout the duration of the lock-up period (and, in some cases, beyond). Given the increased appetite from HNWI and family offices for exposure to such open-ended "evergreen" funds, providers of subscription finance are having to think harder about how they treat these investors for financial covenant purposes. We have successfully helped many lenders implement subline facilities to evergreen funds, in both Europe and the US.

How to assess the investor's creditworthiness?

Historically, some lenders have found it challenging to lend against the UCCs of HNWIs and family offices as opposed to the UCCs of more established institutional investors (such as pension funds, insurance companies and sovereign wealth funds) and rated corporates. Whilst payments defaults from HNWIs are extremely rare, they are known to occur more frequently than is the case for institutional investors. In the absence of a credit rating or any financial statements, it can be difficult for lenders to take a view on the creditworthiness of these investors. Clearly, there may be exceptions to this, particularly where a lender (such as a private bank, for example) has an existing relationship with the relevant investor and may therefore be better placed to evaluate its creditworthiness (particularly where the relevant investor holds accounts with that private bank).

Many subline lenders have not been able to lend against the UCCs of HNWIs, treating them as "Excluded Investors" for the purpose of any financial covenants included in the facility agreement. However, as the investor landscape continues to evolve, we are seeing some lenders take a more nuanced view. We have seen some lenders treat HNWIs as "Included Investors" for borrowing base purposes and apply a low advance rate (relative to other "Included

Investors"), sometimes making such inclusion subject to a hurdle rate (i.e. a condition that such investor has advanced a certain proportion of its total commitment to the fund and therefore has "skin in the game"). Lenders will also typically apply a haircut on the total percentage of investor commitments provided by HNWIs or family offices through the application of concentration limits in the borrowing base. In recent years, we have seen a noticeable increase in the aggregate concentration limit lenders are applying to HNWIs.

We have also seen sublines put in place where the fund's investor base is comprised solely of HNWIs. For these facilities, lenders will typically want to see a large and diversified investor base (often achieved through strict individual concentration limits) and will apply a flat advance rate to all of the investors. Indeed, the diversity offered by a very large pool of HNWIs can be a key mitigant from a credit perspective.

Second-lien subline facilities are also becoming more common. Providers of **second ranking/"Facility B" subscription lines** may be comfortable lending against these HNW UCCs even if some first-lien lenders are not, resulting in a larger aggregate borrowing base. It's worth noting that the first-ranking lender would be entitled to the first claim on capital contributions from HNWIs, even if the first-ranking lender treats HNWIs as Excluded Investors in the absence of an agreement to the contrary among the parties.

HNW Feeders

In some instances, lenders that might not otherwise include HNWIs in their borrowing base calculations will do so where such investors are subscribing in the borrower fund indirectly via a collective investment vehicle (often described as a "HNW Feeder"). HNW Feeders are typically run by third-party private wealth managers that look to aggregate commitments from multiple HNWIs, sometimes in order to meet minimum investment conditions that a single HNWI may be unable to satisfy on a standalone basis. HNW Feeders can also be established and managed by the sponsor of the borrower fund. Lenders are generally more comfortable with investors on the major private wealth platforms because the manager is known to have good sense of the assets and liquidity of the investor pool.

Some lenders may treat HNW Feeders as "Included Investors" in their own right, often on the basis that their diversified investor base means they carry a lower risk of default. This means that, typically, lenders under a capital call facility will only take security over the UCCs of the HWN Feeder to the main fund and will only be able to call capital from that entity (rather than its underlying investors). Lenders will generally apply concentration limits and/or hurdle rates to such HNW Feeders. In our experience, whether lenders are able to take this approach will often depend on the reputation of the manager of the HNW Feeder and the powers it may have in respect of the underlying HNW investors. Lenders may want to understand whether the private wealth manager has the ability to overcall in circumstances where one of its underlying investors defaults, for example.

When lending against the UCCs of HNW Feeders, lenders will need to consider exactly how they will treat those investors (and their underlying investors) if a payment default occurs. HNW Feeders will often enter into a side letter with the main fund pursuant to which it is agreed that it is not treated as a "Defaulting Investor" in respect of the entirety of its commitment where it is unable to pay as a result of a corresponding payment default from one of its HNW investors. In such circumstances, it is often agreed that the main fund will look through to the HNW investors in the HNW Feeder (such that the HNW Feeder's interest in the fund is deemed separated into two parts for purposes of exercising any remedies arising under the main fund's LPA as a result of the payment default). Where this kind of arrangement is agreed, lenders will need to think carefully about how these mechanics may affect their recourse in an enforcement scenario and how they want to address this via the covenants in the facility agreement.

Contractual Protections

In addition to the structuring solutions highlighted above, lenders may seek additional forms of comfort when lending against HNWIs and HNW Feeders and a tailored solution is often required. This might mean including bespoke Exclusion Events which apply to HNW aggregators (where a certain percentage of the underlying HNW investors are in default, for example) or that additional representations and undertakings are required from the sponsor/platform provider in a separate investor letter. We have also seen pricing ratchets applied where concentration thresholds or hurdle conditions are not met.

Final Thoughts

While expanded retail participation in private markets is not a new theme in fund finance, we are seeing lenders actively revise their approach to high net worth ("HNW") investors in 2025. As capital sourcing models evolve, we expect lenders will continue to explore new and innovative ways to keep up with growing demand.

Save the Date: 2025 Cadwalader Finance Forum

July 11, 2025

We're thrilled to announce the 9th Annual Cadwalader Finance Forum will take place on Wednesday, October 29, in Charlotte.

This premier event brings together industry leaders and experts for a day of networking and insightful discussions on the latest market trends and opportunities across various sectors, including commercial real estate, fund finance, leveraged finance, middle market lending, private credit, securitization and structured finance.

Stay tuned for a detailed schedule featuring fantastic speakers, substantive panels and a keynote speaker you don't want to miss. We look forward to welcoming you in October!

Register **here**.

For any inquiries about this event, please contact **Cori Niemann**.

Please note that this event is closed to press.

FinCEN Uses the FEND Off Fentanyl Act for First Time To Prohibit Funds Transfers With Three Mexican Financial Institutions

July 11, 2025

CADWALADER
CLIENT AND FRIENDS MEMO

On June 25, 2025, FinCEN announced its first orders under the 2024 FEND Off Fentanyl Act, finding that three Mexican financial institutions—CIBanco S.A. Institución De Banca Multiple (“CIBanco"), Intercam Banco S.A., Institución de Banca Multiple (“Intercam”), and Vector Casa de Bolsa, S.A. de C.V (“Vector”) (collectively, the “Designated FIs”)—are of “primary money laundering concern in connection with illicit opioid trafficking.” Effective beginning September 4, 2025, U.S. financial institutions are prohibited from engaging in any transmittal of funds from or to the Designated FIs.

The FEND Off Fentanyl Act

In April 2024, Congress passed the FEND Off Fentanyl Act (“FOFA”), establishing a national policy “to apply economic and other financial sanctions to those who engage in the international trafficking of fentanyl, fentanyl precursors, or other related opioids.”[1] FOFA amended the Fentanyl Sanctions Act to grant the Secretary of the Treasury power to impose restrictions relating to non-U.S. financial institutions that are of “primary money laundering concern in connection with illicit opioid trafficking.”[2] Available restrictions include six special measures: the five USA PATRIOT Act Section 311 special measures, including record-keeping obligations, reporting requirements, and prohibitions on maintaining correspondent accounts, and a sixth special measure added by FOFA, which allows the Secretary of the Treasury to “prohibit, or impose conditions upon, certain transmittals of funds.”[3]

Requirements Under the Orders

Each of the three orders prohibits covered financial institutions from engaging in any transmittal of funds from or to any of the Designated FIs.[4] The term “covered financial institution” includes U.S. banks, broker-dealers, money services businesses, and other financial institutions.[5]

Each Designated FI is defined to include its branches, subsidiaries, and offices located in Mexico. Any branches, subsidiaries, or offices operating outside of Mexico are expressly excluded from the definition of each Designated FI.

Unlike OFAC sanctions, which generally prohibit all dealings with a sanctions target, the FinCEN orders prohibit only the “transmittal of funds,” which is defined as the sending and receiving of funds, including convertible virtual currency. Beginning on the effective date, the orders require covered financial institutions to reject any prohibited transmittal of funds; the orders do not require any blocking, freezing, or reporting.

The penalties for engaging in a prohibited transmittal of funds include criminal fines of up to $1,000,000 per violation, and civil money penalties of up to $1,776,364 per violation.

FinCEN’s orders initially were to become effective on July 21, 2025. However, on July 9, 2025, FinCEN extended the effectiveness date of the orders to September 4, 2025. The orders have no cessation date.

Compliance Considerations

To ensure compliance with the orders, U.S. financial institutions may wish to consider several measures:

- Evaluate exposure to the Designated FIs to identify and manage related risk.
- Review agreements that involve any of the Designated FIs, whether directly or indirectly, to understand any legal, contractual, or operational implications.
- Ensure that compliance processes are calibrated to manage the risks that FinCEN’s use of its new authority presents.

Notably, the FinCEN orders find that the Designated FIs have facilitated opioid-related money laundering for cartels that OFAC has sanctioned and that the Department of State has designated as foreign terrorist organizations. Although transmittals of funds with the Designated FIs remain permissible until September 4, 2025, financial institutions and non-financial institutions alike may wish to conduct additional diligence on any transactions involving the Designated FIs.

Looking Ahead

Mexico's bank regulator has intervened in response to FinCEN's orders, including by appointing representatives to key management functions at the Designated FIs, and by reviewing the AML/CFT certification of the compliance officers of the Designated FIs.[6] FinCEN cited these measures by the Government of Mexico as a reason for extending the orders' effectiveness date to September 4, 2025; it remains to be seen whether additional measures by the Government of Mexico will cause FinCEN to change the effectiveness date again, or otherwise alter or withdraw the orders.

Separately, Mexico's Ministry of Finance and Public Credit has announced a plan to spin off the trust businesses of CIBanco and Intercam to ensure the "operational continuity of the trusts they currently manage."[7] No timing for such a spin-off has been announced, but if implemented, the plan may remove CIBanco and Intercam as trustees of trusts with which U.S. financial institutions deal, allowing transmittals of funds involving those trusts to continue.

Read more **here**.

[1] Pub. L. No. 118-50, § 3101(b), 138 Stat. 936.

[2] 21 U.S.C. § 2313a(a).

[3] 31 U.S.C. § 5318A(b)(1)–(5); 21 U.S.C. § 2313a(a)(2).

[4] 90 Fed. Reg. 27764 (Jun. 30, 2025) (Vector); 90 Fed. Reg. 27770 (Jun. 30, 2025) (CIBanco); 90 Fed. Reg. 27777 (Jun. 30, 2025) (Intercam).

[5] *Id.*, 31 C.F.R. § 1010.100(t).

[6] FinCEN, Frequently Asked Questions, at 5-6 (Jul. 9, 2025), **https://www.fincen.gov/sites/default/files/shared/Final-FAQs.pdf**; Comisión Nacional Bancaria y de Valores, Comunicado Conjunto, Junta de Gobierno de la CNBV decretó la intervención gerencial temporal de CI Banco, S.A. e Intercam Banco, S.A., (Jun. 26, 2025), **https://www.gob.mx/cnbv/prensa/comunicado-conjunto-junta-de-gobierno-de-la-cnbv-decreto-la-intervencion-gerencial-temporal-de-ci-banco-s-a-e-intercam-banco-s-a**

[7] Secretaría de Hacienda y Crédito Público, Comunicado No. 28 (Jul. 4, 2025), **https://www.gob.mx/shcp/prensa/comunicado-no-28-hacienda-anuncia-escision-y-proceso-de-transferencia-temporal-del-negocio-fiduciario-de-instituciones-de-credito-en-administracion-cautelar-a-la-banca-de-desarrollo-mexicana**

Fund Fanatics Features Nizar Tarhuni

July 11, 2025

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 Nizar Tarhuni, Executive Vice President - Research & Market Intelligence at Pitchbook, for the latest Fund Fanatics episode.

They discuss:

- How to distill massive amounts of data into tangible insights that help drive decisions
- Private market trends vs. what the data shows
- Fundraising patterns, LP pressure, and where capital is flowing (and why)
- Lessons from scaling a $10M business to hundreds of millions—plus breadsticks and Portland Trail Blazer tears and cheers

Watch **here**.

Cadwalader Welcomes Edward Grant

July 11, 2025

Please join us in welcoming **Edward Grant** to the UK Fund Finance team as an Associate.

Edward comes to Cadwalader from a global law firm where he advised financial institutions, sponsors and funds across a wide range of fund-level financings, including subscription line facilities, NAV and hybrid facilities, and GP-support and management fee facilities.

Edward received his Bachelor of Laws and Bachelor of Commerce (Economics) from Victoria University of Wellington.

Pease join us in extending a warm welcome to Edward!

CWT and SVB Cheer on San Francisco Giants!

July 11, 2025

A great night at the ballpark! The Cadwalader and Silicon Valley Bank teams came together for a fun evening at Oracle Park, cheering on the San Francisco Giants and celebrating a strong partnership.

Prior to the game, the Cadwalader team, including Tim Hicks, Katie Clardy, Karina Velez and Chad Stackhouse, did a market update and Q&A in the Silicon Valley Bank San Francisco office for the Global Fund Banking team.

Fund Finance Tidbits – On the Move

July 11, 2025

Here is who's on the move in the fund finance industry:

Congratulations to **Benedetta Piva** on her new role as Director – Fund Financing Origination at UniCredit! Benedetta is spearheading the bank's growth strategy across fund financing, with a focus on subscription credit lines and NAV-based lending for private equity, infrastructure, secondaries, co-investment, and private credit funds.

This new role builds on more than 13 years at UniCredit, where she most recently served as Director in the Structured Equity & Credit Financing team. She is known for her strategic mindset and ability to drive profitability through innovative financial solutions.

Fund Finance Hiring

July 11, 2025

Fund Finance Hiring

Here is who's hiring in Fund Finance:

Juniper Square is seeking a high-achieving, New York-based sales leader to take the helm of it's rapidly growing private equity sales effort as Director. This role will lead a team of world-class account executives, selling fund administration and software solutions to private equity GPs, ranging from emerging to institutional managers. Learn more **here**.

Juniper Square is also seeking Account Executives in New York, Boston, Chicago, and Miami to join the private equity sales team. This team is primarily focused on selling fund administration solutions to PE investment managers. Juniper Square is already one of the fastest-growing administrators in real estate and venture capital, and private equity is the company's next area of focus. Learn more **here**.

Goldman Sachs is seeking an Asset & Wealth Management, Private Bank, Capital Call Finance, Associate in New York. This position is responsible for applying strong analytical and technical skills to evaluate the credit and risk implications of complex lending transactions, advising clients and structuring tailored credit solutions that align with the Bank's risk parameters, performing in-depth due diligence on private equity sponsors and funds, maintaining accurate financial models and borrowing base certificates, and ensuring underwriting standards and documentation align with internal policies. Through close coordination with Credit Risk Management, Private Wealth Management teams, and banking regulators, this position will help manage a high-quality loan portfolio while ensuring compliance with all monitoring and reporting requirements. Learn more **here**.

SouthState is seeking an Private Capital Solutions Relationship Manager out of Winter Haven, Florida. Under the direction of the Head of Private Capital Solutions (PCS), this position is responsible for supporting the new client development and relationship management activities for the PCS group. Responsibilities include: client portfolio management, sales support for new client opportunities, risk management and underwriting of new and existing client opportunities and cross-functional support for new client onboarding. Learn more **here**.

Barings is seeking an Senior Associate to join its Portfolio Finance team out of Boston. The role will support the underwriting, execution and oversight of investment-grade, senior secured loans to asset managers and the investment vehicles across a range of asset classes, including private equity, private credit, and real estate debt. The Senior Associate will support the Portfolio Finance platform, working closely with Portfolio Managers, Directors, Structuring Leads and external partners. Learn more **here**.

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**.

Apollo's AASP Risk team is seeking an Associate or Director (depending on experience) to report to the Head of Counterparty & Fund Finance and act as one of the primary risk managers for the Private Credit Finance business ("**PCF**") and Fund Finance transactions. This will include supporting the buildout of the PCF portfolio by partnering closely with the PCF team on all stages of the investment and ongoing portfolio monitoring process, building out second-line risk management reporting and monitoring, and forming credit recommendations on new and existing opportunities. This unique role requires a credit investor mindset as the team evaluates transactions. Learn more **here**.

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**.