What Fund Finance Lenders Need To Know About CRD VI

August 8, 2025

By **Alix Prentice**
Partner | Financial Regulation

By **Daniel Tobias**
Partner | Capital Markets

By **David Quirolo**
Partner | Capital Markets

By **Bronwen Jones**
Partner | Fund Finance

One of the aims of the European Union's Capital Requirements Directive VI[1] (CRD VI) is to harmonise the banking supervisory and access framework across the EU, including in relation to the provision of core banking services.

In broad terms, Article 21c of CRD VI prohibits the provision of cross-border core banking services into the EU by non-EU entities (the CRD VI Prohibition). This article looks at who the CRD VI Prohibition applies to, and what exemptions apply to the CRD VI Prohibition. And finally, it looks at possible solutions that could be available for non-EU entities to whom the CRD VI Prohibition applies and for whom an exemption is not available.

The CRD VI Prohibition will apply from 11 January 2027, so all fund finance lenders should be thinking now about whether this will affect their business and if so what they can do about it, if they have not already done so. Note also that because this is a Directive, it will need to be implemented separately by each EU member state, which may in turn lead to variations in its application in each EU member state.

So let's start with what are 'core banking services'? In short, these include lending. So the CRD VI Prohibition has the potential to impact lending by non-EU entities into the EU. But not every loan will be caught: the answer will depend on who is lending and who is borrowing.

In terms of which non-EU lenders are caught by the CRD VI Prohibition, it does not apply to all lenders. It only apples to entities that would be 'credit institutions' (broadly, deposit takers) if they were based in the EU, and to large investment firms. Large investment firms are investment firms which deal on their own account or underwrite financial instruments above a threshold of €30 bn. Private funds are not investment firms.

So, whilst a non-EU bank is very likely to be a credit institution for the purposes of the previous paragraph, a private credit fund is not. Similarly, a non-EU investment bank may, depending on its size, be a 'large investment firm', but a private credit fund will not.

The next point to consider for non-EU banks is whether one of the exemptions to the CRD VI Prohibition applies to their proposed lending activities. One exemption is if the lending is provided to an EU credit institution. Other exemptions apply if the EU borrower approached the non-EU lender under a reverse solicitation (which can be tricky to demonstrate and which is interpreted strictly), or if the EU borrower is in the same group as the non-EU lender. Certain banking services provided as ancillary to MiFID II activities are also exempt. And there is provision for the grandfathering of certain lending contracts entered into before 11 July 2026, although it should be noted that grandfathering may not automatically roll through to all later extensions and amendments of lending agreements.

The European Banking Authority (EBA) published a report on 23 July 2025 which considered whether the exemption to the CRD VI Prohibition for lending to EU credit institutions should be extended to other EU 'financial sector entities'. However, the EBA concluded it did not support such extension.

Where does this leave non-EU fund finance lenders? A non-EU fund finance lender which is a private credit fund is unlikely to be caught by the CRD VI Prohibition. Conversely, a non-EU fund finance lender which is a bank is very likely to be caught by the CRD VI Prohibition and unless it can use an exemption such as reverse solicitation or (for a while, anyway) grandfathering, it will need to either establish a subsidiary in the EU or a branch in each EU country it is lending into. The subsidiary option requires a subsidiary to be established in one EU country which can then passport into all the other EU countries. The branch option only applies for the provision of banking services in the EU country in which that branch is established, so if lending is planned to be made into several different EU countries, a branch will be required in each country. In any event, both subsidiaries and branches will be subject to EU prudential supervision and capital requirements of the (or each) relevant EU country.

If we can help you work through the application and implications of the CRD VI Prohibition for your fund finance business please get in touch with one of the Cadwalader fund finance team.

[1] Directive (EU) 2024/1619 amending Directive 2013/36/EU.

Cayman Ultimate General Partners In Subscription Facilities: Do They Ultimately Matter?

August 8, 2025

By **Georgina Pullinger**
Consultant | Appleby

By **Appolina Winton**
Senior Associate | Appleby

In subscription finance transactions where the borrower or another pledgor entity (such as a feeder fund or guarantor) is a Delaware limited partnership or a Cayman Islands exempted limited partnership (ELP), the role of the general partner (GP) is well understood and regarded as fundamental to the security structure. The GP is the entity that exercises the right to call capital from investors and typically grants security over those rights in connection with the facility.

Given the GP's importance, it is commonly included as a party to the credit agreement and treated as a "Credit Party," meaning that it is subject to the standard suite of representations, covenants, and other obligations under the facility. The GP also signs the security agreement in its own right as a pledgor.

Additional issues arise, however, when the GP itself is a Cayman ELP. Why does this matter? Unlike a Delaware partnership, which has separate legal personality, a Cayman ELP does not. It exists and acts solely through its own general partner. As a result, if there is a failure or issue at the level of the GP's own general partner (referred to as the "ultimate general partner" or the "UGP") it could jeopardize the integrity of the entire fund structure.

Credit agreements often include helpful language clarifying the GP/ELP relationship, along the lines of the below:

"References to a Cayman Islands exempted limited partnership taking any action, having any power or authority or owning, holding or dealing with any asset are to such partnership acting through its general partner (or, as the case may be, such general partner's ultimate general partner)."

While this language works to capture the actions of a UGP as needed for the majority of credit agreement provisions, it does not adequately address entity-specific representations, deliverables or conditions precedent (CPs). For example, a representation that each "*Credit Party is duly established and in good standing*" would not capture the UGP, as it is not a credit party. Similarly, a CP requiring the delivery of the Credit Parties' organisational documents would not capture the UGP's documents or, if applicable, its corporate registers. This creates a potentially significant gap, particularly as the enforceability of the facility and the security—and even the existence of the fund—can be impacted by the UGP's legal status and capacity to execute documents on behalf of the GP and the underlying ELP.

To mitigate this risk, parties should consider explicitly addressing the UGP in the credit agreement. This typically involves:

1. Defining the "Ultimate General Partner" as a specific term in the credit agreement.
2. Undertaking diligence on the UGP. This includes, where the UGP is a Cayman entity, reviewing its constitutional documents and corporate registers (i.e., the register of directors and officers, and the register of mortgages and charges (ROMC)).
3. Extending selected representations and CPs to the UGP—particularly those relating to due incorporation and existence, good standing, solvency, authority and capacity, organizational documents and, where applicable, corporate registers.
4. As a post-closing covenant, requiring the UGP's ROMC be updated to reflect the security granted pursuant to the facility (this is particularly important given there are no UCC-1 or equivalent public security filings in the Cayman Islands to notify creditors of existing security interests).
5. Ensuring that the UGP's resolutions adequately approve entry into, and execution by, each of the ELP, GP and UGP, as appropriate, the transaction documents and updates to the UGP's ROMC.

While we appreciate that lenders are generally not looking to designate the UGP as a full "Credit Party," with all accompanying rights and obligations, the UGP's significance cannot be dismissed. Accordingly, UGP additions and provisions in a credit facility are to be carefully considered, with the aim ultimately being to ensure the enforceability and structural robustness of the facility, while balancing the commercial considerations of the parties.

PitchBook: Citizens Private Bank Is Pitching Elastic Loans to GPs, LPs Amid Liquidity Drought

August 8, 2025

Citizens Private Bank is rolling out personal loans collateralized by GP and LP interests in venture capital and private equity funds, pushing into the **maturing credit market for cash-strapped investors**, the bank told PitchBook.

Previously, Citizens' **GP-specific** loans were exclusively secured against future GP commitments, limiting their use to funding managers' subsequent funds. The new offering, which adds LPs as eligible borrowers, can be tapped for much broader and personal purposes. A borrower, for instance, can take out a mortgage or pay off a tax bill.

The private wealth unit of **Citizens Financial Group** is imposing a minimum of $250,000 in a bid to tap the lower end of the market where **private credit behemoths** are less active. There's no set maximum on the all-weather products, according to Scott Aleali, Citizens Private Bank's head of private equity finance.

Read more **here**.

Fund Finance Series Webinar: Market Update & Due Diligence

August 8, 2025

Fund Finance Series Webinar hosted by Michael Mbayi: Market Update & Due Dilligence

Tuesday, June 24th 2025 - 10:00 AM EDT

The recording of the Fund Finance Series Webinar, “Market Update & Due Diligence,” featuring Cadwalader's own **Leah Edelboim**, is now available!

Held on June 24, 2025, the webinar was hosted by the Luxembourg law firm Praxio Law & Tax and Michael Mbayi.

Learn from industry leaders:

- Michael Mbayi, Head of Banking & Finance, Praxio Law & Tax
- Leah Edelboim, Partner, Cadwalader
- Russell Evans, Global Head of Funds, National Australia Bank
- Cameron Roper, Partner, Paul Weiss
- Agustin Saez Arnaiz, Executive Director, Santander

Watch the full webinar **here**.

FFA European Fund Finance Symposium – Agenda Now Available!

August 8, 2025

The Fund Finance Association is thrilled to announce the agenda is now live for the 9th Annual European Fund Finance Symposium at Old Billingsgate in London.

With fresh insights, engaging conversations and valuable networking opportunities, this year's agenda features an exciting lineup of sessions exploring the latest developments and trends shaping the fund finance market.

Event Details

Date: Thursday, 18 September, 2025

Cost: £2,000

Location: 1 Old Billingsgate Walk

Riverside, 16 Lower Thames St,

London EC3R 6DX

View the full agenda **here**.

Register now **here**.

Cadwalader Welcomes Securitization Industry Leader Steven T. Kolyer

August 8, 2025

Cadwalader is excited to welcome Steven T. Kolyer, a leading securitization and structured products lawyer specializing in commercial real estate finance, to the firm as co-head of the CRE CLO practice, based in New York.

Steven will co-head the practice with Jeffrey Rotblat, a senior Cadwalader partner who is also a leader in commercial real estate securitization. Among other things, Steve has experience leading CFO and CRE NAV transactions and his practice is well placed within our broader fund finance and capital markets offering for clients.

“We are very excited to welcome Steve to our firm,” said Cadwalader Managing Partner Pat Quinn. “Like many of our partners, Steve has played a leading role in the development of many securitization products dating back to the origins of the market in the U.S. and abroad. It’s not every day that a ‘hall of fame’ partner joins an industry-leading practice. This is great for our Capital Markets and Real Estate teams and, ultimately, an unbeatable combination for Cadwalader’s clients.”

Read the official release **here**.

In Conversation: An Introduction to Fund Finance

August 8, 2025

Cadwalader partner **Bronwen Jones** recently participated in a **Loan Market Association (LMA)** Fund Finance Webinar titled “In Conversation: An Introduction to Fund Finance.”

In the webinar, Bron and **Ed Reilly** provided an introduction to fund finance from both a legal and commercial perspective. They also covered topics such as how fund finance differs from investment grade lending and leveraged finance, the basic private capital fund structure, the evolution of subscription facilities and NAV facilities.

Learn more and watch the webinar on-demand **here**.

Fund Finance Hiring

August 8, 2025

Fund Finance Hiring

Here is who's hiring in Fund Finance:

U.S. Bank is seeking two Analysts to join the Subscription Finance origination team. These roles will support the bank's growing sub line portfolio by underwriting and constructing complex borrowing bases, preparing pitch materials, partnering across internal banking teams, and helping to build and enhance processes and controls. Analysts will also work directly with leading U.S.-based private capital firms across private equity, private credit, secondaries, and more. Candidates should have at least one year of finance or banking experience (internship experience may qualify), strong Excel skills, and the ability to contribute meaningfully to high-value deals under tight timelines. FINRA licenses (SIE, Series 63, Series 79) will be required after hiring. Qualified candidates are encouraged to reach out directly to Managing Director, Michael Henry, **here**.

State Street is seeking a Vice President– Private Equity/Debt and Structured Products – Head of Private Equity Credit Risk in Boston. This role will manage credit risk for a portfolio of private equity products by overseeing a portfolio and associated team whose primary responsibility is to conduct credit reviews, perform risk ratings, continuously monitor the portfolio, and provide ad-hoc analyses. They will be required to lead strategic initiatives associated with a growing sector working closely with business partners within both lending and trading activities. They will also oversee a team of credit officers and have broad responsibility for sector reviews as well as leading the input into model development, regulatory requests and in portfolio stress testing. Learn more **here.**

State Street is also seeking a Fund Finance EMEA, Vice President in Munich, Luxembourg or Frankfurt. This role will support the Global Credit Finance (GCF) division. The Vice President will contribute to the origination, structuring, underwriting, and ongoing management of credit facilities, helping to grow and maintain strategic client relationships. The ideal candidate will have a strong foundation in credit analysis and legal documentation, including experience with LMA-style loan agreements. The role requires collaboration across internal teams and external stakeholders, and a focus on participations in syndicated, bilateral, and agented credit facilities. Learn more **here**.

Wells Fargo is seeking an Investment Banking Associate within the Fund Finance Group Syndications team based in London. This role will have the opportunity to join an entrepreneurial and global team during a period of innovation across the Fund Finance market. The associate will work as part of the FFG Syndications team, which, alongside the FFG Origination team, is responsible for arranging new syndicated credit facilities, in addition to developing FFG's broader distribution capabilities and managing lender engagement during key lifecycle events for existing broadly syndicated facilities. Learn more **here**.

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**.

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**.

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**.