Payment Direction Letters: Their Role and Usage in NAV Financings

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In net asset value (“NAV”) financings, a payment direction letter (“PDL”) is a useful tool that may be entered into in order to control the flow of cash from the underlying portfolio investments directly to a lender controlled account. As noted previously (see **here**), in a NAV facility, borrowers often operate within a corporate structure where portfolio investments are held by holding vehicle subsidiaries (“Intermediate Entities”).

In such structures, a PDL is often important because NAV facilities are often underwritten in large part based on the cash flows from the underlying portfolio investments (i.e., distributions and liquidation proceeds). Additionally, NAV facilities are often structured to be self-liquidating in the event the loan is not repaid on time, such that, the outstanding loan is paid back automatically without the fund manager having to take any manual action as cash flows are received from the underlying portfolio investments.

PDLs:

1. bridge-the-gap between (x) the security interest over the controlled account in favor of the lenders, which, subject to the terms of the applicable Account Control Agreement, contemplates either “springing” control, whereby the lenders are able to take full control of the account upon the occurrence of an event of default under the NAV facility or “blocked” control, whereby prior lender consent is required in order to move funds out of the controlled account and (y) the receipt of distributions and proceeds from the underlying portfolio investments;
2. reduce (x) commingling risk (e.g., cash which should be deposited into the controlled account being diverted to another account) and (y) foreign jurisdiction risk (e.g., local garnishment orders or foreign seizures of underlying portfolio investment assets at the Intermediate Entity level);**[1]**
3. ensure that the Intermediate Entities are required periodically (usually monthly or quarterly) to promptly (and no later than a set number of days following such period end date) distribute funds into the controlled account; and
4. by virtue of redirecting funds into the verified controlled account, operate as a secondary check for AML and KYC requirements, ensuring that funds originate from or flow from authorized/screened entities.

The common use cases for PDLs are:

1. Where the underlying corporate structure contains multiple layers of Intermediate Entities and the underlying portfolio assets are held at the lowest Intermediate Entity level and such Intermediate Entities are not pledging collateral in connection with the NAV facility;
2. Where the sponsor of the underlying portfolio investment(s) does not have a robust relationship with the lenders; or
3. Where the distribution of funds are coming from the issuances of portfolio investors in a concentrated portfolio.

Key Functions and Structural Considerations of PDLs in NAV Facilities

PDLs provide irrevocable instructions to the Intermediate Entity to pay distributions directly to the controlled account. In addition to the aforementioned, PDLs should contain:

1. an irrevocability clause which explicitly states the instructions are irrevocable and cannot be rescinded or modified by the borrower or the Intermediate Entities without the lenders’ prior written consent;
2. detailed banking information for the controlled account, including the account name, number, routing/SWIFT details;
3. a description of the scope of proceeds required to be funneled into the controlled account, which typically includes any and all distributions, dividends, returns of capital and other payments (including, for the avoidance of doubt, any sale proceeds) received by an Intermediate Entity for the benefit of the borrower or applicable loan party; and

4. a direction to the Intermediate Entities for periodic (usually monthly or quarterly) distributions of funds (i.e., held for the benefit of the borrower or applicable loan party) into the controlled account.

It is important to ensure that the terms of the PDL are consistent with the constituent documentation of the Intermediate Entity. For example, in scenarios involving a general partner authorizing payment directions in which said general partner required a consent or authorization from another party (i.e., not privy to the PDL) pursuant to the terms of the constituent documentation and such consent or authorization was not obtained, a lender may find the PDL declared void or unenforceable by a court.**[2]**

Additionally, if a PDL directs 100% of an asset's proceeds to a lender to pay down a NAV loan, but the constituent documentation require certain "tax distributions" or management fees to be paid first, the general partner (i.e. of the Intermediate Entity) may be in breach of its fiduciary duties and payments made via such PDL might be subject to "clawback" by the Intermediate Entity's liquidator or other creditors if the fund later becomes insolvent, arguing the payment violated the Intermediate Entity's internal priority rules.

In such scenarios, the lender's "first priority" claim is legally subordinated and, as a consequence, a court may rule that the PDL was an illegal "preference" or a breach of the contractual waterfall, forcing the lender to return the funds to the estate unless the lenders ensure that said manager agrees to subordinate its management fees, on or prior to entering into the PDL. That said, the abovementioned issues can be mitigated by drafting to permit netting of certain amounts in appropriate circumstances.

It is commonplace for PDLs to be used by lenders to facilitate "cash sweeps". Such PDLs will often contain provisions specifying that if an event of default or cash control event has occurred and is continuing, managing vehicles of the Intermediate Entity will procure that all monies received are promptly (and, no later than a specified time (usually three (3) to five (5) Business Days)) paid into the controlled account.

A PDL is often the primary mechanism for securing repayment and, as such, any failure to properly execute or enforce it undermines the facility's security structure. Lenders may be held liable for failing to follow an irrevocable direction contained in a PDL (e.g., misdirecting a distribution or failing to sweep a controlled account or sweeping an account without sufficient notice after previously allowing funds to pass through) pursuant to the implied covenant of good faith and fair dealing.**[3]**

[1] See *In re SunEdison, Inc., 576 B.R. 453 (Bankr. S.D.N.Y. 2017)*. Whilst this case centered on whether LPAC approval was required prior to the elimination of a limited partner's partnership interest for failure to comply with a capital call required by the limited partnership agreement, it provides a strong argument that courts will hold the terms of the underlying constituent documentation paramount in situations where a managing party breaches its terms by entering into third party arrangements or acting on behalf of the partnership.

[2] See § 1-304; **§ 1-201(b)(20)**. Importantly, under the UCC § 1-302, the obligation of good faith **cannot be disclaimed** or waived by agreement.

[3] Foreclosure on foreign assets often requires approval from local regulators or triggers "rights of first refusal" from other local investors, which can effectively block a lender from taking control of the asset.

2026 Irish Fund Finance in Five - Part 3: Irish Security Considerations

February 13, 2026

By **Conor Lynch**
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Mason Haynes & Curran has released Part 3 of their annual *Irish Fund Finance in Five* series. This is a five-part legal insight series that explains the Irish law issues, structures and documentation involved in fund finance transactions in a clear, practical way.

Unique Irish-specific issues can arise in fund finance transactions involving an Irish nexus. Experienced Irish law fund finance counsel can help lenders, borrowers and instructing counsel navigate and mitigate any of these issues efficiently and effectively. Part 3 of the series explores the practical and legal security considerations that arise in fund finance transactions with an Irish nexus. Security arrangements will likely only be tested in a worst-case scenario – therefore, correctly structuring and documenting the security package from the outset is critical.

Read on for insights and download the full series for a comprehensive guide to navigating Irish legal issues in fund finance transactions.

Click **here**.

New Cadwalader Memorandum on SRTs in the Resolution of Failed Banks

February 13, 2026

Christopher B. Horn, **Jed Miller**, **Daniel Meade**, **Ivan Loncar**, **Kathryn Borgeson**, Chris van Heerden, and **Christina Mille** have authored a new Cadwalader memorandum examining the treatment of significant risk transfers (SRTs) in the resolution of failed banks.

The piece analyzes how SRTs are treated under the Federal Deposit Insurance Act when an insured depository institution enters FDIC receivership. The memorandum highlights an often underappreciated feature of SRTs: the resolution-stage optionality they create for the FDIC. By virtue of its statutory powers to enforce, repudiate or transfer contracts, the FDIC effectively holds a financial option that allows it to preserve economically valuable credit protection while limiting exposure to unfavorable arrangements. The authors explain how this optionality can preserve third-party loss-absorbing capacity outside the receivership estate, improve recoveries and facilitate the orderly resolution of failed banks.

Read the full memorandum **here**.

Welcome to Cadwalader!

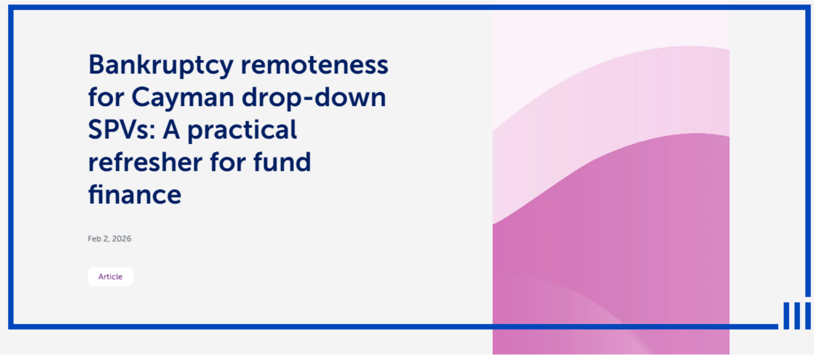
February 13, 2026

Please join us in welcoming Akshat Tiwari back to Cadwalader!

Akshat Tiwari recently rejoined Cadwalader as associate on the Fund Finance Team in New York. He rejoined Cadwalader from a global law firm where he was a member of the firm's Banking & Finance practice. Akshat earned his J.D. from Vanderbilt University and received his B.S. from Ryerson University, where he was a member of the Dean's List.

Walkers Article on Bankruptcy Remoteness for Cayman Drop-down SPVs

February 13, 2026



Walkers Partner Justin Hart and Senior Counsel Sarah Dombowsky author "Bankruptcy remoteness for Cayman drop-down SPVs: A practical refresher for fund finance"

As fund finance has evolved beyond classic subscription lines into asset-backed facilities, NAV lines and warehouses, and the rise of private credit has seen practitioners expand into back-leverage, pass-through notes, TRSs and capital relief trades, Cayman bankruptcy remote 'drop-down' SPVs have become ubiquitous across on-balance sheet structures.

You can read the full article **here**.

Register Now for FFA U 1.0: EMEA

February 13, 2026

Now in its second year, FFA University 1.0 returns to London! Join the Fund Finance Association for this comprehensive two-day fund finance training program, offering a comprehensive look at the fund finance market through expert-led sessions on core products, legal and documentation considerations, market dynamics and key industry developments.

Event Details

- Cost: £399
- Dates: April 28 & 29, 2026
- Format:
  - Day One – April 28: In-Person Training & Networking Reception
    - Location: Deutsche Bank, 21 Moorfields, London, EC2Y 9DB
  - Day Two – April 29: Virtual Training

Day one will conclude with a networking reception, providing an opportunity to continue discussions and connect with peers and speakers. Speakers will be announced soon.

View the agenda **here** and register **here**.

Fund Finance Hiring

February 13, 2026

Fund Finance Hiring

Here is who's hiring in fund finance:

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**.

U.S. Bank is seeking a Subscription Finance Credit Analyst on the Subscription Finance ("SF") team. The SF team is a significant lender in the fund finance industry providing structured credit facilities to alternative asset managers, secured by the capital commitments of their limited partners. Successful candidates are highly motivated, experienced credit analysts or junior portfolio managers looking to join the Portfolio Management and Underwriting team, supporting various investment fund strategies. This role offers a unique opportunity to work directly with top-tier private equity clients and contribute to a high growth, high-performing client-centric business. Learn more **here**.

CIBC is seeking an Associate for the US Non-Bank Financials on the Fund Finance team. This role provides client coverage and transactional support to the group head and senior bankers within the Corporate Banking Fund Finance vertical. The Associate assists with managing the banking relationships between CIBC Capital Markets and clients, primarily in the Fund Finance sector. This position is responsible for supporting and managing the new deal process, as well as maintaining existing credit relationships. Learn more **here**.

Standard Chartered Bank is seeking candidates for a number of roles, including:

A highly skilled and experienced **MD, Fund Finance**. This pivotal leadership role, based in the New York office, offers an excellent opportunity to steer and expand fund finance operations, ensuring alignment with global standards while responding to regional market dynamics. The successful candidate will bring a deep understanding of fund finance structures and services, coupled with proven leadership and stakeholder management capabilities. The role holder will be responsible for ensuring operational excellence, mitigating risks, and enhancing client satisfaction through effective leadership and strategic direction. Learn more **here**.

An **Associate Director, Portfolio, Analytics, and Monitoring** for the Financing Risk Team in New York. As part of the Corporate and Investment Banking (CIB) division, this position will play a vital role in the Financing Risk unit, engaging with top-tier clients. The PAM team portfolio covers the following products: Project Finance, Shipping Finance, Leverage and Acquisition Financing, Commercial Real Estate Financing, Financing Solutions and Fund Finance. This role is an exciting opportunity to make a significant impact within a leading financial institution by proactively managing the credit risk (monitoring and analysis) of a complex portfolio of GCM accounts. Learn more **here**.

AB-PCI NAV Lending is seeking a high-caliber team member to drive deal execution and play a key role in other aspects of building a growing fund finance business. The candidate will work in small deal teams on all aspects of credit investing. This individual will play a key role in executing fundamental credit analysis and assessing private equity valuations and sponsor incentives, while collaborating across the broader AB-PCI platform and contributing to fundraising, marketing and process development in an entrepreneurial, business-building environment. Learn more **here**.

Harneys (Luxembourg) is seeking associates with three to six years of relevant experience for its Fund Finance, Investment Funds and Corporate practices in Luxembourg. Qualified candidates will have experience in one of subscription finance, NAV financings, leverage finance, fund formation, securitization, or general corporate and commercial matters (including mergers, acquisitions and restructuring). Applications of interest should be sent to Cyrielle Nicolas **cyrielle.nicolas@harneys.com**

Juniper Square is 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**.