



# FUND FINANCE FRIDAY

**Thank You, Mike**

**May 27, 2022 | Issue No. 177**

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## A Lasting Legacy

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“Legacy. What is a legacy? It’s planting seeds in a garden you never get to see.”

– Lin-Manuel Miranda, playwright

Nobody does anything single-handedly, but some certainly wield a greater influence than others. It’s hard to quantify or overstate the impact that Mike Mascia has had on the Fund Finance industry – both the product itself and the individual careers of so many attorneys and bankers.

Mike’s mantra/mission statement, which has become the mission statement of Cadwalader’s Fund Finance team (and why our team has become the most innovative and trusted market leader in this space), is simple: “We must have a Client-First Culture of Excellence.” That is certainly one legacy of Mike’s (along with encouragement, generosity and common-sense business advice) that will not skip a beat as our mission statement remains the same as our leadership transitions from Mike to Wes Misson, an attorney who has not only the same mantra/mission statement but also has worked with – and learned from – Mike longer than anyone.

While we all look forward to watching Mike rise to his next challenge, we want to take a moment to acknowledge and thank him for the numerous seeds he has planted along the way and the lasting legacy that he has left with the Cadwalader team. We are grateful for the encouragement, mentorship and the opportunities which Mike has created for so many of us.

As a result, we reached out this week to some of the people who have worked with and for Mike over the years – at Cadwalader and beyond. The responses below are just a glimpse into the experience of working with, being a partner with and being friends with Mike Mascia.

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“Mike has always understood and emphasized that being a success in this industry requires more than just being the smartest in the room or being technically ‘good’ at documenting deals. It requires a deep mastery of the product, an understanding of the needs of all parties involved (including our clients, their clients and opposing counsel), the ability to connect with people on a professional and personal level, and downright hustle. All of this is completely natural to Mike, which is why he’ll be successful in whatever he chooses to do.”

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“I asked Mike once what he thought set him apart from other attorneys when it comes to winning new business and retaining existing clients. Without skipping a beat, he said: ‘I understand what my *client’s* clients care about, what they need, what they want and how their businesses work.’ It struck me as profound, not only as an approach to business development, but more so that he had clearly already given this a lot of thought. Mike taught me to be intentional; he showed me that a quality career in the law (or anything else) does not just

happen to people – you have to think about it, have a strategy and a philosophy ... and then purposefully act on your plan.”

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“Be the lawyer your client wants you to be. Doing the deals well is a given, but to stand out you have to do more. Think of yourself as an extension of your client: What do they need to know about? What is going on in the markets? Where are the potential opportunities for them? How can you help them to improve their internal processes and training? How do you create the best partnership you can? Do a deal well, and you may get the next deal. Invest in a client above and beyond the deal, and you create a partnership with longevity.”

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“Last winter, I had a premature baby who was in the NICU. On a chilly December morning, as I was on my way to see the baby, Mike called to see how the baby and I were doing. He was genuinely just calling to check in and did this a number of times. This was in addition to picking up and running a number of my deals himself. During that call, he encouraged me to focus on my family. He then spoke so confidently about my future as a member of our team and all the wonderful things to come in my career. And that call made all the difference in my experience. In that one phone call, I could really feel that despite the difficult situation I was in, truly bright days lay ahead. I walked into the hospital with my head just a bit higher that day. I wasn’t just another nervous NICU mom. Mike had reminded me, with his kind words and easy way, that back at Cadwalader, our wonderful team and our amazing clients would all welcome me with open arms when I was ready. And that’s Mike. When he’s in your corner, you really do feel that you can do anything, no matter what life throws at you.”

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“One of the biggest things I learned from Mike is that you can negotiate and build consensus without ever getting unfriendly. Also, in-person client connection is absolutely critical. Client relationships maintained by email/phone will get stolen by the person who takes that client for coffee, drinks or a meal.”

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“From day one, Mike always made an effort to ensure each associate learned and mastered each stage of the deal and always provided meaningful feedback to foster individual and team growth. Mike consistently reminded our team of the clear standards to which we must hold ourselves and our peers, chief among them being that we are client success-focused above all else. In achieving this, we carry and maintain a certain firm culture second to none. Simultaneously, Mike always highlighted the importance of maintaining healthy personal lives outside of the office, which can easily be overlooked in both the financial and legal spheres — but this guidance and advice allowed us to strike a balance from the outset (or at least remain cognizant of the importance of maintaining this balance even when it becomes challenging at times).”

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“One big takeaway I have from working with Mike is to never be fully satisfied with what’s been accomplished already and to stay hungry in looking for the next opportunity for success. Mike built an incredible practice and business at CWT, yet he admittedly never let himself feel a full sense of satisfaction and remained ambitious for how we could continue to grow. His deal work, client development and marketing were second to none and made him a force in the Fund Finance space. His drive and motivation continue to this day as he enters a new arena with fresh opportunities for success and growth.”

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“I think one of the biggest moments and overall experiences I will always remember is the day Mike called me to his office to discuss this big idea he had (Spoiler Alert: the idea, after a labor of love from a lot of folks, evolved into *Fund Finance Friday*). Mike was elated – he knew he had a great idea. He told me he always strives to provide value to our clients and the market – and he had an idea to get more information out into the world about Fund Finance. The articles and updates would be published on a weekly basis and, rather than long, lawyerly publications that take a dictionary to decipher, Mike wanted to provide relevant market updates in *real time*. As to be expected, this part of the project took some convincing, as law firms do not usually love the idea of conversation-like publications (or you know, the idea of Mike including photos of himself fishing in a publication) – but once we started having meetings with the parties that needed to be involved to approve, build and essentially operate this platform, everyone agreed Mike had a fantastic idea. I was privileged enough to work with Mike (and the many folks at CWT that brought this platform to life) to take this from an idea to the fully functioning platform it is today. *Fund Finance Friday* is more than just a weekly email – it is part of the legacy Mike leaves for us at CWT. For me, *Fund Finance Friday* represents so much of what I learned from Mike – we should never stop looking to provide the most value we can and, also, if you really believe in an idea, you should pursue it, because it can turn out to be really incredible.”

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“During my interview with Mike, he asked how I would handle driving my own development and learning in the New York office since the majority of the partners were seated in Charlotte. He wanted to know that I would be comfortable with asking questions and picking up the phone when I needed something. When it came to question time, I turned the spotlight back to him and asked, ‘What are you doing to help facilitate training and development for the attorneys in New York?’ This exchange really did capture my relationship with Mike very well: he wanted us to give our best and, in return, we walked a two-way street – because a good working relationship should never be just one-sided.

Mike has been able to channel the same sort of drive and dedication both outward towards his clients and inward towards his colleagues, and I think this is what sets us apart. I hope that as we embark on the next step for the Fund Finance team at CWT, we continue to build on this foundation and hold on tight to these values.”

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“Mike would have risen to the top of wherever he was. If he was at the State Department, he would be Secretary of State. If he started out at a GM factory, we’d have an automotive CEO. He always made his people and his clients feel respected and loved. It doesn’t matter if you’re

a partner, managing director, new associate or a first-year analyst; there was no one too big or small for his focus. To him, everything was a relationship. And guess what, in life, everything is a relationship.”

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“I am new to the team – October somehow feels like ages ago, but somehow, Mike has become a large part of my life, as I know he has to everyone. His one-off emails on a deal are always an unexpected confidence boost, especially as a first year who didn’t realize he reads the million emails he is copied on. I quickly scrolled through some and have laughed and smiled at the below selection of quick emails Mike sent me...

*“Congrats. Nice work.”*

*“I’ve been following your email correspondence – very impressed with your professionalism and responsiveness.”*

*“We have a hell of an outfit, I’m super-proud of it. Let’s get coffee next time I’m in NYC.”*

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“I didn’t meet Mike in person until about two months after I started at CWT. He came to New York and took all the new hires for a coffee. We ended up talking about the origins of the Fund Finance practice and the finance world more generally.

A few weeks later, I get a package at the office. Mike sent me a book about the history of the Federal Reserve and the rise of asset inflation, monetary policy, etc. It included a note saying that, based on our quick chat, he could tell I was interested in this stuff and thought I’d enjoy the book.

It is just incredible to me that the managing partner of a massively successful (and busy) practice group took the time and care to send a book to a brand-new, fresh-out-of-law-school attorney.”

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“Always pick up the phone to talk with a client if you have a chance, especially if it is bad news. The bankers you work with as a junior will certainly be the ones you are working with as a senior, so nurture the relationship early. Family and your health comes first. Communicate early whether it be with the client or a senior person on the deal to manage expectations. It is okay to say that you do not have the capacity to take something on, although always appreciated when you can help out. Mentor young attorneys.

“What immediately jumps to mind and is ultimately a big moment for me was when it clicked what he meant by saying, ‘This is a sales job.’ I had thought of law in this professorial sense of wise old men in tweed ruminating on an issue, but Mike showed that, instead, it’s action. It’s communication, client focus and responsiveness. It’s all the things you want from your real estate agent or your waiter. It’s great advice and it fundamentally reshaped how I approach my work.”

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As we look forward to the next decade of our practice, we are beyond excited. A million seeds have been planted, and a million lessons have been learned. There is a ton of optimism, momentum and growth – not just in our practice but in the industry as a whole. We have some of the best all-around people in the space and incredible leadership that will push the limits of our client-first innovative focus. The garden will be very lush. Thanks, Mike!

- Cadwalader  
Fund Finance



Mike with daughters Kristina and Victoria.

# Loan Market Update

May 27, 2022 | Issue No. 177



**By Leah Edelboim**  
Special Counsel | Fund Finance

Lots of news out of the loan market. SOFR remains a focus, we have new forms from the LSTA, and what has been deemed an “existential threat” to the syndicated loan market has reared its head once again. Here’s the rundown.

## LSTA Forms

The Loan Syndications and Trading Association (the “LSTA”) has let members know that it has made updates to its Form of Revolving Credit Facility (which includes Term SOFR) and its Form of Credit Agreement and Investment Grade Term Loan and Revolver.

The LSTA continues to revise and refine the large suite of documents available to its members. The LSTA Form of Credit Agreement establishes a baseline for where the market is as it relates to the rights and obligations of the parties to a financing transaction. Parties can often agree that they will go with the “LSTA standard” for portions of their credit agreement.

As to the revised agreement, the changes cover several topics but, significantly, there are updated provisions that pertain to using Term SOFR as the benchmark. This is important to many market players because while some banks have developed their own language for their Term SOFR agreements, many other banks and their counsel are relying heavily on the model language produced by the LSTA. Other changes relate to erroneous payment provisions and DQ provisions. The LSTA plans to circulate these revised agreements early next month.

We also note that about a month ago, the LSTA provided revised guidance regarding U.S. sanctions issues in lending transactions, which have been helpful in shaping those provisions in credit agreements, particularly as they relate to the U.S. sanctions that concern matters pertaining to certain natural persons and business entities in Russia. We understand that the LSTA is working on further revisions to the guidance to address the situation if a lender is sanctioned.

## SOFR, So Good

The Alternative Reference Rates Committee (“ARRC”) has now endorsed the use of 12-month Term SOFR. While we mostly see 1-month and 3-month tenors (though 6 months is an option in most deals), it has been an open question as to whether ARRC would approve of 12-month SOFR for syndicated loans. We now have confirmation that 12-month SOFR is indeed in scope for business loans.

## Litigation Update – Are Loans Securities?

The question of whether syndicated loans constitute securities under federal and state securities laws has come up at various points for decades. We have been following the latest cases for some time. In this latest case, a federal district court in New York considered the question where a litigation trust that came out of the Millennium bankruptcy case sued agent banks that underwrote a \$1.75 billion loan to the debtor and alleged that the agent banks violated state securities laws when they originated these loans. The U.S. District Court for the Southern District of New York issued a decision holding that the syndicated loan at issue was not a security. The plaintiff has appealed the decision to the Second Circuit Court of Appeals. Briefing is ongoing and then the Second Circuit will hear oral argument and is expected to issue an opinion on the subject thereafter.

The LSTA has cautioned that finding these loans to be securities could pose an “existential threat” to the agency business and the loan market as a whole. The LSTA has filed an *amicus* brief with the Court explaining its position. We could also see federal regulators be asked to weigh in. We will be following this.



## Reminder – WFF US: Fireside Chat with Bloomberg’s Mary Schapiro

May 27, 2022 | Issue No. 177



Come join WFF’s Fireside Chat with Mary Schapiro on Wednesday to learn how the financial sector is taking up arms in the battle against climate change. To register, click [here](#).

## WFF 'Reader's Series' Recap

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Earlier this week, Women in Fund Finance launched its new "Reader's Series," which is designed to invite conversation among members of the fund finance community who are avid readers of non-fiction, with an emphasis on topics concerning both social and economic impacts.

At this inaugural event, the discussion was led by Walt Jackson of Onex Credit, Mike Henry of U.S. Bank, and Cadwalader's Leah Edelboim. They discussed the award-winning book, *Dopesick: Dealers, Doctors and the Drug Company that Addicted America* by journalist Beth Macy, who is a prolific writer on the opioid crisis, as well as award-winning *Empire of Pain* by Patrick Radden Keefe, a staff writer for *The New Yorker* and a *New York Times* best-selling author.

In addition to the books discussion, participants learned about each of the panelists in terms of their career trajectory and their individual histories as readers. The panelists had fun with the author questions from *The New York Times* book review, and participants learned about their favorite books, the classics that they loved and those that they didn't, what's on their bedside table waiting to be read, and the three authors each of them would like to invite to dinner.

The next installment is in the works and will be an evening event mixing fascinating books with interesting cocktails. If you have an idea for a book to be featured in the series, please [contact Leah](#).



## Reminder – WFF Event: Crypto 101

May 27, 2022 | Issue No. 177



Women in Fund Finance will host a Wednesday virtual event, “Crypto 101: Demystifying Cryptocurrency & Blockchain,” featuring speaker Bob Griffin of WhiteTower Capital Management, LLC and moderated by Fazillah Durante of Scotiabank. Please visit [here](#) to register.

## WFF Europe Industry Gathering

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Join Women in Fund Finance's first Paris event of 2022 on June 9. McDermott Will & Emery will be hosting this in-person event at the McDermott Paris office beginning at 6:30 p.m. The concert and conversation is brought to you by Zahia Ziouani, an inspiring Franco-Algerian female conductor and founder of the string quartet, "Divertimento." Networking and cocktails will follow. To register, click [here](#).

## FFA Event on CFOs

May 27, 2022 | Issue No. 177



The Fund Finance Association has announced a virtual event titled “Collateralized Fund Obligations: The ABCs of CFOs” for Tuesday, June 14 at 12 p.m. EST. For more information or to register, click [here](#).

## Brickfield Interviews FFA Chair of Europe

May 27, 2022 | Issue No. 177

Brickfield Recruitment's latest interview features Emma Russell, FFA's Europe Chair and Haynes & Boone partner. Emma will discuss her involvement in the evolution of the FFA, its European initiatives, and what's in store for the FFA European Symposium on June 28 in London.

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