



FUND FINANCE FRIDAY

Fund Finance Data Analysis, Change of Control and More

February 15, 2019 | Issue No. 14

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Cadwalader 2018 Data Analysis

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By Michael Mascia
Partner | Fund Finance

This January, we completed a data project in which we examined every fund finance deal we closed in the United States in both 2017 and 2018. The data set is relatively robust:

The Year at a Glance

	2017	2018	Change %
Number of Deals	111	133	20%
Aggregate Lender Commitments (\$bn)	\$41.65	\$46.34	11%
Total Number of Banks	42	40	-5%
Number of Sponsors	72	90	25%

From this analysis, we have identified a number of interesting trends that are a relatively good proxy for the U.S. fund finance market as a whole. A lot of the data substantiates what we suspected anecdotally, but some of it surprises. The data includes items like the effect on pricing over time, the average pricing premium for separately managed accounts and hybrid facilities, funds broken out by jurisdictions, etc. We finished the presentation deck this week and plan to start sharing the data with clients next week. Call if you are interested.

Who's in Control?

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By James Hoggett
Associate | Fund Finance

We are all accustomed to seeing change of control as a mandatory prepayment event, if not an event of default, under subscription line facilities. Even the strongest sponsors accept that a lender's analysis of a transaction is based on the current management of the fund, such that any change in control should trigger at least the right to prepayment and cancellation. While there are often points for negotiation, this premise is almost universal. It is arguably of even more importance in a fund financing, as compared with a corporate loan, given the reliance that lenders place on the GP's relationship with LPs.

The question, in light of recent market developments, is, does that mandatory prepayment event get lenders to where they need to be?

The first point to consider here is whether the "change of control" trigger should include not only a change in the ownership (direct or indirect) of the GP or manager, but also any of their direct or indirect holding companies becoming insolvent. A liquidator or trustee-in-bankruptcy being appointed in respect of any such entity could clearly have a significant impact on the actual control of the GP/manager (and thereby the fund), and including this as a trigger would provide the added benefit of giving the lender better visibility over what is going on higher up in the sponsor group. Given the potential impact of such an event on the operation and continued financing of the fund, lenders should also consider making it an EoD if the GP/manager (or any affiliate) fails to fund a capital call or there is a material adverse effect on its ability to do so.

As a second and related point, where an entity on which an investor is reliant (directly or indirectly) in order to fund a capital call is insolvent, should that investor be included in the borrowing base? We are increasingly seeing that question answered in the negative, but as with all the points raised in this article, there is no "one-size-fits-all" approach to these questions.

Finally, recent events have also highlighted the need to cast the net farther than the borrowing fund and look at what is happening in other funds managed by the same manager (or its affiliates). For example, lenders should think about the extent to which concerns around corporate governance that lead to significant unrest among LPs in related funds should be taken into account and give lenders the ability to protect themselves. Some options to consider include excluding from the borrowing base:

- defaulting LPs in related funds, even if there is no current default vis-à-vis the borrowing fund;
- LPs who refuse to fund a capital call to the borrowing fund or a related fund;

- LPs who express material concerns about the management of the borrowing fund or a related fund's business and/or operations; and/or
- LPs who ask to inspect the borrowing fund's books on the grounds that it suspects material inaccuracies or misrepresentations.

Clearly there is a balance to be struck and, while this article by no means sets out the full menu of options (some of which will be more contentious with sponsors than others), time will tell how these issues play out in the new world of fund finance.

On the Move—Fund Finance Tidbits

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On the Move

Alexa Schult, of First Republic Bank, was recently promoted to Senior Credit Analyst. Alexa joined First Republic in 2013 and works with a team that specializes in private equity fund finance. In her expanded role, Alexa will have responsibility for supporting clients and working closely with her team to develop customized credit solutions for private equity fund managers. Alexa is also a founding member of the New York chapter of the Fund Finance Association's Next Gen Network.

realdeals Article on Subscription Facilities

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On February 8, *realdeals* published an article titled “LPs should voice discontent over excessive subscription line usage.” The article is based on, and quotes extensively from, the roundtable discussion in the *Triago Quarterly* publication, which *Fund Finance Friday* linked to last week. The subscription-required article can be accessed [here](#).

Golub Capital Facility from Signature Bank

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On February 8, *S&P Global* reported on Golub Capital BDC 3 Inc. entering into a \$175 million financing facility with Signature Bank as administrative agent and lender. The article is available [here](#).

Fund Finance Hiring

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Fund Finance Hiring

Credit Suisse Seeks Fund Finance Attorney

- Credit Suisse seeks a Fund Finance Attorney to join its fund-linked products team in its New York office. The job posting is available [here](#). This is a transactional position, focused on drafting and negotiating secured credit agreements for financing transactions collateralized by hedge fund portfolios, private equity fund portfolios, or fund investor uncalled capital commitments.

ING Posts Associate/VP Opening in London

- ING has opened a search for an Associate or VP in its Investment Industry Finance (IIF) Group in London. The job posting is available [here](#). The bank's IIF group originates and executes lending transactions to European funds and oversees the portfolio management of the existing book. The candidate should bring at least four years' experience in structuring funds finance transactions and an established track record in deal execution. Qualified candidates may contact Lester Deeble for more information at lester.deeble@ing.com.

Square 1 Bank Equity Funds Job Posting

- Square 1 Bank is looking for a Portfolio Analyst to join its Equity Funds Group in Venturing Banking in its Durham, NC office. The job posting is available [here](#). Square 1 Bank, a division of Pacific Western Bank, provides full-service financial services to entrepreneurs and their investors.

Shout Out for Cadwalader CMBS

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Last week *Commercial Mortgage Alert* released its 2018 league tables for commercial mortgage-backed securities. Cadwalader topped *both* the issuer *and* the underwriter tables. Congrats to our colleagues in CMBS! A copy of the article is available [here](#).

Fund Finance Calendar

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Upcoming Events in Fund Finance

February 21, 2019	Fund Finance Next Generation Inaugural Event, New York
March 24-26, 2019	9 th Annual Global Fund Finance Symposium, Fontainebleau, Miami Beach, Florida
June 20, 2019	5 th Annual European Fund Finance Symposium, The Landmark, London
September 24, 2019	3 rd Annual Asia-Pacific Fund Finance Symposium, Four Seasons Hotel, Hong Kong
October 17, 2019	Cadwalader Finance Forum, The Ritz-Carlton, Charlotte, North Carolina

If you have an event that you would like listed on the *Fund Finance Friday* calendar, please email us at fund-finance-friday@cwt.com.