THE REVIEW OF
BANKING & FINANCIAL SERVICES
A PERIODIC REVIEW OF SPECIAL LEGAL DEVELOPMENTS AFFECTING LENDING AND OTHER FINANCIAL INSTITUTIONS

Vol. 40 No. 1 January 2024

STRUCTURING CREDIT FACILITIES FOR PRIVATE EQUITY FUNDS

Fund financing facilities, including subscription facilities and NAV facilities, have become a ubiquitous financing tool for investment funds. Both subscription facilities and NAV facilities are forms of "asset-based lending." In subscription facilities, funds borrow primarily against the uncalled capital commitments of the fund's investors, and in NAV facilities, the collateral is the fund's underlying fund investments. Today, as the fund finance market has become more sophisticated, investment funds are experimenting with bespoke facilities containing both subscription and NAV components. Additionally, fund finance is converging with bond and capital markets, as well as looking to obtain fund financing tied to environmental, social, and governance metrics.

By Jan Sysel *

Subscription, net asset value ("NAV"), and other types of fund financing facilities have evolved into a ubiquitous financing tool for private equity and other types of investment funds seeking efficient access to capital. They are utilized in a myriad of ways, ranging from short-term borrowings (used primarily to bridge liquidity needs *in lieu* of making frequent and/or irregular investor capital calls) to long-term leverage (which seeks to increase the overall fund size and serve as a permanent source of capital), as well as various combinations thereof.

Such credit facilities are used by funds with various investment strategies, across the full range of asset classes, and around the globe, including America, Europe, and Asia-Pacific. The fund finance market has significantly expanded, and the prevalence and importance of these facilities are unquestionable. Fund investors have become accustomed to, and are very familiar with, the use of fund-level facilities.[1] In

---

* *JAN SYSEL is a partner in the Finance Practice Group at Fried, Frank, Harris, Shriver & Jacobson LLP. He represents sponsors, borrowers, arrangers, and lenders across a range of industries on financing transactions, primarily in connection with fund formation. Jan's email address is jan.sysel@firedfrank.com. He wishes to thank Fried Frank associate Yvonne Ho for her contributions to this article.*

[1] The Institutional Limited Partners Association ("ILPA") is a professional association comprised of private equity limited partners that provides an avenue for such limited partners to connect and learn. ILPA has commented extensively, including by publishing recommendations and guidance, on the use of fund financing facilities, and subscription facilities in particular. *See, e.g.*, ILPA, *Subscription Lines of Credit and Alignment of Interests: Considerations and Best Practices for Limited and General Partners* (June 2017), https://ilpa.org/wp-content/uploads/2020/06/ILPA-Subscription-Lines-of-Credit-and-Alignment-of-Interests-June-2017.pdf; and ILPA,