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A Summary of the 9th Annual Global Fund Finance Symposium

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Authored by: Erin England and Justin Keller

Welcome Remarks and Market Update
*Presented by **Sola Akinola**, Director of Research (Americas), Preqin*

Preqin set the tone for the Symposium Monday morning with a private capital market update, highlighting the record-high $5.8 trillion of assets under management as of the end of 2018. Despite high asset valuations, the number of deals increased in 2018 and the trend shows no signs of slowing. Alternative assets remain attractive to institutional investors, with greater than 80% of such investors expecting to commit the same amount or more capital to alternatives over the next year. Preqin expects this appetite for alternatives to continue, driven largely by investor demand for private equity, and projects that alternative assets will swell to $14 trillion by 2023 (up from $9.5 trillion in 2018).

Fireside Chat with Anthony Scaramucci
*Moderator: **Jeff Johnston**, Head of Subscription Finance, Managing Director of Asset-Backed Finance, Wells Fargo*

Symposium attendees were treated to an intimate talk with Anthony Scaramucci, the founder of SkyBridge Capital and President Trump's one-time White House Communications Director, who largely discussed his recent foray into politics, regaling the audience with amusing anecdotes and glimpses behind the curtain of the Trump administration.

Can We Handle Diversity?
*Moderator: **Ellen McGinnis**, Partner, Haynes and Boone, LLP | Panelists: **Jennifer Choi**, Managing Director, Industry Affairs, ILPA | **Eve Mongiardo**, Senior Advisor, Irving Place Capital | **Brian Schmidt**, Partner and Head of Mortgages and North America Real Estate, Värde Partners | **Marjorie Tsang**, Board Member, USAA Real Estate*

The importance of diversity and inclusion was a recurring theme throughout the Symposium: in addition to this panel, Preqin noted in its opening market update that over a quarter of investors either have or plan to have a diversity policy in place for hiring investment managers in the next five years. This datum was further reflected in remarks by the diversity panel members, who emphasized that beyond its social and cultural importance, diversity and inclusion has become a business issue for many institutional investors. These investors are concerned about the competitive advantage offered by diverse teams and worry about the reputational damage and inability to access certain markets that may befall those who fail to adapt to an increasingly diverse society. The panel pointed to specific examples of steps funds can take to combat systemic bias in their organizations and highlighted factors that may influence investors in their choice of funds, discussing a series of diversity-related questions the Institutional Limited Partners Association ("***ILPA***") has developed for inclusion in investors' diligence questionnaires.

Regulatory and Legal Update
*Moderator: **Alistair Russell**, Partner, Carey Olson* | *Panelists: **Ed Balough**, COO and CFO, Ridgemont Equity Partners* | ***Steve Jacoby**, Partner, Clifford Chance* | ***Wes Mission**, Partner, Cadwalader, Wickersham & Taft* | ***Vassiliyan Zanev**, Partner, Banking & Finance, Loyens & Loeff*

While fund general partners convened for a private round table, the rest of the attendees enjoyed another market update, this one focused on regulatory and legal issues. For fund managers or general partners ("***GPs***"), issues in U.S. regulation are a primary concern, so the focus of this panel was on issues of clear importance to the Securities and Exchange Commission (the "***SEC***"): disclosure and fund performance. With respect to disclosure, the SEC has not aggressively pursued GPs for failing to disclose information generally. Specifically, with respect to subscription secured credit facilities ("***subscription lines***"), the SEC appears to be content with the level of disclosure commonly provided to investors—that is, that the fund intends to utilize a subscription line and that the net internal rate of return ("***IRR***") will be greater with the subscription line than without. The panel addressed ILPA's 2017 list of best practices for investors with respect to subscription lines, and suggested that on the whole, the GP community is supportive of these recommendations. The ILPA recommendations came at a time of increased media scrutiny of subscription lines, but the panel opined that contrary to the alarms raised by some of these reports regarding the potential for abuse of the subscription line to artificially boost fund metrics—namely, IRR—there is no evidence that any recent funds are abusing these facilities. Rather, they have served as a helpful and efficient cash management tool. For lenders, vigilant due diligence remains a chief concern, and lenders and their counsel need to be alert to potential new issues arising in side letters between investors and the fund. For example, side letters are increasingly placing requirements on GPs with respect to capital call notices that may prove difficult for a lender to uphold should that lender ever need to exercise its rights under the credit agreement to issue a capital call in a GP's stead. A key takeaway for lenders was the importance of fulsome communication and cooperation between the fund's counsel and lender's counsel early in the process—prior to execution of any side letters—so that potential issues can be identified and resolved.

A Subscription Finance Debate
*Moderator: **Anthony Pirraglia**, Partner, Loeb & Loeb LLP* | *Panelists: **Charles Inkles**, Managing Director, Santander Bank* | ***Howard Matlin**, Managing Director, Partner & CFO, Kelso & Company* | ***Paul Roder**, Partner, Moses & Singer LLP* | ***Anna-Lise Wisdom**, Partner, Appleby*

This panel, billed as a subscription finance debate, was less of a debate and more of an agreeable discussion about the types of risks and potential issues lenders may face in this space. The panelists identified the primary legal risks associated with subscription lines, relating to perfection of the lenders' security and various issues that can arise with respect to the limited partnership agreement ("***LPA***") of the fund. A key takeaway was the importance of engaging lender counsel early, so that potential issues affecting the lenders' interests with respect to the LPA can be identified and resolved early in the fund's life. From a GP perspective, early engagement with lenders and lenders' counsel can help to limit revisions to the LPA after investors are involved, which can cut down on friction with the limited partners. The panel also addressed issues that can arise with respect to lenders' exercise of their rights under the credit agreement. For instance, the panelists discussed capital calls following an event of default, in particular the question of who makes that first capital call between the GP and the lender. The consensus was that generally the presumption is that the GP will make the initial capital call following an event of default, but it will depend on the particulars of the relevant agreement. The panel's discussion highlighted the importance of making sure lenders have the practical ability to make capital calls if required to step in for a GP, with one panelist questioning whether lenders actually possess the information, access, and knowledge required to issue the call. Finally, the panel discussed the typical features and particular difficulties associated with umbrella facilities, which cover multiple funds or fund families with a common sponsor, and noted the structural challenges inherent in these facilities as well as the added difficulty KYC diligence presents in this context.

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FX Panel
Moderator: ***Shaun de Jesus***, *Managing Director, Corporate Rates & FX Solutions, Wells Fargo* | _Panelists_: ***Rob Cammilleri***, *Executive Director, Financial Institutions Group, North America, Commonwealth Bank of Australia* | ***John Hastings***, *Advisor, HarborVest Partners* | ***Phil Kim***, *Director, KKR & Co. Inc.* | ***Matt Klein***, *Managing Director, Global Head – Global Markets, Hudson Advisors*

The FX panel was slated to cover four main topics during its hour upon the stage: general approaches to foreign exchange and rate risk management, keys to managing the banking relationship, keys to managing hedge advisors and the role of technology in risk management. Unfortunately, the forty-five minutes proved too brief a time, and attendees were left untutored on the role of technology in risk management. Each of the fund sponsors represented on the panel divulged its approach to mitigating rate risk, but the two central themes were (1) the importance to the funds of a conservative posture and (2) the need to follow a specific process for entering into any derivatives. The panel was notably risk averse and commented on increasing FX volatility in light of global tensions and anticipation of Brexit. Panelists highlighted the importance of methodically identifying and quantifying risks and of developing a hedging strategy accordingly, remaining conservative in light of the uncertainty inherent in this process. Next, each of the panelists commented on the importance of the banking relationship to managing rate risk. One panelist noted that for each deal, his fund lets its bank know the extent of the rate risk the fund would like to hedge and ultimately relies on the bank to help obtain the best rates and educate the fund team. Another panelist revealed that his fund employs a set framework for evaluating each transaction and sends this framework to the banks with which the fund is familiar in order to determine which of these banks can execute the plan. Yet another panelist divulged that his fund works with its dedicated lenders and asks these lenders to take a holistic view of its trades, considering pricing as a portfolio rather than on a trade-by-trade basis. Finally, as the panel's time ran out, each of the panelists disclosed that each of their funds employs hedge advisors, in particular for large, sophisticated transactions, which allows the funds to verify pricing and ensure complicated deals are structured appropriately.

Real Assets – RE, Infrastructure & Energy
Moderator: ***Mark Levitt***, *Managing Director and COO, Global Infrastructure Partners* | _Panelists_: ***Julia Issembert***, *Managing Director, Prospect Ridge* | ***Jonathon Laurie***, *Head of Infrastructure & Real Assets North American Finance Team, Macquarie Group* | ***Keenan McBride***, *Vice President, Morgan Stanley* | ***Stan Mullikin***, *Managing Director, Crow Holding Capital Real Estate* | ***Peter Vermette***, *Managing Director, Goldman Sachs*

This panel provided an update of the market for private investment in real estate, infrastructure, and energy, offering perspectives ranging from GPs to investors to lenders on trends in the current market and challenges presented by these trends for each participant. To set the tone for the discussion, the moderator recalled the data shared during Preqin's market update and noted that while investment in alternative assets continues to increase, the rate of growth in infrastructure and other real assets is outpacing the growth in alternative assets as a whole. One of the results of this increased investment, noted the GPs on the panel, is that it is increasingly difficult to find deals. At the same time that funds are beginning to see returns decline, especially in the middle-market, investor expectations remain high. As a result, funds are being forced to work harder to find new opportunities: to look at a broader range of assets, to expand into geographical areas that haven't been as developed, and to consider the ways technology can reshape what falls within the category of "infrastructure." In this environment, it is important for GPs to work a little harder, especially focusing on relationships with investors. The panelists expect that the next few years will look similar to the past few years: there will be pockets of illiquidity but, in general, more liquidity than not. And while good deals will remain difficult to find, opportunities will still exist for enterprising managers. The chief concerns of the GPs on the panel was with the effect of increased capital and fewer good assets to invest in and with knowing when to sell, correctly gauging how much more value can be added before doing so. From the subscription lender's perspective, the state of the market increases the importance of being vigilant about managers chasing opportunistic deals and using too much leverage, of underwriting the GPs and investors and of understanding assets, the jurisdictions and the GPs' strategies for pursuing value.

Private Credit Panel
*Moderator: **Nick Jordan**, Managing Director, CIBC* | *Panelists: **Sarah Elliott**, Director – Client Coverage, Funds, North America, National Australia Bank* | ***Walt Jackson**, Head of Direct Lending Platform, ONEX Credit* | ***Jean Joseph**, Managing Director, Owl Rock Capital Partners* | ***William Maier**, Senior Portfolio Manager, Avenue Capital Group*

Echoing many of the other panels' assessments of their segments of the market for private capital, the panel on private credit opened by noting that the market for private credit has tripled in size over the last five to ten years. The panelists were optimistic about the future of this sector and expect fundraising for private credit funds to increase in coming years. Discussing growth in private credit, the panel pointed to financial regulation following the global financial crisis as a significant contributor to the increase in non-bank lenders. Other contributing factors include the fact that as private credit becomes more established, the risk tolerance of funds to the sector has increased and investors have begun to view private credit as a distinct asset class. Compared with private equity, the private credit market is still in its early stages. In the coming years, the panel identified a few obstacles facing the sector, including lower returns as competition increases and spreads compress, credit quality deterioration in connection with a potential recession, and increased regulation. In view of these obstacles, the panel suggested that successful credit funds will be those that focus on borrowers with positive track records and companies in less cyclical industries.

Awards and Closing Remarks

As the first full day of the Symposium wound to a close, the Fund Finance Association presented awards to two recipients in recognition of their contributions to the industry: Kate Downey, head of Fried Frank's European Private Equity Funds Practice, received the 2nd Annual Dee Dee Sklar Women in Fund Finance Award, and Tim Powers, managing partner of Haynes and Boone, LLP, received the 2nd Annual Julian Black Contribution to the Industry Award.

ILPA Panel
*Moderator: **Ann Richardson Knox**, Partner, Mayer Brown LLP* | *Panelists: **Jennifer Choi**, Managing Director, Industry Affairs, ILPA* | ***Patricia Lynch**, Partner, Ropes & Gray* | ***Peter Song**, Managing Director, The Blackstone Group L.P.*

In the summer of 2017, ILPA released guidelines for limited partners raising a series of potential concerns regarding funds' use of subscription lines. These guidelines served as the central organizing theme of the ILPA panel, as the panelists discussed why and how the guidelines were developed in addition to the effect of their issuance. ILPA's focus in issuing its guidance was on encouraging transparency with respect to the use of sublines. The panelists suggested that funds sufficiently disclose to their limited partners the funds' use of subscription credit lines. Finally, the panelists agreed that the ILPA-required disclosures have not limited the use of sublines, nor are they expected to.

Syndication Panel
*Moderator: **Terry Hatton**, Managing Director & Group Head, MUFG Union Bank, N.A.* | *Panelists: **Sammy Asoli**, US Head of Financial Sponsors, Lloyds Bank* | ***Michael Furman**, Vice President, SMBC* | ***Kevin McLeod**, Senior Managing Director, Cerberus Capital Management, L.P.* | ***Tom Nowak**, Managing Director, Bank of America Merrill Lynch*

The syndication panel showcased the views of a number of lenders on the state of the syndication market for subscription lines. All panelists agreed that the market has grown significantly larger and that lender appetite has increased. Not only are more lenders entering the space (with very few seeming to exit), an increasing number of these new players are non-bank lenders. Banks are inquiring more into the underlying investment; though only a secondary source of repayment, in the current environment, banks are becoming more thoughtful about aggregation of risk and how that fits in with the strategic priority of the banks. Finally, the panelists offered their thoughts on the major hurdles to syndication, with each agreeing that KYC review is often one of the largest obstacles. As a result, the panelists agreed, lenders need to communicate requirements and set expectations early, and administrative agents must work to get data to syndicate lenders in real time.

Management Company & GP Financing Panel
*Moderator: **Jocelyn Hirsch**, Partner, Kirkland & Ellis LLP* | *Panelists: **Aaron Cohen**, Executive Vice President – Structured Finance, City National Bank* | ***Tim Gallaher**, Managing Director & Treasurer, Värde Partners* | ***Yehuda Hecht**, Managing Director, CFO, Madison International Realty* | ***Will Schlosser**, Senior Vice President, Comerica*

As subscription lines have flourished, ancillary credit products have been developed to facilitate operations at other levels of the fund structure. Management company and GP financings are an example of this expansion of credit products in the fund finance space and were the topic of this panel. Management company and GP facilities are increasingly employed by the top-level management company of a fund or a fund's general partner, as applicable, to meet day-to-day working capital needs, to fund employee bonuses, or to fund growth opportunities. GP lines are typically employed to fund a GP's investment into a limited partnership. Management company facilities are typically secured by management fees or other performance-based compensation, and GP lines may be secured by equity in the GP and include a guaranty by the sponsor. The panel discussed the unique challenges that arise in structuring these facilities but also noted their benefits. For banks, in particular, these lines are often part of a broader relationship between a fund and its lender and could help strengthen the relationship between the lender and the firm, its principals, and employees.

Hybrid/NAV Panel
*Moderator: **Adam Summers**, Partner, Fried, Frank, Harris, Shriver & Jacobson* | *Panelists: **Steve Colombo**, Vice President, Goldman Sachs Asset Management* | ***Vicky Du**, Head – Fund Finance, Standard Chartered Bank* | ***Brian Goodwin**, Managing Director, J.P. Morgan Infrastructure* | ***Katie McMenamin**, Senior Associate, Travers Smith LLP* | ***Thomas Smith**, Partner, Debevoise & Plimpton*

The Hybrid/NAV panel addressed two types of fund-level facilities: NAV facilities, which are secured by the portfolio assets of the fund and related distributions, and hybrid facilities, which are secured by both the portfolio assets of the fund and related distributions and the capital call rights of the fund. After providing an overview of each facility, the panel discussed the benefits of hybrid/NAV facilities relative to subscription lines; the additional provisions, covenants and reporting typical of each; and the factors most likely to influence GPs in choosing whether to employ a hybrid or a NAV facility. As with subscription lines, hybrid and NAV facilities can enhance a fund's liquidity and enable funds to be opportunistic about investments between capital calls. Unlike subscription lines, however, NAV facilities (or hybrids with a NAV component) may offer a longer tenor and may provide additional lending options following the expiration of a fund's investment period. Additionally, as asset values rise, a facility with a borrowing base tied to the fund's NAV will provide a fund with maximum availability under its credit line. The panel discussed a number of other features of NAV and hybrid facilities that should factor into a sponsor's calculations with respect to whether to employ one of these types of credit lines.