# The Securitization in Fund Finance Conference: Key Takeaways and Industry Trends

By Javier Martinez | June 20, 2024

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Haynes Boone attorneys were among the 300+ participants at Deal Catalyst's novel and inaugural Securitization in Fund Finance Conference held on June 17, 2024 at the New York Marriott Downtown. The conference offered a wealth of insights from industry professionals who have been at the forefront of creating and rating products that utilize securitization technology in nontraditional ways. Delegates were energized to discuss the intersection of these worlds, as evidenced by the volume and pace of questions and comments being submitted in real time to the panelists on stage. Below are a handful of our key takeaways.

**1(a). Rated Funds and CFOs Are Here to Stay**

One of the standout themes of the conference was that the products being discussed, namely collateralized fund obligations ("***CFOs***") and rated funds (which includes rated note feeders which is probably the more familiar of the two products to most fund finance market participants) continue to gain traction with GPs and LPs alike. The growing appetite for these products and the fact that over 300 people attended on a Monday morning to discuss them is a testament to their effectiveness in providing alternative and innovative financing, fundraising, and liquidity solutions in a competitive environment. From the GP point of view, the use of CLO technology to tranche fund cash flows provides the ability to raise capital in the form of a note (which can be rated), and this attracts other pockets of capital such as fixed income investors and also allows investors to choose risk return appetite. Further from the LP perspective, CFOs are appealing as a means of freeing up commitments and creating liquidity. With respect to rated funds, those vehicles are appealing to insurance company investors because they attract more favorable capital treatment than a traditional equity investment.

**1(b). But They Remain a Time-Consuming and Costly Undertaking**

While panelists were energized about the inherent value provided by these products, they were clear that both CFOs and rated funds remain a significant undertaking since they are, relatively speaking, still in their infancy and not yet standardized. For GP-led CFOs, there is significant time and analysis required on the front-end. Panelists agreed that GPs must be thoughtful and should avoid overallocating to new funds. For LPs, the inclusion of more funds creates more diversification but then undoubtedly drives up diligence time associated with understanding each underlying fund and the associated cash flows. For both CFOs and rated funds, more parties are seated at the negotiating table, which can include rating agencies and dealers, driving up costs and execution time. Not only is one rating agency going to be involved, but panelists agreed that having two rating agencies involved is helpful in passing NAIC regulatory muster. The legal practitioner panelists also pointed out that certain legal considerations are still being sorted out, including conflict and fiduciary considerations, as well as disclosure, confidentiality and competitor concerns.

**2. Regulatory Considerations are Still Relevant**

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Some panelists discussed and agreed that the conversations with the NAIC (and even certain state regulators) very much remain ongoing and fluid, and regulators continue to be focused on any equity-like component in these structures. Despite any headwinds created by such increased regulatory scrutiny, the panelists remained bullish on continued use of rated funds, and aside from the NAIC regulatory considerations, the legal practitioner panelists reminded conference delegates that there are other regulatory considerations at play with respect to rated funds, including that certain structures can be required to comply with the risk retention rules.

**3. Structures Have Existing Framework but Continue to Evolve**

The panelists made very clear that while these products are not yet fully mature, with both some uncertainty and a lack of standardization, they are far from experimental. One panelist stated that CFOs have been around since the early 2000s and, specifically with respect to LP-led CFOs, these were happening before the secondaries market became more robust. A clear theme from the conference was that there is no one-size fits all structure for either a CFO or a rated fund, and while complicated, it is this variation and menu of available choices that create the appeal. As examples, LP-led CFOs are less levered than GP-led CFOs and may have only one tranche of debt. Rated funds can have horizontal or vertical strips and do not necessarily have to be structured as a feeder fund but rather could be its own fund or a parallel fund – further driving home the point that different structures create different efficiencies. Panelists also indicated that CFOs have yet to reach their full potential, as they have only been adopted in the U.S. but are not widely used offshore.

**Conclusion**

In conclusion, the ongoing interest in and development of these products reflect the industry's resilience and adaptability in the face of current and evolving market dynamics and regulatory landscapes. As markets continue to engage with each of these financial instruments and the broader industry, Haynes Boone is committed to sharing our knowledge and contributing to the collective conversations and expertise that will continue to drive the fund finance sector forward. Please reach out to either of the authors or any of our other Fund Finance partners to discuss the topics addressed above or any other questions relating to this dynamic and exciting area of fund finance.

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