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Follow the money – Diverse liquidity options and considerations for complex Cayman Islands fund structures

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Background

The initial onset of the COVID-19 pandemic brought severe global markets disruption and adversely impacted the global economy. As a result, funds experienced the pressing need for additional capital to support their distressed portfolio companies or to exploit investment opportunities quickly that became available at a discount due to market volatility. In short, cash was king in the unpredictable economic environment, and the crisis forced asset managers to explore alternative liquidity solutions. The need for liquidity prompted flexibility at fund level to increase available capital, and managers used various ways to access additional sources of financing such as seeking investors to broaden recycling and reinvestment provisions, allowing the fund to reinvest proceeds from an exit or initiated cross-fund investing within the same group to secure lucrative investments. Furthermore, sponsors looked for increased flexibility on borrowing and investment limits and follow-on investments to allow additional capital to flow into their portfolio companies. Traditional secured financing has been boosted by liquidity solutions used to unlock value from the equity in the portfolio of funds via net asset value (NAV)-based, whole portfolio or preferred equity financing. In addition to pursuing liquidity strategies for existing products, the market dislocation caused by the pandemic has led many sponsors to consider taking advantage of new investment opportunities. As demand increases for investment strategies targeting volatility, we have seen the establishment of new funds with strategies categorised as market dislocation or event driven.

At the time of writing, we are experiencing vibrant and active markets with rebounding deal volumes and robust private equity fundraising and capital deployment activities. Globally, private equity firms generated USD592 billion in deal value in 2020, up by an 8% jump from 2019's performance and 7% higher than the five-year average of USD555 billion.[1] The alternative investment industry is enjoying a resurgence, with hedge funds having their best performance period for at least the past decade. This success is currently reflected in the hedge fund industry assets under management (AUM) surpassing the USD4 trillion mark – a new record.[2]

2020 was a rollercoaster year but the fund industry proved resilient. Sponsors and asset managers remained innovative and adaptable to the changes. The growth mindset was at the forefront of the success, enabling sponsors to find suitable liquidity solutions for complex fund structures. Agile responses to challenges meant quick adaptation to the changing working environment and gaining an edge in intensified talent wars. The rise of fintech, including cryptocurrencies, is also having a bigger impact on the sector, providing new investment platforms as well as new investment strategies. Funds are increasingly devising sustainable and green strategies and ESG has become an investment objective as well as providing metrics to determine investability. Funds are building stronger value-based relationships with their investors and ESG strategies are one of the building blocks of those core values. Investments in green and sustainable projects have increased and fund finance products have started to include ESG elements such as sustainability-linked loan principles and provisions.

The Cayman Islands remains the leading offshore jurisdiction for the establishment of private equity funds and hedge funds and stands at the centre of these capital flows and sophisticated legal structures. As of 30 June 2021, the number of closed-ended funds registered with the Cayman Islands Monetary Authority (CIMA) as private funds under the Private Funds Act was 13,820,[3] with a further 8,276 open-ended investment funds and 3,145 master funds regulated by CIMA.[4] Based on CIMA figures, we estimate that the total US dollar value of Cayman Islands open- and closed-ended funds stands at USD5 trillion. CIMA has no statutory authority to restrict a fund's investment strategy and Cayman Islands funds are thus employed by sponsors to pursue the full range of alternative strategies, including private equity, private debt, hedge, venture capital, infrastructure and real estate as well as traditional long-only investing. Main fund vehicles aside, Cayman Islands structures are also used for managed accounts, incentive compensation vehicles and co-investment structures as well as holding vehicles and blocker entities.

In this chapter, we examine some of the typical Cayman Islands fund structures throughout their life cycle and their liquidity options. Ensuring that the fund and its parallel, feeder, master, blocker, portfolio entities and related vehicles (the Multi-Fund) have sufficient liquidity is an important factor in the success of the fund. Leverage, if structured and priced correctly, can enhance a fund's returns significantly by reducing the cost of capital while offering attractive income returns to lenders. During the investment period, borrowings can smooth out cash flow issues and flatten the J-curve. Leverage can recapitalise fund assets and provide returns to investors without needing to exit underlying positions. We therefore look at some of the possible funding structures for complex Cayman Islands fund structures to obtain secured or unsecured debt financing throughout their full term. It is clearly also important for lenders to understand such structures, their operation and cash flows in order to protect their positions; for instance, in terms of ensuring that guarantees and/or security arrangements are implemented at the correct level and cannot be avoided. Prior to fund formation and as part of structuring, sponsors must anticipate with their fund finance and fund formation counsel the liquidity and structural requirements of the entire fund structure during its life cycle.

Common Cayman Islands structures

When establishing a fund with investors from multiple jurisdictions who are subject to different local tax and regulatory regimes, a multi-tiered 'master-feeder' structure is often used. In this structure, one or more Cayman Islands or onshore feeder funds (complying in each case with the local offering and tax requirements of the specific jurisdiction) raise investor funds and 'feed' the combined proceeds into a single Cayman Islands master fund in or through which underlying assets are held. For example, US taxable investors will often invest in a Cayman Islands master fund through a US-based feeder fund, while non-US investors and certain non-taxable US investors typically invest in the Cayman Islands master fund through a Cayman Islands feeder partnership fund or 'blocker' corporate entity in order to address their tax and regulatory requirements. Each feeder issues shares or interests to its investors in return for capital commitments from those investors, which the feeders onward invest in subscribing for interests in the Cayman Islands master fund. In turn, the Cayman Islands master fund uses those investment proceeds to acquire underlying investments, directly or through subsidiaries. Multi-Fund structures can also employ parallel fund arrangements, which invest and divest in the same investments on a side-by-side basis with or without the use of a master fund. Alternative investment vehicles (AIVs) are often used for tax or regulatory reasons to hold a particular investment, and investors might be required to make their capital contributions directly to the AIV (hence reducing their capital commitment to the main fund).

Depending on the investment strategy of the fund or the various tax, regulatory or legal considerations of its investors (e.g. ESG or Sharia compliance), the fund might consider, for example, co-borrowing with and/or guaranteeing and/or securing the borrowings or other indebtedness of its related entities in the Multi-Fund structure. The constitutional documents of the fund and the related group entities should be drafted in a manner that enables the desired funding and security structure to be implemented. Finance lawyers understanding the legal issues of complex fund structures must review the draft constitutional documents to ensure that the liquidity requirements of the fund and its related entities can be achieved under the organisational documents, and that any appropriate entities are duly registered under the Private Funds Act.[5]

In many respects, the needs of the fund, its investors, sponsors and lenders are highly aligned; for example, ensuring that the available capital is precisely defined in a robust manner in both the fund and finance documents. Lenders must understand how available capital may be affected by, for example, such vital provisions as the equalisation upon subsequent investor closings or the capital recall arrangements to meet the expense or indemnity liabilities of the fund (or indeed the clawback on the general partner's carried interest or on distributions to limited partners). In single fund transactions, these require close attention, and matters become all the more acute in a complex fund structure spanning many parallel, feeder and blocker entities. Any weakness in these arrangements may constitute the basis of the defence of an investor who is subject to a capital call from an insolvent fund or its receiver.

Capital call funding of Cayman Islands fund structures

There are various ways to 'insert' debt into a master-feeder structure, ranging from the fairly straightforward to more complex, albeit increasingly common, methods. Given the pre-eminence of Cayman Islands fund vehicles, it is unsurprising that they are at the forefront of innovative and intricate financing structures. We select some interesting practical considerations below.

Cascading *vs* guaranteed structures

In master-feeder structures, in order to gain recourse against the capital commitments of the ultimate investors, subscription credit lenders may request guarantees or cascading security from feeder funds. As a feeder fund invests all of its investors' investment proceeds into the master fund (or a lower fund-related entity) and does not hold assets directly, it should seek to avoid securing or guaranteeing the borrowings of the master fund (e.g. through the 'covenant to pay') in excess of its capital on grounds of commercial benefit and insolvency risk. Even in situations where a guarantor feeder fund limits its guarantee, it should give consideration to a potential double exposure, on the one hand under its guarantee to the lender and on the other hand under its capital commitment to the master fund. Any subrogation arising upon paying the debt of the master fund gives little comfort as it is invariably subordinated to the debt owed by the master fund to the lender and will be deferred until all liabilities are cleared.

Hybrid capital commitments

For tax structuring reasons, investors and intermediate entities often make use of hybrid capital commitments to the fund in the form of equity and debt obligations. These structures are often flexible as to whether capital is called as debt or equity in order to mitigate taxes on a particular investment based on evolving tax policy. From a sponsor's perspective and in anticipation of the needs of future lenders, the right to cause the debt financing to be advanced will require careful drafting to ensure it is assignable by way of security and cannot be avoided in an insolvency situation. Moreover, the debt advanced by investors or intermediate entities will need to be thoughtfully subordinated from the outset to contemplate the requirements of an external lender financing the fund.

Intermediate blockers

It is common for fund structures to be layered, with blocker or other intermediate entities between fund vehicles, through which subscription funds flow to reach the ultimate master fund (in a master-feeder structure) or portfolio investment (in a parallel structure). In the case of a Cayman Islands company, the right to call capital vests in the company itself, and where the company is a typical exempted company limited by shares (rather like a US C Corp), the directors have the power and authority to make calls for uncalled capital and to receive into the company capital contributions from shareholders in accordance with their subscription agreements. The Companies Act of the Cayman Islands allows flexibility in the structuring and as such, partly paid shares (whereby the investor only pays part of the subscription price upon its subscription and the unpaid part remains outstanding as a capital commitment of the investor) and shares issued in tranches (whereby the issued shares are fully paid upon issuance but the company may issue further shares up to the amount of the investor capital commitment) may both be used in Cayman Islands fund structures. Sponsors and lenders need to appreciate the features and indeed characteristics of each, as the two approaches may provide different consequences in terms of the lawfulness of release of capital commitments, the ability to increase the commitment on shares (perhaps upon subsequent closing equalisation or recallable distributions), the validity and consequences of forfeiture upon a breach, the flexibility that can be afforded for custodian or other pass-through investors, and the risks of any defect or delay in share issuance. The share structuring of a blocker or similar entity may also need close consideration in order to reflect the flows of capital to and from, and any associated commitment, excuse, exclude or default adjustment between, the feeder entities to the blocker. Where tax analysis allows, we anticipate an increase in the use of 'limited liability company' (LLC) form, which follows the Delaware model and envisages the LLC issuing members' interests of variable commitment amounts similar to a flexible partnership format.

Pass-through investors – custodians and feeder structures

It is well recognised by sponsors and lenders that custodians acting on behalf of investors have a cautious approach to commitment-based structures, and typically, custodians will ensure that the underlying investor substantially collateralises the custodian in respect of the initial commitment to the fund. Difficulties may arise towards the end of the life of a fund where there have been distributions that may be recalled by the fund for indemnification matters. At the point of initial fund structuring, from a sponsor perspective, it may be advisable to include a mechanism that permits the custodian to substitute its underlying investor in a manner that still gives sufficient comfort to a lender. This should neutralise the risk position substantially for custodians and reduce their concerns as investor.

In a related vein, it is common for master funds to limit their recourse against a feeder fund upon a subscription default by the feeder fund, so that the default only applies to the portion derived from a default of an investor in the feeder fund. This is commercially common and well recognised. From a structuring perspective, sponsors must ensure that the default management arrangements are sufficiently robust and be certain that the rights of the lender are not hollowed out, though equally not at the risk of reintroducing contagion within the feeder fund impacting all feeder fund investors upon the default of one of their number. Particular consideration should be given to feeder-on-feeder structures.

LP Givebacks *vs* Recallable Capital

Almost all long-form partnership agreements (and the ILPA Model Limited Partnership Agreements) include a 'return of distributions' provision whereby limited partners are required to contribute capital to the partnership to cover obligations of the partnership out of distributions previously made by the partnership (LP Giveback). The LP Givebacks are heavily negotiated between sponsors and seed investors and usually limited by cut-off times and/or percentage amounts of distributions or commitments. The general partner of the partnership may only exercise its right to 'claw back' distributions from the limited partners under the LP Giveback where the partnership agreement explicitly authorises the general partner to do so. Naturally, the general partner may only operate the LP Giveback provisions where the uncalled capital commitments of the limited partners are exhausted. The obligation of the limited partners to inject capital to fund liabilities of the fund (including indebtedness) as an LP Giveback would not increase (nor, if paid, discharge) their uncalled capital commitments.

We must distinguish LP Givebacks from recallable commitments. 'Recallable commitments' usually means the unused capital contributions of the limited partners returned to them by the general partner and the recycled distributions of the partnership, which are liquidity proceeds of realised investments distributed to the limited partners with a provision that they could be recalled later (Recallable Capital). Recallable Capital, once it is returned to the limited partners, is added back to the limited partners' uncalled capital commitments, thus increasing the uncalled capital commitments of the limited partners.

Under capital call financing, a security interest is created over the general partner's right to call uncalled capital commitments from the limited partners of the partnership. Most security assignment agreements fail to create security over the general partner's right to demand capital from the limited partners beyond the uncalled capital commitments. As uncalled capital commitments decline during the life of the financing, lenders may wish to consider requesting that the general partner grant a security interest over its right to demand funds from the limited partners under LP Givebacks. The fact that LP Givebacks are not part of the borrowing base of the facility should not necessarily mean that the LP Givebacks are excluded from the collateral package. Lenders would of course prefer to be overcollateralised for typical reasons.

NAV-oriented funding of Cayman Islands fund structures

NAV-oriented borrowing looks to the NAV of the fund's portfolio of investments in determining borrowing ability, and lenders are sought to underwrite the assets of the fund or to lend against the future cash flows of the portfolio of investments. In implementing the financing, it is crucial that NAV-oriented borrowing and related fund-level leverage are not prohibited in the constitutional documents of the fund. These types of asset-backed fund finance facilities are often sought by funds to finance the acquisition of investments or to inject recapitalisation funding to release distributable proceeds for investors. Funds may also require liquidity at the portfolio company level for bolt-on or opportunistic investments. We have witnessed a recent shift away from single-asset lending (i.e. leveraged loans and real estate financing) towards portfolio-based financing where leveraged, real estate and project financing transactions are structured as lending against a diversified portfolio of assets. Such structures may provide enhanced flexibility to funds, as they may be able to invest and divest assets without needing to obtain lenders' consent or to amend security documentation, while still affording lenders an acceptable level of diversified security.

We examine below the emergence of certain funding products and how the strategy of a fund will influence its financing structure.

<u>Private equity funds</u>

As private equity funds typically hold investments through holding companies, the ability to grant security over the equity interests of the fund in companies is fundamentally important in a NAV-oriented funding structure. Lenders must review the constitutional documents of the company to ensure that granting and enforcing security is fully effective. Detailed due diligence should reveal whether the shares are subject to restrictions such as consents, rights of first refusal or first offer, tag-along or drag-along rights. Difficulties may also arise if third-party leverage is in place at the asset level. Asset-level lenders are structurally senior to any fund-level lenders, and their facility agreements typically prohibit a change of control at the asset company level. Fund lenders enforcing their security over the shares of the asset company would trigger a change of control and, due to the structural subordination, the fund-level lender's recovery will be net of, and subsequent in priority and timing of payment to, the liabilities owed to the asset-level lender.

If the asset company is incorporated in the Cayman Islands, lenders should require its constitutional documents to be amended to restrict the transfer of the secured shares, to eliminate the discretion of the directors to refuse to register a transfer of the secured shares upon enforcement of the security, and to disapply the company's lien in respect of secured shares. The loan and security documentation should also prohibit the company whose shares are secured from amending its constitutional documents without the consent of the lender.

<u>Secondary funds</u>

Due to the typical requirement that the consent of the general partner must be obtained prior to granting and/or enforcing security over a limited partner's interest in a Cayman Islands exempted limited partnership, secondary funds have moved away from providing direct security over limited partnership interests[6] when structuring their acquisitions of large portfolios of such secondary limited partnership interests. One structural solution involves employing a Cayman Islands special purpose vehicle (SPV) to purchase the interests. The fund and/or the SPV could borrow funds to finance the acquisition. No direct security over the limited partnership interest would be granted and instead, the distribution proceeds generated from holding those interests will be secured in favour of the lender (enhanced by regular cash sweeps, if applicable), and security over the shares of the SPV will also be granted so the lender could 'step in' to the structure upon enforcement and look to sell the underlying portfolio as a whole. In addition, the SPV might be 'orphanised' by appointing an independent board, perhaps with its voting management shares held under an independent purpose trust, to give additional protection to the lender.

Another alternative is to establish a custody arrangement whereby the investments of the fund are transferred to and held by a custodian under suitable control arrangements. Distribution proceeds arising from those underlying investments (which may be swept on a periodic basis in order to service the financing) will also be held by the custodian. The fund might create security over its rights arising under the custody agreement in respect of the custodian assets in favour of the lender, which would be able, for example, to direct the custodian to dispose of the investments in an enforcement scenario. Similarly, trust arrangements may also be used.

Financing future income streams

We have observed an increase in the use of GP-support and management fee facilities where lenders advance funds to the sponsor against management fees or the profit share of the general partner of the fund. Those income streams are generated under the partnership agreement or the management agreement of the fund. Lenders' due diligence must examine how those fees are calculated and reveal whether sponsors are able to reduce or delay the payment of management fees/profit shares, for example, due to poor portfolio performance. In addition, the lender should consider including a prohibition on the ability of the sponsor to waive, reduce, or defer the payment of management fees. It is important to note that fund-level lenders may also subordinate the payment of management fees in the facility agreements of the fund, which may have the effect of reducing or prohibiting the payment of management fees. In addition, fees may be subject to deductions in respect of service fees paid to the manager by the portfolio companies.

In co-invest facilities, lenders provide leverage based on the borrower's return on the fund. In co-invest facilities (similar to financing a secondary partnership interest), a lender ultimately lends against the co-investor's portion of the underlying investments. To enhance the lender's position, the co-investor borrower will be prohibited from disposing of its investment in the fund and moreover, distributions from the underlying investments might be used to fully or partly repay the borrowings. As the lender will not have any recourse to the underlying investments (and only to the cash flow arising from the investments), it may require a personal guarantee from the co-investor to overcome the limited recourse restriction.

Preferred equity

Portfolio finance (capital advanced based on the value of a fund's portfolio) has grown rapidly in the years since the global financial crisis and as the onset of the pandemic has dramatically increased funds' demand for liquidity, traditional secured financing has been boosted by preferred equity financing. These facilities have been deployed by general partners to fund follow-on, opportunistic or bolt-on investments, or as a cash advance of future cash flows (e.g. accelerating distributions to satisfy investor liquidity demands). Preferred equity solutions offer the funds liquidity by unlocking the equity value of the portfolio so the fund will be able to grow the value of the portfolio and benefit from future upside without the need to sell the assets. It provides capital to a private equity fund via issuance of equity capital. Preferred equity can be used for the same purposes as asset-based facilities but, as it has no debt-like covenants and restrictions, it provided a valuable tool for funds during the early months of the pandemic when valuations were volatile. Preferred equity solutions have no maturity and typically offer higher advance rates against the underlying investments than traditional asset-based lending. Preferred equity providers usually obtain a priority right to receive distributions up to a multiple of the price of the preferred equity whilst the benefits of upside performance remain with the existing investors. Funds or portfolio companies that cannot borrow due to regulatory, tax, accounting or legal reasons (or are already highly levered at fund level) should consider preferred equity financing because the preferred equity, if properly structured, should not appear on their balance sheet as a liability. Although preferred equity provides economic exposure to a portfolio of investments, that exposure is provided through securities issued by a single fund. Due diligence of the constitutional documents of the fund and the underlying portfolio companies and their cash flows are crucial for a successful financing.

Crypto funds

Digital asset represents a USD2 trillion plus market of alternative assets (including pure cryptocurrencies such as Bitcoin or Litecoin and platform coins such as Ethereum, and stablecoins). The digital asset market extends beyond the assets themselves and includes other market participants such as online exchanges, payment processors and mining companies.

The Cayman Islands, being a leading global financial centre and having a reputation as one of the world's most innovative business-friendly jurisdictions in which to operate, became an obvious choice for many of those wishing to establish fintech structures. We have seen the growth of Cayman Islands crypto funds (investment funds established with the purpose of investing in various cryptoassets), exchanges and decentralised trading platforms. The Virtual Asset (Service Providers) Act 2020 (VASP) regulates businesses providing services related to digital assets and cryptocurrencies in the Cayman Islands. A virtual asset service provider is an entity that is incorporated or registered in the Cayman Islands and provides a virtual asset service as a business or in the course of business. Although the VASP regime is beyond the scope of this chapter, it is clear that blockchain technology and cryptoassets are impacting how people invest, borrow and save. For example, major crypto exchanges or decentralised credit platforms allow users to earn 'interest' on balances of certain cryptoassets and clients may borrow with cryptoassets as security to back their loans.

In terms of investment strategies of crypto funds, growth strategies are focusing on long-term investments, investing either directly in certain digital assets or in entities developing goods or services to the fintech industry. Other strategies include hedge fund strategies such as long/short funds, which often use derivatives and seek to capitalise on the price volatility across various exchanges. In addition, fund managers have been experimenting in revenue-generation strategies and adopting credit fund-type strategies. In terms of financing crypto funds, the method will depend on the investment strategy and the underlying investments of the fund. Financing direct investments in digital assets entails derivatives and synthetic structures utilising title transfer quasi-security arrangements (or other control strategies) over the underlying cryptoassets/security tokens. Investments in underlying fintech entities can be financed by any traditional fund finance products. Crypto credit funds will have flexible funding options as detailed below.

Private credit funds – part of two worlds

Private credit funds, as both borrowers and lenders, merit particular mention, not least as the private debt market (which includes distressed debt and venture capital) has experienced impressive and sustained growth over the last several years, increasing from USD42.4 billion in AUM in 2000 to USD776.9 billion in 2018. Experts say that the AUM of private credit currently stands at USD1 trillion.[7] Private credit funds as lenders are extremely active in financing private equity funds and portfolio companies and providing credit for their acquisition, real estate, infrastructure and development activities. A large portion of private credit funds are now offering ESG-focused private credit products incorporating ESG-linked financial incentives in their loans.[8] Private credit funds have demonstrated their ability to provide bespoke expertise and flexible capital and are able to finance beyond the traditional means of bank lending. According to one survey, over half of the funds now use private credit as the preferred choice over traditional bank financing in their buyouts as private credit is typically able to customise borrowing terms to a far higher degree, which can result in an extra level of leverage and tailored borrowing covenants for funds.[9] Flexibility is crucial for fund borrowers especially at times of uncertainty. As the landscape is shifting towards flexible financing solutions, we expect that private credit fund lenders will continue to grow their market share in the fund finance market.

For private credit funds as borrowers, clearly the earlier points apply as they do to any private fund when anticipating future financing requirements. As the underlying loan portfolios are income-generating assets, private credit funds typically have flexible funding options. They can borrow against the cash flow of the portfolio of loans on a secured or unsecured basis. They can securitise the portfolio or use other synthetic structures (for example, using credit default swaps or risk participations) to transfer some of the risks of holding the loan positions. Private credit funds can even raise collateralised loan obligation financing over larger portfolios by issuing sophisticated risk and return-based tranches of securities. Generally speaking, the private credit fund, as a loan originator, has the opportunity to structure their portfolio of loans to be suitable for a wide range of financing, refinancing and realisation transactions. Where the loan portfolio cannot be so easily assigned or secured, then the Cayman Islands SPV, custodian or trust-based structures come to the fore and can be deployed to house the loan portfolio in anticipation of future needs.

Outlook and conclusion

According to Preqin, at the time of writing, alternative AUM globally stands at around USD11.8 trillion.[10] In accordance with Preqin's AUM forecast model, by 2023 the industry will reach a record USD14 trillion and by the end of 2025, global AUM in alternatives is expected to rise to USD17.16 trillion.[11] The private equity market is incredibly active, with USD1.17 trillion worth of deals recorded between January and September 2021, surpassing every prior full year and beating the previous record of USD846.8 billion recorded in 2007 just immediately before the financial crisis.[12] Based on the current run rate, the industry could top USD1.2 trillion in fundraising in 2021.[13] The buoyed fundraising was fuelled by strong returns and innovative investments. Agile sponsors were quick to adapt to virtual due diligence and remote relationship building. The growth sectors such as technology and healthcare were popular during the first half of the year,[14] while private credit also had a good year. As markets bounced back, direct lending funds were again eager to deploy into opportunities and have benefitted from a robust and growing pipeline.[15] According to Preqin, the current private credit AUM will grow from USD1 trillion to USD1.46 trillion by 2025.[16]

Absent yield in the forever-depressed rate environment, investors in search of returns will continue to place capital with attentive fund managers. With high levels of fundraising, general partners have to work even harder to put that capital to work in a timely manner. As a consequence of the pandemic, the amount of dry powder is at a record high, and the biggest challenge of the industry currently is the fierce competition for deals. Uncertainty around the sustainability of the current growth rate is likely to persist, especially as COVID-19 infection rates continue to rise and fall. Inflation and tax rises remain a major concern. Most private equity firms consider that, in order to stay ahead of the curve and beat competition, they have to remain agile and creative when sourcing and structuring deals.[17] Flexibility is paramount when those private equity sponsors are looking for liquidity solutions.

We have no doubt that the growth of the private equity and private credit markets will continue with considerable pace and with that, we anticipate increasingly complex fund structures paired with flexible liquidity solutions. The Cayman Islands will remain the premier offshore jurisdiction for investment funds due to its sophisticated legal and regulatory framework, and we expect that some of the pandemic-driven innovative liquidity solutions will become core financing options throughout the life cycle of investment funds.

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Endnotes

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