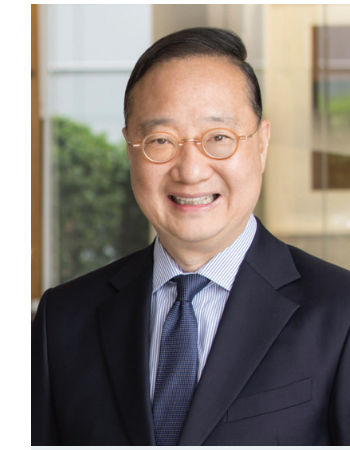
STRUCTURED FINANCE **SPECTRUM**

ALSTON & BIRD

WINTER 2025

In this issue

Editor’s Note



B.K. Lee
Partner, Finance

You have probably heard of the aphorism “may you live in interesting times.” While often thought of as an ironic play on words, where “interesting” stands for chaotic and turbulent, the winter of 2025 reminds us of the more literal meanings of “interesting” as well—intriguing, compelling, and fascinating.

As this issue of the *Spectrum* goes to press, the priorities and preferences of the new Administration in Washington, D.C. are creating “interesting” effects across the securitization landscape. The Consumer Financial Protection Bureau, which leveraged its consumer protection mandate to regulate large swaths of the securitization landscape, has been ordered to suspend operations. The drive to reduce federal spending spearheaded by the Department of Government Efficiency has raised questions about CMBS loans backed by government leases at risk of termination. Tariffs threatened and imposed are creating instability in certain industries, including auto, with unknown impacts on consumer spending and credit.

Meanwhile, advances in artificial intelligence are leading to unprecedented levels of investment in digital infrastructure, including data centers and power generation, and the finance industry, both traditional and new, is scrambling to meet that demand.

The articles in this winter edition of the *Spectrum* provide a guide to help understand and navigate this rapidly evolving securitization landscape. The articles include an explanation of the increasing attractiveness of residential mortgage loans as insurance company investments, a primer on how innovative structuring of investment funds is increasing retail access to alternative investments, a closer look at business development companies, and an introduction to project finance as an alternative financing model for large-scale data center investments. There are also articles discussing recent regulatory and judicial developments affecting securitization at the state level, in the European Union, and by the Corporate Transparency Act.

All of us in the Alston & Bird Finance Group are focused on providing you with the insights and advice necessary to navigate these “interesting” times. We hope you find this issue of the *Spectrum* a useful tool and guide.

A Shift in Investment Strategy: Why Insurance Companies Are Turning to Residential Mortgage Loans

Historically, insurance companies predominantly invested in debt instruments with a wide allocation to various fixed-income asset classes. According to the Capital Markets Special Report for 2020 issued by the National Association of Insurance Commissioners (NAIC), the insurance industry's exposure to mortgage loans doubled in size, from approximately $300 billion in 2010 to more than $620 billion in 2020. However, by year-end 2020, residential real estate only accounted for approximately 6% of this exposure.

But since 2020, there has been a significant shift in insurance companies' investment and exposure to residential real estate. For example, life insurance companies owned $92.6 billion in residential mortgage loans as of Q1 2024 compared with only $40 billion in 2020, according to Angel Oak Capital Advisors' insurance investment white paper. Insurers have also increased their holdings of residential mortgage loans by approximately 45% over the last year due to multiple factors. Higher interest rates; steady, consistent returns; low risk-based capital (RBC) charge; and favorable deal structuring together create an ideal opportunity for life insurance companies to increase their holdings in residential mortgage loans.

When the Federal Reserve concluded its rate-hiking cycle and implemented a "higher for longer" policy in Q3 2023, residential mortgages emerged as superior risk-adjusted assets. While higher interest rates made insurers' typical investments in commercial real estate and private equity less economic, higher rates increased yields on residential loans to levels that better matched what insurers needed to pay liabilities. According to Angel Oak Capital Advisors', over the last two years, the current prepayment rate (CPR) on residential mortgage loans has hovered around 5%–10%, but historically CPR has been much higher.

Currently, many U.S. borrowers with loans that were originated before 2023 are locked into low-rate mortgages and are disincentivized from forgoing their low fixed rates in this higher mortgage rate environment. Fewer refinancings have lengthened the duration of cash flows that investors can expect to receive from the assets. Even with the Fed recently lowering interest rates (slightly), mortgage rates have nonetheless maintained their stability. This stability makes investment in both debt and equity investments in residential real estate very appealing for insurers.

It should be noted that with the evolving market and regulatory landscape, guidance from regulatory, insurance, and structuring counsel is necessary when considering these investments.

In addition to stability, residential mortgage loans are attractive from an RBC perspective. Pursuant to the NAIC's RBC framework for life insurance companies, residential mortgage loans generally receive a 68-basis-point capital charge, a rate similar to the capital charge assessed on single-A-rated bonds. Furthermore, residential mortgage loans, in contrast to bonds, offer a more scalable investment for life insurance companies. Because life insurance companies tend to buy and hold investments, residential real estate investments match well with the longer liabilities of life insurance companies.

The Federal Home Loan Bank (FHLB) also offers insurance companies financing options for residential mortgage loans, with typical advance rates from 70% to 80%, providing liquidity and optionality to enhance the total return profile for residential mortgage loans. Insurance companies may also benefit from owning non-qualified mortgage products, home equity lines of credit, second liens, and agency investor loans as part of a diversified investment portfolio with a potentially low RBC charge and the ability to pledge the mortgages for FHLB financing. With higher mortgage rates, rental income, and low prepayment risk, residential mortgage loans are an attractive investment for insurance companies.

It should be noted that the mortgage loan industry is highly regulated, with many states mandating that mortgage loan holders maintain specific licenses to conduct business. Most insurers do not have these specific licenses, and obtaining them could be a costly endeavor. To accommodate investment from insurers in the residential mortgage loan space, innovative structures have been developed to meet regulatory requirements. These structures include pass-through trusts, participation interest trusts, and master titling trusts, pursuant to which the assets are held in a trust and with a national bank acting as the trustee. It should be noted that with the evolving market and regulatory landscape, guidance from regulatory, insurance, and structuring counsel is necessary when considering these investments.

In summary, the investment strategies of insurance companies have transformed considerably over the past decade, with a notable increase in their exposure to residential mortgage loans. This evolution has been fueled by higher interest rates, regulatory changes, and the pursuit of more stable, risk-adjusted returns. By adopting innovative trust structures and strategically investing in non-qualified mortgages, insurers are successfully navigating regulatory challenges and seizing new opportunities in the residential real estate market. As insurers continue to refine their portfolios in response to a dynamic economic landscape, this trend is poised to persist and perhaps accelerate. ■

State Regulation of Securitization Trusts and Secondary Market Participants in Consumer Financial Products

State regulators are increasingly scrutinizing not only primary participants in consumer financial transactions but also secondary market participants that purchase, hold, or otherwise acquire an economic interest in these transactions' assets and receivables.

In the mortgage space, one of the most significant developments occurred in Maryland in 2025. On January 10, the Maryland Office of Financial Regulation (OFR) issued new guidance mandating that mortgage trusts and their assignees obtain licenses to operate in the state. The OFR's decision was based on its interpretation of the *Estate of Brown v. Ward* case, in which a home equity line of credit (HELOC) held by a trust was subject to Maryland's credit grantor provisions.

In *Estate of Brown*, a Delaware statutory trust acquired a HELOC on residential real property in Maryland and sought to foreclose. The personal representative to the borrower's estate raised several challenges to foreclosure, including that the trust was not properly licensed as the assignee of the HELOC. The court, in a shocking reversal of settled law, agreed that the trust needed a license. The OFR, in interpreting the case broadly, determined the case applied to all mortgage assignees. As a result, all assignees of residential mortgage loans, including passive trusts, are now subject to licensing.

This guidance, which takes effect immediately with enforcement delayed until April 10, 2025, raises several concerns. First, it departs from established legal norms, where licensing statutes typically apply only to assignees if explicitly stated. The OFR's stance requires all mortgage loan assignees to hold a mortgage lender license unless exempted. Second, the guidance's rationale extends beyond mortgages, suggesting that assignees of installment loans may also require an installment lender license.

It is also noteworthy that a handful of states, including Connecticut, Georgia, and New Hampshire, have recently required licenses for the assignees of mortgage servicing rights, including trusts and other passive vehicles.

These developments in the mortgage space are especially troubling because the licensing process itself is demanding. Trusts must designate a principal officer who meets specific qualifications, including three years of experience in mortgage lending. This officer must undergo a credit report check and criminal background check (including fingerprinting) and submit a resume. Trusts must also secure a surety bond, register as a foreign entity in Maryland, and submit a business volume statement for the past 12 months. These requirements could result in significant costs and administrative burdens, particularly if bank trustees are involved. Furthermore, licensees will be subject to ongoing compliance with applicable laws and regulations.

In the auto finance space, while many state laws offer exemptions for securitization trusts, certain jurisdictions, including Pennsylvania and Maryland, have long required licensing for trusts involved in auto securitization, though these licenses have far fewer requirements than required under mortgage laws. Even there, the landscape is shifting.

During Michigan's 2024 legislative session, a bill was introduced to amend its sales finance law, potentially eliminating an exemption for purchasers of installment sales contracts—a provision that could have impacted securitization trusts. Thanks to advocacy from industry stakeholders, an amendment was added, explicitly exempting secondary market aggregators.

In contrast, New Hampshire took a less nuanced approach in 2024, revising its sales finance law to apply to all secondary market assignees. While this change could have been interpreted to encompass auto securitization trusts, subsequent guidance from the state clarified that the servicer or another responsible entity within the securitization trust could fulfill the licensing requirements.

In Connecticut, a 2023 law shift eliminated the exemption for assignees, meaning that secondary market participants acquiring retail installment contracts may now be required to obtain licenses, a change that came without formal notice or guidance from the state.

Industry stakeholders are actively engaged in Maryland to address the most alarming of these laws. However, the actions in Maryland, coupled with recent changes in other state laws, reflect a broader trend of increasing state and federal regulation of the secondary market for consumer credit assets, particularly securitization trusts.

These developments in the mortgage space are especially troubling because the licensing process itself is demanding.

For instance, the Consumer Financial Protection Bureau (CFPB) has successfully exercised its authority to investigate and bring enforcement actions directly against securitization vehicles. In one example, on October 1, 2024, the CFPB reached a settlement with the National Collegiate Student Loan Trusts and the Pennsylvania Higher Education Assistance Agency concerning improper servicing practices.

Given these developments, it is essential for industry participants and trade groups to collaborate closely to advocate against these regulatory shifts, submit comments on proposed legal changes, and push back against overreaching regulations.

Alston & Bird's Consumer Financial Services Team is closely monitoring these changes and is available to assist with any compliance concerns with the evolving regulatory landscape. ■

1940 Act: Transforming Access to Alternative Investments

Many alternative investments have traditionally been reserved for institutions and very wealthy individuals, leaving a vast group of individual investors on the sidelines. Regulatory hurdles and operational complexities have discouraged private equity sponsors and other alternative asset managers from engaging with those with considerable, yet not institutional-scale, wealth.

But the investment market is changing. This overlooked demographic, often referred to as the "mass affluent," represents an enormous source of untapped capital, offering the potential to reshape the private investment landscape.

There are several innovative uses of fund structures that make this shift possible: interval funds, tender offer funds, and business development companies (BDCs). These vehicles provide advantages over traditional private funds by combining enhanced capital-raising capabilities, flexible investment strategies, and robust investor protections.

For asset managers, they offer a pathway to expand their reach and diversify their investor base. For individual investors, they unlock sophisticated investment opportunities that were once inaccessible.

Types of Closed-End Retail Funds

Interval funds and tender offer funds

Interval funds and tender offer funds, which are both classified as closed-end funds (CEFs), operate under the Investment Company Act of 1940, and shares of these funds can be listed on an exchange or unlisted. The unlisted versions of these regulated funds can continuously raise capital by offering shares at net asset value (NAV), while avoiding the restrictions private funds typically face over the number or qualifications of investors. The key difference between interval funds and tender offer funds lies in their liquidity mechanisms.

Interval funds adhere to a set schedule for liquidity. They must offer to repurchase between 5% and 25% of outstanding shares at regular intervals, which can be quarterly, semi-annually, or annually. Importantly, any changes to the repurchase schedule generally require investor approval, reinforcing the fund's commitment to structured liquidity, and this predictability makes interval funds appealing to investors who prioritize consistent, recurring access to their capital.

For asset managers, (alternative investments) offer a pathway to expand their reach and diversify their investor base. For individual investors, they unlock sophisticated investment opportunities that were once inaccessible.

Conversely, tender offer funds provide greater management control over liquidity. These funds' board members decide when and how much of the shares to repurchase, allowing them to align liquidity events with market conditions and the funds' strategic direction. While this approach can adapt to a fund's unique needs, it may offer less certainty for investors seeking consistent liquidity options.

Business development companies

BDCs occupy a unique niche in the investment landscape. While not registered under the 1940 Act, they must make an election with the Securities and Exchange Commission (SEC) to comply with several provisions of the 1940 Act. The 1940 Act provides a more permissible regulatory framework for BDCs compared with registered closed-end funds, which provides BDCs certain operational flexibility. Like CEFs, unlisted BDCs can raise capital continuously and provide periodic liquidity, often through quarterly tender offers.

What sets BDCs apart is their investment mandate. Under the 1940 Act, they are required to allocate at least 70% of their assets to "qualifying assets," which may include cash, government securities, and eligible portfolio companies, and their investments typically include loans to, or noncontrolling equity investments in, small and medium-sized private U.S. companies. But BDCs do more than just provide funding—they generally take an active role in supporting their portfolio companies. By offering managerial expertise and strategic guidance, BDCs become partners in the growth and success of the businesses they invest in, and this hands-on approach creates value beyond financial returns, benefiting both investors and the portfolio companies.

Advantages for Managers: Capital-Raising Opportunities

Unlike certain private investment funds that rely on capital drawdown structures, CEFs and BDCs allow managers to continuously raise capital through both private and public offerings. Public offerings provide access to a broader investor universe by registering under the Securities Act of 1933, and this approach removes the traditional restrictions of limited offerings to qualified purchasers or accredited investors. By democratizing alternative investments, CEFs and BDCs unlock several key benefits.

Expanded investor base

CEFs and BDCs open the door to retail investors, meaningfully expanding a manager's pool of potential investors. By going beyond institutional clients and ultra-high-net-worth individuals, managers gain access to new and untapped sources of capital.

Evergreen capital structure

The continuous offering structure of CEFs and BDCs creates an "evergreen" flow of capital, transforming fund operations. Managers benefit from greater flexibility in managing portfolios, the ability to reinvest proceeds without being constrained by typical recycling limitations, reduced pressure to liquidate existing investments to fund new opportunities, and the freedom from the constraints of traditional fund life cycles and vintage-year fundraising. In short, the evergreen structure allows managers to focus on long-term strategic goals without the need for constant fundraising resets.

Access to retirement accounts

CEFs hold a unique advantage in their ability to accept investments from retirement accounts such as individual retirement accounts (IRAs) and Employee Retirement Income Security Act of 1974 (ERISA) plans. Because they are registered under the 1940 Act, investments from these accounts do not trigger "plan assets" treatment under ERISA or Section 4975 of the Internal Revenue Code. This opens the door to a vast retirement market—a competitive edge more easily accessible to CEFs than BDCs or traditional private funds.

Private-offering flexibility

Even when CEFs and BDCs pursue private offerings, they retain most of their structural benefits. While investor participation is limited to accredited investors in these cases, managers can still enjoy the flexibility of continuous capital raising. This capability empowers managers to adapt their fundraising approach to market conditions or regulatory considerations without sacrificing their operational advantages.

Investment Strategies: Balancing Flexibility with Structure

Capital-raising benefits do not come at the expense of investment strategy. CEFs and BDCs enable managers to pursue diverse investment approaches comparable to those of traditional private funds, including direct lending and other forms of private credit, private equity, venture capital, infrastructure, high-yield and distressed credit, real estate credit, and convertible credit strategies. The ability to combine strategic freedom with innovative capital-raising tools positions CEFs and BDCs as useful options for managers looking to build versatile, long-term investment platforms.

> CEFs and BDCs provide important investor protections through comprehensive reporting requirements, robust governance standards, and restrictions on affiliate transactions.

While both registered open-end funds and CEFs/BDCs can use evergreen continuous offering structures, CEFs and BDCs provide managers with greater flexibility in their investment strategies. This advantage is rooted in their unique approach to managing liquidity.

Liquidity advantages

Registered open-end funds (such as mutual funds) are subject to stringent liquidity requirements because of their obligation to offer daily redemptions. To meet these demands, open-end funds must generally maintain a significant portion of their portfolios in highly liquid assets to accommodate redemptions at NAV, regularly calculate and publish NAV figures, and structure their investments conservatively to manage unpredictable capital flow.

In contrast, CEFs and BDCs operate with fewer liquidity constraints. By eliminating frequent redemption rights and instead offering controlled liquidity windows, these vehicles unlock key advantages such as the ability to invest in less liquid or long-term assets while minimizing the risk of forced sales, structured approaches to meeting periodic liquidity needs through planned repurchase offers, and tailored liquidity provisions that align more closely with the funds' investment strategies and market conditions.

For tender offer funds and BDCs, boards have significant discretion over the timing and volume of repurchase offers, while interval funds, which are required to offer periodic repurchases, can limit these to as little as 5% of outstanding shares. This controlled liquidity framework, coupled with continuous offering capabilities, allows managers to maintain portfolio stability and focus on long-term investment objectives.

Regulatory considerations

CEFs and BDCs offer greater flexibility than registered open-end funds, but they still operate within a regulatory framework designed to ensure investor protection and market stability. The 1940 Act imposes certain constraints, including:

- **Leverage Limitations.** Borrowing capacity is restricted to manage risk.
- **Periodic NAV Calculations.** Although less frequent than daily requirements for open-end funds, NAV still must be calculated at specified intervals.
- **Enhanced Liquidity Oversight.** These vehicles must manage liquidity more actively than private funds, given their broader investor base.

While these requirements may slightly temper their investment strategies compared with private investment funds, they still allow CEFs and BDCs to balance regulatory oversight with the pursuit of alternative strategies. This hybrid approach provides managers with the opportunity to raise continuous capital while targeting sophisticated investment opportunities.

Benefits for Investors

CEFs and BDCs present unique advantages for individual investors seeking exposure to alternative investments. Unlike traditional private investment funds, which can lock up capital for extended periods, or mutual funds, which offer daily liquidity but limited alternative assets exposure, these vehicles provide periodic liquidity with alternative assets exposure tailored to individual investor needs.

Many CEFs and BDCs qualify as regulated investment companies under U.S. tax law, allowing them to enjoy tax benefits equivalent to pass-through tax treatment. This investor-friendly tax treatment is paired with competitive fee structures. For example, most CEFs feature fees tied to income rather than capital appreciation, generally offering investors greater fee predictability compared with traditional private fund arrangements.

> The ability to combine strategic freedom with innovative capital-raising tools positions CEFs and BDCs as useful options for managers looking to build versatile, long-term investment platforms.

Operating under the 1940 Act, these vehicles provide important investor protections through comprehensive reporting requirements, robust governance standards, and restrictions on affiliate transactions. While these safeguards can slightly constrain investment flexibility compared with private funds, they foster a more secure investment environment, striking a balance between protection and opportunity that retail investors may find desirable.

Distribution strategy and accessibility

CEFs and BDCs are designed to enhance accessibility through flexible distribution models. They are offered via private placements or public offerings and are commonly distributed through financial intermediaries and retail investment platforms. Many funds secure SEC exemptive relief to offer multiple share classes with tailored fee structures, broadening their appeal to diverse investor segments and accommodating varying investment needs.

Choosing the Right Vehicle

Each type of fund serves distinct objectives, providing managers with a modular toolset. BDCs are suited for managers focusing on "qualifying assets," which must constitute at least 70% of their portfolio. These vehicles provide enhanced leverage options and have "private-like" incentive fees even when investors are not qualified clients, while requiring managers to play an active role in portfolio company growth.

Tender offer funds are ideal for managers pursuing illiquid or nontraditional investment strategies. Their discretionary liquidity provisions and flexible NAV calculation schedules allow managers to adapt to changing market conditions.

Interval funds appeal to investors seeking predictable liquidity windows and structured portfolio management. They offer regular opportunities for capital access while delivering returns that can exceed those of traditional mutual funds, all within a regulatory framework that prioritizes investor protection.

Other Market Trends and Innovations

The growing adoption of CEFs and BDCs not only broadens access to alternative investments but also sets the stage for other innovations in the market.

Private markets are rapidly evolving as managers adopt novel strategies and structures to meet growing investor demand for diversified, accessible, and efficient solutions. Among the most notable innovations are comprehensive access fund structures, the use of warehouse facilities to build seed portfolios, and rated feeder vehicles, each addressing distinct challenges and opportunities in the market.

Comprehensive access

The rise of "one-stop-shop" private funds has simplified portfolio construction for investors by offering exposure to diverse illiquid asset classes, including private equity, real estate, and private credit, within a single vehicle. These funds broaden the appeal of alternative investments while enhancing accessibility.

Warehouse facilities

By enabling managers to prebuild portfolios before raising substantial external capital, warehouse facilities reduce reliance on blind-pool structures. This approach can help mitigate investor concerns, accelerate capital deployment, and demonstrate a proven track record to prospective investors.

Rated feeder structures

Rated feeders are innovative vehicles in private investment markets, including private credit and certain real estate and private equity strategies, that accept capital commitments structured primarily as loans, issuing notes rated by credit agencies. These structures appeal to insurance companies due to the favorable regulatory capital treatment of rated debt. With the rise in institutional fundraising, rated feeders are also increasingly being used in CEFs, BDCs, and evergreen funds to appeal to insurance company investors.

Among the most notable innovations are comprehensive access fund structures, the use of warehouse facilities to build seed portfolios, and rated feeder vehicles, each addressing distinct challenges and opportunities in the market.

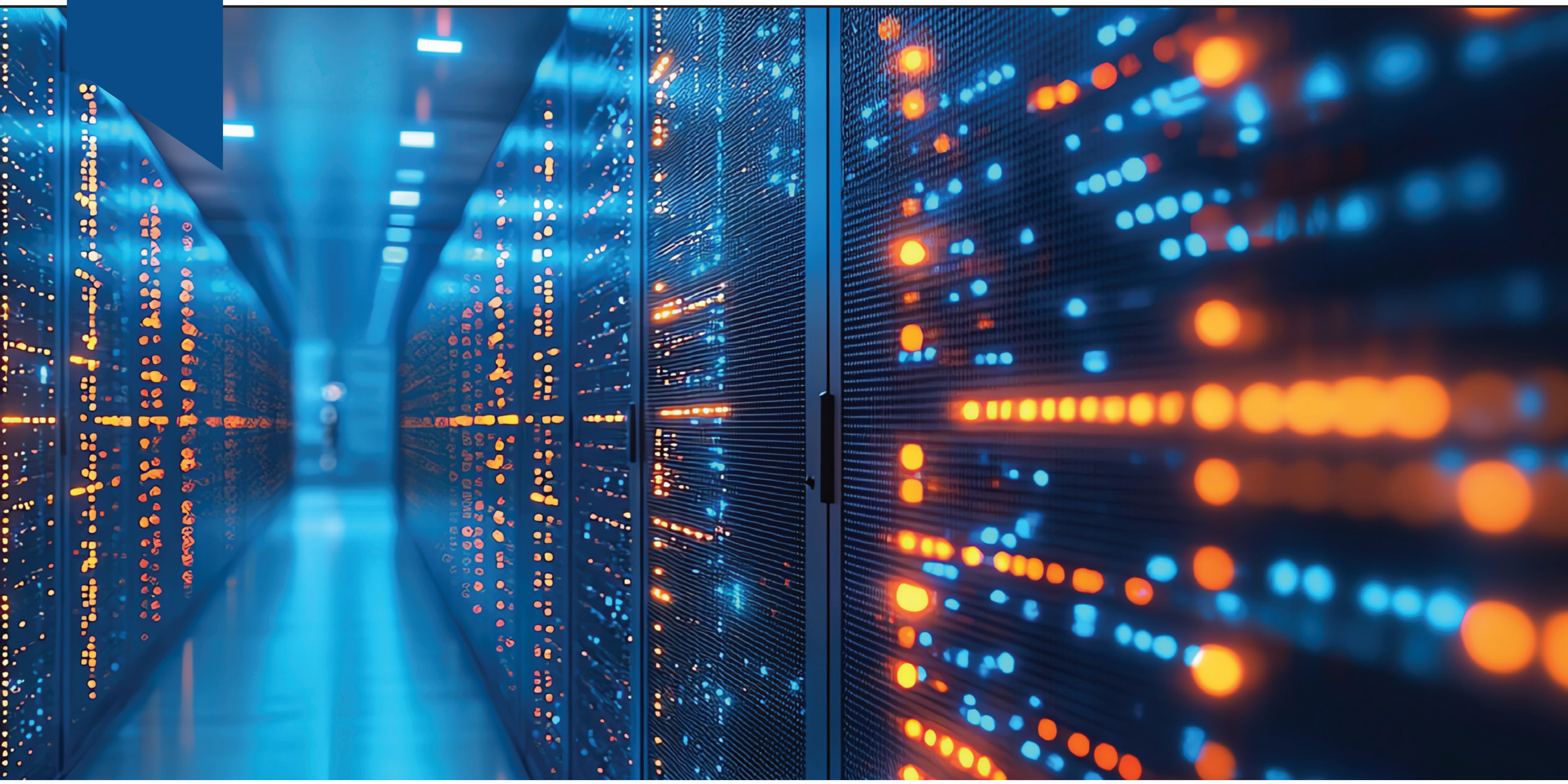
Market consolidation

Large asset managers are leveraging mergers and acquisitions to scale operations, diversify product offerings, and provide seamless multi-asset platforms. This consolidation trend reflects the industry's response to increasing competition and the demand for comprehensive investment solutions. Through acquisitions, investment firms enhanced infrastructure investment capabilities, expanded exposure to data centers, strengthened their reach into the retail investor market, and broadened their insurance-related investment strategy.

Collectively, these innovations signify a pivotal shift in private markets. By addressing key investor concerns, enhancing operational efficiency, and expanding accessibility, managers are constantly reshaping the industry to align with evolving demands and opportunities.

Conclusion

Strategic use of CEFs and BDCs can bridge the gap between private and retail investors by offering a balanced approach that combines the strategic flexibility of private investment funds and the accessibility and transparency of regulated funds. As the private capital market evolves, these innovative structures allow managers to build attractive platforms that offer both sophisticated investment products and enhanced investor protections. The democratization of investment strategies marks a key moment that reshapes the market for managers and retail investors alike.



Project Finance: Powering the Next Generation of Hyperscale Data Centers

Global digital transformation continues to fuel an increasing demand for data storage and processing power. Hyperscale data centers, which house thousands of servers to support cloud computing and artificial intelligence, have become critical infrastructure. Industry analysts project sustained growth, with the global data center market expected to expand at a double-digit compound annual growth rate in the coming decade.

Meeting this demand requires significant capital investment, often in the billions of dollars, to build facilities capable of supporting the increasing scale and sophistication of modern technology. While traditional financing models like asset-backed securities (ABS) and commercial mortgage-backed securities (CMBS) remain popular, project finance has emerged as a compelling alternative for these large-scale developments.

Why Project Finance Is a Natural Fit

Project finance, long associated with infrastructure and energy projects, offers unique benefits that align with the needs of hyperscale data centers. This financing method isolates a project's assets, liabilities, and cash flows within a special purpose vehicle, providing an additional layer of protection for sponsors and lenders.

Key features of project finance, such as long loan tenors, revenue-driven repayment structures, and high-quality tenants, are particularly well-suited to data centers. Operators typically rely on predictable, long-term revenue streams from colocation agreements, cloud service partnerships, and other contracts. This steady cash flow ensures alignment between financing obligations and operational income, reducing risk for all parties involved.

Operators typically rely on predictable, long-term revenue streams from colocation agreements, cloud service partnerships, and other contracts. This steady cash flow ensures alignment between financing obligations and operational income, reducing risk for all parties involved.

Addressing Unique Challenges

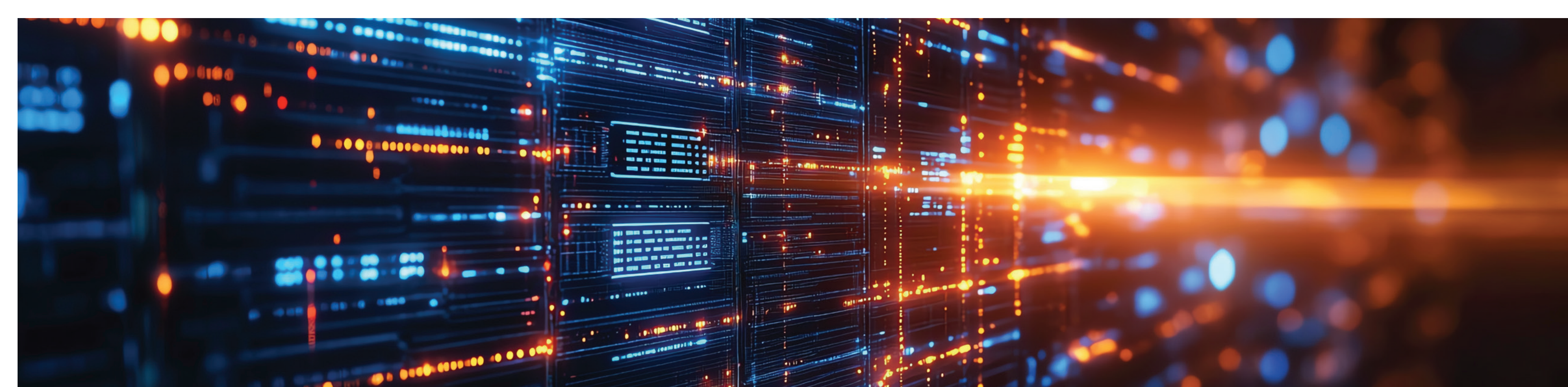
Data centers present challenges distinct from other asset classes, such as high energy consumption, rapid technological evolution, and stringent uptime requirements. Operators must address these hurdles to secure financing. Strategies include incorporating renewable energy sources through direct power purchase agreements, designing modular facilities to accommodate future upgrades, and building project-specific generation facilities.

Project finance structures facilitate risk allocation among stakeholders, ensuring these challenges are effectively managed. Construction risks, for example, are mitigated through carefully negotiated engineering, procurement, and construction agreements that incentivize timely and cost-effective delivery. Operating risk is relatively low when the facility is operated by an experienced party.

The Future of Data Center Financing

The exponential growth in data demand shows no signs of slowing, driven by the increasing demand for artificial intelligence, cloud computing, and digital services. As the industry evolves, financing models must adapt to accommodate larger and more complex facilities. Project finance offers a tailored approach that aligns with the unique characteristics of hyperscale data centers, providing the flexibility and security required to meet the challenges ahead.

By leveraging project finance structures, stakeholders can ensure the development of cutting-edge facilities capable of meeting the world's growing digital needs while effectively managing risks and ensuring long-term stability. ■



European Commission's Securitisation Consultation Concludes: Market Anticipates Significant Changes

The European Commission's targeted consultation on the EU Securitisation Regulation and wider securitisation framework, which concluded on 4 December 2024, has set the stage for potentially substantial reforms in the European securitisation market in the coming year. This eight-week consultation sought input from a wide range of stakeholders to address ongoing challenges and revitalise the European securitisation market. The consultation came off the back of prior reports and developments:

- A European Central Bank (ECB) Governing Council statement from December 2023, which recommended a review of the prudential treatment of securitisation for banks and insurance companies, an assessment of reporting and due diligence requirements, and an exploration of support for specific segments of the securitisation market, such as green securitisations.
- A Eurogroup statement from January 2024, which called on the European Commission to conduct a comprehensive assessment of supply and demand factors impeding the EU securitisation market's growth, focus on the prudential treatment of securitisation for banks and insurance companies, and evaluate reporting and due diligence requirements for securitisation.
- The Noyer Report from June 2024, which recommended establishing a securitisation platform, adjusting prudential frameworks for insurers and banks, and simplifying transparency rules.
- The Draghi Report from September 2024, which called on the European Commission to adjust prudential requirements for securitised assets, review the "relatively high" transparency requirements for securitised assets, and consider establishing a securitisation platform.

Key Areas of Focus

The consultation covered several aspects of the EU's securitisation framework:

- The effectiveness of the securitisation framework
- Scope of application of the Securitisation Regulation
- Due diligence requirements
- Transparency requirements and definition of public securitisation
- Supervision
- The [simple, transparent and standardised (STS)] standard
- Securitisation platform
- Prudential and liquidity treatment of securitisation for banks
- Prudential treatment of securitisation for insurers
- Prudential framework for IORPs and other pension funds

Market Participants' Responses

Streamlining due diligence

Many respondents called for simplification of due diligence requirements. The Investment Company Institute recommended deferring to existing obligations under the existing EU regulations and directives, rather than imposing additional layers within the Securitisation Regulation. Other respondents, such as the Structured Finance Association (SFA) and International Capital Markets Association (ICMA), also recommended simplifying due diligence requirements. This approach aims to reduce unnecessary burdens and avoid duplicative requirements, particularly for small and medium-sized enterprises.

Transparency requirements

Respondents emphasised the need for more proportionate and tailored reporting requirements, especially for private and third-country securitisations. There is broad support for a simplified dedicated template for private securitisations, seen in responses from the SFA, ICMA, and Commercial Real Estate Finance Council. The ECB exercised more caution, highlighting the importance of the transparency framework as a central building block for securitisation markets in the EU.

Global competitiveness

Responses stressed the importance of facilitating EU investors' access to global securitisation markets. The current framework has placed EU institutional investors at a competitive disadvantage, particularly in third-country markets. Both the SFA and ICMA suggested recognising the robustness of risk retention standards of securitisations issued in countries outside the EU, for example in the United States or Australia, along with a principles-based approach to EU transparency requirements.

> There is broad support for a simplified dedicated template for private securitisations, seen in responses from the SFA, ICMA and Commercial Real Estate Finance Counsel.

Capital and liquidity treatment

Some participants called for a recalibration of capital requirements for securitisations, aiming to make the EU securitisation market more competitive with other jurisdictions. The ECB also noted the need to review the prudential and liquidity treatment of securitisation for banks.

Public securitisation

Some respondents were in favour of extending the definition of public securitisation to include notes admitted to a trading venue and transactions marketed to a broad audience with non-negotiable terms.

Article 7 reporting

A significant portion of the consultation focused on the transparency requirements under Article 7 of the Securitisation Regulation. Current issues with Article 7 reporting include:

- Disproportionate disclosure requirements for private securitisations.
- Challenges for EU investors in obtaining compliant reporting from non-EU entities.
- Inability to access third-country markets where Article 7 reporting is not being provided, leading to a competitive disadvantage in, or inability to access entirely, these third-country markets.

Based on the consultation responses and previous discussions, potential changes to Article 7 reporting may include:

- Options for a dedicated, more proportionate template for private securitisations.
- Moves towards an equivalence standard or a more principles-based approach for third-country securitisations to level the playing field for EU investors.
- More proportionate reporting requirements and greater focus on the usefulness of data for proper due diligence.

Outlook for 2025

The European Commission is expected to consider the feedback received and potentially bring forth a legislative proposal as early as summer 2025. The outcome of this consultation process could have far-reaching implications for the competitiveness of the EU securitisation market and its role in financing the European economy.

As the market awaits the European Commission's response, we remain hopeful that the forthcoming changes will strike a balance between investor protection and market functionality, with a view to reinvigorating the EU securitisation market. The ECB has emphasised that while the outcome of the consultation is important, it should be seen as a first step towards a more comprehensive set of actions to deliver on the Capital Markets Union agenda.

The ECB has emphasised that while the outcome of the consultation is important, it should be seen as a first step towards a more comprehensive set of actions to deliver on the Capital Markets Union agenda.

Despite challenges over the last few years, there are some green shoots for the European securitisation market for 2025. The market has seen growth in STS securitisations, there has been an expansion in the use of synthetic securitisations, and as with other industries and markets, the adoption of new technologies, particularly generative AI, is beginning to influence the securitisation process. ■

Corporate Transparency Act Update: *Texas Top Cop Shop* Stopped; *Smith v. Treasury* No Longer Remains

On December 3, 2024, the U.S. District Court for the Eastern District of Texas issued a preliminary injunction in the case of *Texas Top Cop Shop Inc. v. Garland* enjoining the federal government from enforcing the Corporate Transparency Act (CTA) and its implementing regulations. Unlike other district court decisions on the constitutionality of the CTA (e.g., *National Small Business United v. Yellen*), the court in *Texas Top Cop Shop* issued a nationwide injunction and did not limit the remedies to the parties involved in the case.

The court's decision came less than a month before entities formed before January 1, 2024 were required to submit their initial beneficial ownership information (BOI) report. Shortly thereafter, the government filed an emergency motion with the U.S. Court of Appeals for the Fifth Circuit seeking a stay of the injunction. A motions panel of the Fifth Circuit granted the motion to stay the order only to have that order vacated four days later by a merits panel of the Fifth Circuit. On December 31, 2024, the government filed an application to the U.S. Supreme Court seeking a stay of the district court's preliminary injunction pending the Fifth Circuit's resolution of the government's appeal on the merits.

On January 7, 2025, another judge in the Eastern District of Texas issued an opinion in the case of *Smith v. United States Department of the Treasury*, finding that the CTA is likely unconstitutional based on the similar reasoning in *Texas Top Cop Shop*. While the district court in *Smith* noted that, as of the date the opinion was issued, the injunction in *Texas Top Cop Shop* was still in effect, it decided to issue a preliminary injunction enjoining FinCEN from enforcing the CTA and its implementing regulations.

On January 23, 2025, the Supreme Court, in an unsigned order, granted the government's application for a temporary stay in *Texas Top Cop Shop* and temporarily stayed the district court's preliminary injunction, pending the disposition of the appeal in the Fifth Circuit. While this lifted the stay in *Texas Top Cop Shop*, the order did not mention or reference the injunction in *Smith*.

The inauguration of President Trump, along with the flurry of Executive Orders freezing regulatory actions, has added uncertainty to whether FinCEN will seek to stay the injunction in Smith v. United States Department of the Treasury or, if the injunction is lifted, whether FinCEN will promptly set a new reporting deadline.

On February 18, 2025, the district court in *Smith* granted the government's motion to stay the injunction pending appeal. FinCEN issued guidance shortly thereafter that extended the deadline for filing beneficial ownership information to March 21, 2025 for those entities that were required to submit beneficial ownership information before then.

In *Texas Top Cop Shop*, the Fifth Circuit set a deadline to submit briefs through the end of February 2025, and the case is scheduled for oral argument on March 25, 2025.

Filing "On a Voluntary Basis" No More

On January 24, 2025, FinCEN released a statement on its website noting that "reporting companies are not currently required to file beneficial ownership information with FinCEN despite the Supreme Court's action in *Texas Top Cop Shop*" but "may continue to voluntarily submit beneficial ownership information reports." Upon the lifting of the injunction in *Smith*, FinCEN revised that guidance to clarify that the reporting requirements under the CTA are once again in effect.

The Future of the CTA

The twists and turns of the CTA through the courts have been closely watched by those subject to the requirements of the CTA. The inauguration of President Trump, along with the flurry of Executive Orders freezing regulatory actions, has added uncertainty to the future of the CTA, including whether a Republican-controlled Congress will seek to modify the requirements of the CTA.

For now, the CTA's reporting requirements are back in effect. However, given the twists and turns at the end of 2024 and the beginning of 2025, companies should continue to monitor ongoing litigation and statements from FinCEN. ■

BDC 101: Business Development Companies – Structure, Operations & Usage Cases

The use case of BDCs in alternative investment funds is discussed in "1940 Act: Transforming Access to Alternative Investments" in this issue of the Spectrum.

In recent years, the aggregate size of business development companies (BDCs) has grown significantly, to over $260 billion in assets under management. BDCs have become a particularly popular investment due to the demand for investment products that produce enhanced returns and regular distributions to investors. Major financial institutions have launched one or more public and private BDCs, demonstrating the interest these formerly niche investment funds have attracted from sophisticated financial sponsors. BDCs are primarily known for their investments in credit and other debt-related instruments, but the investment mandate they have is extremely flexible and could accommodate any number of investment strategies.

However, a number of other major financial institutions, such as commercial banks and traditional lenders, have yet to explore the BDC vehicle as a means of raising capital and attracting investment, despite the obvious fit this offering would have for a commercial lender's overall strategy.

What Is a BDC?

In 1980, a number of venture capital and private equity firms expressed concern that the requirements of the Investment Company Act of 1940 created compliance burdens that prohibited these firms from sponsoring funds to appeal to noninstitutional buyers. In response, Congress amended the

1940 Act to exempt from its provisions any issuer that qualifies as a BDC and elects to comply with Sections 55 through 65 of the 1940 Act.

A BDC is defined in Section 2(a)(48) of the 1940 Act as a "closed-end" company (i.e., a company that is not required to offer to redeem its outstanding securities at the end of each trading day, but is instead allowed to conduct discretionary redemptions, or not, upon whatever terms the company's board of directors and management determines is appropriate) that:

- Is organized under the laws of, and has its principal place of business in, the United States.
- Has at least 70% of the value of its total assets in securities issued by "eligible portfolio companies," as defined in Section 2(a)(46) of the 1940 Act, and which offers to make available "significant managerial assistance" to the management of those portfolio companies.

In May 2008, to simplify the somewhat complex definition of "eligible portfolio company," the SEC adopted Rule 2a-46, which provides a simplified definition to include an issuer that:

- Is not an investment company itself, or does not rely on an exception provided by Section 3(c) of the 1940 Act (i.e., is an "operating company").
- Has its principal place of business in the United States.
- Does not have any class of securities listed on a national securities exchange, or has a class of securities listed on a national securities exchange but has an aggregate market value of outstanding voting and nonvoting common equity of less than $250 million.

A private U.S.-operating company of any size, or a public U.S.-operating company with a market capitalization of less than $250 million, would qualify as an eligible portfolio company under Rule 2a-46.

Investments in eligible portfolio companies under Rule 2a-46 need only comprise 70% of the BDC's total assets. The remaining 30% may be in any nonqualifying asset, including investments in investment companies, other funds excepted by Section 3(c) of the 1940 Act, non-U.S. operating companies, and investments in publicly listed operating companies.

As a result, the BDC's investment mandate is extremely flexible and allows the BDC to make both equity investments and debt investments in an eligible portfolio company.

The BDC's investment mandate is extremely flexible and allows the BDC to make both equity investments and debt investments in an eligible portfolio company.

A BDC must also offer to make available significant managerial assistance to each portfolio company it invests in. This was required as part of the 1980 legislation that created BDCs and was meant to distinguish the investment activity of venture capital and private equity funds from other investment companies that may make only passive investments with no offer of assistance. "Managerial assistance" can include board representation or counseling; making introductions to banking, legal, and other relationships; or even providing practical assistance in operating the business of the portfolio company.

Typically, a BDC complies with this by providing a "managerial assistance" offer letter as part of the closing documents for a loan investment or equity investment by the BDC. The underlying portfolio company does not have to accept the BDC's offer to provide managerial assistance, but the offer must be made.

A BDC may be either a public BDC, in which its securities are registered under the Securities Act of 1933, or a private BDC, in which its securities are issued under an exemption from registration under the 1933 Act such as Regulation D. Both public and private BDCs are required to become "reporting companies" under the Securities Exchange Act of 1934. This requires BDCs, both public and private, to file quarterly reports on Form 10-Q, annual reports on Form 10-K, periodic reports on Form 8-K, and proxy solicitations to investors for matters requiring investor consent on Schedule 14A, among other requirements. As a reporting company, a BDC is also subject to the internal controls requirements of Section 404 of the Sarbanes–Oxley Act of 2002 (SOX), though there is a phase-in period for most new issuers.

A BDC must file a registration statement whether it is public or private. For a public BDC, that registration statement is on Form N-2; for a private BDC, that registration statement is on Form 10 under the 1934 Act. A public BDC must receive an effectiveness order from the SEC under Rule 461 before proceeding with sales in a public offering; a private BDC may commence such sales immediately and need not satisfy any comments received by the SEC on its Form 10, unless those comments impact the materiality of disclosures made to investors.

Operation of a BDC

A BDC may be either internally or externally managed. An internally managed BDC operates very much like a traditional operating company: it is required to have a board of directors of "non-interested persons" under Section 2(a)(51) of the 1940 Act, which is roughly equivalent to the definition of "independent director" under most state corporate codes. An internally managed BDC employs the portfolio manager and other personnel that select assets on behalf of the BDC, and they receive salaries, bonuses, and other compensation from the BDC directly as its employees.

An externally managed BDC, by contrast, has an investment adviser, typically organized as a separate limited liability company, limited partnership, corporation, or other corporate form. This investment adviser, which must be registered under the Investment Advisers Act of 1940, employs all personnel that manage the BDC. These personnel may also serve as officers of the BDC, but typically they do not receive a salary from the BDC, instead compensated by the BDC's investment adviser.

An investment adviser registered under the Advisers Act is prohibited from receiving "performance-based" compensation, which is a fee based on capital gains or capital appreciation, unless all the investment advisers are "qualified clients" under Rule 205-3 of the Advisers Act, which is a higher threshold than "accredited investors" under Regulation D of the 1933 Act. However, the 1980 legislation creating BDCs added a new clause to the Advisers Act, which permits a registered investment adviser to a BDC to receive performance-based compensation as long as it does not exceed 20% of the realized capital gains of the BDC, net of realized capital losses, and unrealized capital depreciation over a specified time period or as of a definitive date.

In addition, a BDC's investment adviser typically also earns an income-based incentive fee, which is not subject to the performance-based compensation restriction. The income-based incentive fee may be subordinated; that is, the fee may be subject to a hurdle rate or preferred return to be satisfied before the investment adviser earns the income fee, which is also usually 20%, but has decreased in recent years. The compensation structure differs from most venture capital and private equity fund compensation structures, which typically operate on a traditional waterfall structure in which the investors must receive their capital contributions plus a cumulative, noncompounded preferred return before the private fund manager may receive compensation.

By contrast, there is no return of capital requirement for a BDC. The investment adviser need only satisfy the preferred return for each applicable quarter to earn the subordinated incentive fee. Failure to earn the fee in one quarter does not jeopardize the investment adviser's ability to earn the fee in following quarters. Nor does a decline in the net asset value of the BDC prohibit the investment adviser from earning the fee as long as the preferred return is achieved. And the performance fee, or capital gains fee, is not subject to a preferred return at all and is earned when capital gains are generated.

Additional Regulatory Requirements

In addition to the requirement that the investment adviser to a BDC be registered under the Advisers Act, and is subject to the compensation limitations described above, as well as the fiduciary duties imposed on an investment adviser, there are a number of other regulatory requirements that apply to BDCs.

Importantly to its operations, a BDC is subject to a relaxed version of the limitations on capital structure that apply to investment companies under Section 18 of the 1940 Act. A traditional registered investment company is required to maintain a 300% asset coverage ratio (the ratio of the value of total assets less liabilities to its indebtedness represented by debt securities) each time it makes an investment. The asset coverage ratio requires a 3:1 asset to liabilities ratio, or a 33.33% leverage ratio.

> There is no return of capital requirement for a BDC. The investment adviser need only satisfy the preferred return for each applicable quarter to earn the subordinated incentive fee.

A BDC, by contrast, is subject to the modified requirements of Section 61, which requires that BDCs maintain an asset coverage ratio of at least 200% each time it makes an investment. The modified asset coverage ratio requires a 2:1 asset to liabilities ratio, or a 50% leverage ratio. For a newly formed BDC, the board of directors of the BDC may elect to reduce this asset coverage ratio to 150% (or a 66.67% leverage ratio based on $1.50 in total assets for every $1 of indebtedness) subject to board and shareholder approvals.

Like all registered investment companies under the 1940 Act, BDCs are subject to restrictions on "affiliated transactions," or conflicts of interest transactions. Unlike the Advisers Act, which permits most affiliated transactions with proper disclosure, the 1940 Act imposes an outright prohibition on certain affiliated transactions and significant restrictions on others. The 1940 Act delineates between principal transactions, in which the BDC (on the one hand) and its affiliates (on the other hand) are buying or selling securities or other assets among themselves. These principal transactions are prohibited outright by the 1940 Act, or are otherwise subject to significant restrictions.

Co-investment transactions are transactions in which the BDC and its investment adviser or affiliates are themselves investing in securities or other assets alongside each other in a third-party investment. Co-investment transactions ordinarily require an investment company to seek an exemptive order from the Securities and Exchange Commission (SEC) permitting them.

However, Section 57 of the 1940 Act relaxes these requirements under certain circumstances. It permits certain transactions among the BDC and any of its affiliates for a co-investment transaction with simple independent director approval as long as the affiliates are "remote affiliates," or second-tier affiliates. Transactions with only remotely affiliated entities are not prohibited at all. A financial institution considering a BDC should review its proposed co-investment transactions to determine whether, or even if, an SEC exemptive order is required before the transaction.

Conclusion

The BDC structure, while not a new development, has become of interest in recent years because of its flexibility in investment strategies, its adaptability to virtually any investor, the attractiveness of the compensation structure to potential fund managers, and its mandate for investment in operating companies in the United States. While BDCs were originally proposed as a "venture capital" alternative for ordinary investors, in recent years BDCs have become an active source of debt financing for operating companies in the absence of commercial lending activity in the middle market space.

> While BDCs were originally proposed as a "venture capital" alternative for ordinary investors, in recent years BDCs have become an active source of debt financing for operating companies in the absence of commercial lending activity in the middle market space.

The BDC structure enables a financial sponsor, such as a commercial bank, to create a BDC to raise capital and operate not just as a commercial lender, but as an investment manager that also provides significant managerial assistance to its portfolio companies, which itself provides a greater way to develop a further relationship with the commercial bank's clients apart from the lender-borrower relationship and provides a greater means of engaging with the management of the portfolio company.

The attractiveness of the fee structure, which is customary for BDC investment advisers, should also motivate commercial banks seeking to offer proprietary products to clients seeking enhanced returns. A BDC offering serves as an attractive alternative source of capital for commercial lenders and a lucrative new fee stream for engaging in much of the same activities that a traditional lender would offer. The BDC offering would enable a commercial lender to become an investment manager as well, potentially offering a suite of offerings designed to expand the bank's lending capabilities and attract investors who may not have a relationship with the sponsoring bank. ■

Contributing Authors

B.K Lee
Partner, Finance
Guest Editor

Mona Bhalla
Partner, Litigation & Trial Practice

Martin Dozier
Partner, Investment Funds

Blake Estes
Partner, Investment Funds

Katrina Llanes
Partner, Finance

Aldys London
Partner, Financial Services

Sam Roh
Partner, Investment Funds

Heather Wyckoff
Partner, Investment Funds

Kitan Ajanaku
Senior Associate, Investment Funds

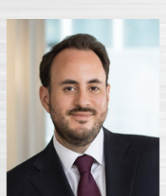
Josh Dhyani
Senior Associate, Financial Services

Tom Dunn
Senior Associate, Finance

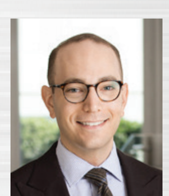
Matt Gauthier
Senior Associate, Finance

Ashley Kennedy
Senior Associate, Finance

Chip More
Senior Associate, Finance



Jaime Turcios Zacarias
Senior Associate, Finance



Jacob Koenigson
Associate, Finance

Structured & Warehouse Finance Multipractice Team

Finance

Steve Blevit
Partner
+1 213 576 2663
stephen.blevit@alston.com

Tara Castillo
Partner
+1 202 239 3351
tara.castillo@alston.com

Shanell Cramer
Partner
+1 212 210 9580
shanell.cramer@alston.com

Aimee Cummo
Partner
+1 212 210 9428
aimee.cummo@alston.com

Anna French
Partner
+1 212 210 9555
anna.french@alston.com

B.K. Lee
Partner
+1 212 905 9138
bklee@alston.com

Katrina Llanes
Partner
+1 212 210 9563
katrina.llanes@alston.com

Peter McKee
Partner
+1 214 922 3501
peter.mckee@alston.com

Joe McKernan
Partner
+1 212 210 9476
joseph.mckernan@alston.com

Andrew Petersen
Partner
+44 0 20 3823 2230
andrew.petersen@alston.com

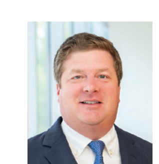
Jon Ruiss
Partner
+1 202 210 9508
jon.ruiss@alston.com

Pat Sargent
Partner
+1 214 922 3502
patrick.sargent@alston.com

Kristen Truver
Partner
+1 202 210 9567
kristen.truver@alston.com

Robin Boucard
Counsel
+1 212 210 9454
robin.boucard@alston.com

Solmaz Kraus
Counsel
+1 213 576 1032
solmaz.kraus@alston.com



Derek Marks
Counsel
+1 704 444 1164
derek.marks@alston.com

Emily Redmerski
Counsel
+1 212 210 9589
emily.redmerski@alston.com

Structured & Warehouse Finance Multipractice Team

Karen Wade
Counsel
+1 214 922 3510
karen.wade@alston.com

Sherry Yeatts
Counsel
+1 202 239 3486
sherry.yeatts@alston.com

Charlene Yin
Counsel
212.905.9033
charlene.yin@alston.com

Christina Braswell
Senior Associate
+1 404 881 7364
christina.braswell@alston.com

Brenna Dorgan
Senior Associate
+1 212 210 9439
brenna.dorgan@alston.com

Thomas Dunn
Senior Associate
+1 212 905 9061
thomas.dunn@alston.com

Chris Juarez
Senior Associate
+1 213 576 1095
chris.juarez@alston.com

Ashley Kennedy
Senior Associate
+1 212 210 9516
ashley.kennedy@alston.com

Lindsay Klein
Senior Associate
+1 212 210 9513
lindsay.klein@alston.com

Mark LoBiondo
Senior Associate
+1 212 210 9455
mark.lobiondo@alston.com

Jaime Turcios Zacarias
Senior Associate
+1 212 210 9406
jaime.turcioszacarias@alston.com

Jacob Walpert
Senior Associate
+1 212 210 9489
jacob.walpert@alston.com

Shazell Archer
Associate
+1 212 210 9467
shazell.archer@alston.com

Lydia Balestra
Associate
+1 212 905 9073
lydia.balestra@alston.com

Carly Bennett
Associate
+1 212 210 9597
carly.bennett@alston.com

Lea Elston
Associate
+1 212 210 9588
lea.elston@alston.com

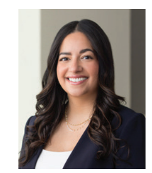
Jonathan Fenster
Associate
+1 212 905 9077
jonathan.fenster@alston.com

Donald Gallino
Associate
+1 212 905 9034
donald.gallino@alston.com

Structured & Warehouse Finance Multipractice Team

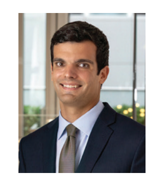
Jacob Koenigson
Associate
+1 212 905 9192
jacob.koenigson@alston.com

Edward Leaf
Associate
+1 202 239 3246
edward.leaf@alston.com



Anissa Malik
Associate
+1 212 210 9468
anissa.malik@alston.com

Sarah McClellan
Associate
+1 212 210 9557
sarah.mcclellan@alston.com

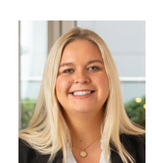


Michael McEvoy
Associate
+1 212 905 9080
michael.mcevoy@alston.com

Akruti Patel
Associate
+1 214 922 3497
akruti.patel@alston.com

Krishna Pathak
Associate
+1 202 239 3638
krishna.pathak@alston.com

Kirby Shilling
Associate
+1 212 210 9488
kirby.shilling@alston.com



Ashlyn Stone
Associate
+1 212 905 9083
ashlyn.stone@alston.com

Morgan Thaler
Associate
+1 213 576 1118
morgan.thaler@alston.com

Aryeh Wolosow
Associate
+1 212 210 9599
aryeh.wolosow@alston.com

Financial Restructuring & Reorganization

Stephen Blank
Partner
+1 212 210 9472
stephen.blank@alston.com

William Hao
Partner
+1 212 210 9417
william.hao@alston.com

Jacob Johnson
Partner
+1 404 881 7282
jacob.johnson@alston.com

Leah McNeill
Partner
+1 404 881 7822
leah.mcneill@alston.com

Will Sugden
Partner
+1 404 881 4778
will.sugden@alston.com

Structured & Warehouse Finance Multipractice Team

Regulatory

Anoush Garakani
Partner
+1 213 576 1181
anoush.garakani@alston.com

Aldys London
Partner
+1 202 239 3286
aldys.london@alston.com

Steve Ornstein
Partner
+1 202 239 3844
stephen.ornstein@alston.com

Cliff Stanford
Partner
+1 404 881 7833
cliff.stanford@alston.com

Nanci Weissgold
Partner
+1 202 239 3189
nanci.weissgold@alston.com

Morey Barnes Yost
Counsel
+1 202 239 3674
morey.barnesyost@alston.com

Josh Dhyani
Senior Associate
+1 202 239 3160
josh.dhyani@alston.com

Tax

John Baron
Partner
+1 704 444 1434
john.baron@alston.com

Kendall Houghton
Partner
+1 202 239 3673
kendall.houghton@alston.com

Clay Littlefield
Partner
+1 704 444 1440
clay.littlefield@alston.com

Ashley Menser
Partner
+1 919 862 2209
ashley.menser@alston.com

Andrew Claytor
Senior Associate
+1 704 444 1081
andrew.claytor@alston.com

ERISA

Blake MacKay
Partner
+1 404 881 4982
blake.mackay@alston.com

Kyle Woods
Partner
+1 404 881 7525
kyle.woods@alston.com

‘40 Act

David Baum
Partner
+1 202 239 3346
david.baum@alston.com

Martin Dozier
Partner
+1 404 881 4932
martin.dozier@alston.com

Structured & Warehouse Finance Multipractice Team

Derivatives

Blake Estes
Partner
+1 212 210 9415
blake.estes@alston.com

REITs

Don Hammett
Partner
+1 214 922 3413
donald.hammett@alston.com

Sarah Ma
Partner
+1 202 239 3281
sarah.ma@alston.com

Shawna Tunnell
Senior Counsel
+1 202 239 3040
shawna.tunnell@alston.com

Securities

David Baum
Partner
+1 202 239 3346
david.baum@alston.com

Matthew Mamak
Partner
+1 212 210 1256
matthew.mamak@alston.com

Litigation–Lending & Structured Finance

John Doherty
Partner
+1 212 210 1282
john.doherty@alston.com

Litigation–Trusts

Elizabeth Buckel
Partner
+1 212 210 1289
elizabeth.buckel@alston.com

Alex Lorenzo
Partner
+1 212 210 9528
alexander.lorenzo@alston.com

Chris Riley
Partner
+1 404 881 4790
chris.riley@alston.com

Jared Slade
Partner
+1 214 922 3424
jared.slade@alston.com

Insurance

Tejas Patel
Counsel
+1 404 881 4987
tejas.patel@alston.com

Structured & Warehouse Finance Multipractice Team

Funds

Tim Selby
Partner
+1 212 210 9494
tim.selby@alston.com

Heather Wyckoff
Partner
+1 212 905 9137
heather.wyckoff@alston.com

144A

Justin Howard
Partner
+1 404 881 7758
justin.howard@alston.com

CDOs/CLOs

Patrick Hayden
Partner
+1 704 444 1453
patrick.hayden@alston.com

Bradley Johnson
Partner
+1 704 444 1460
brad.johnson@alston.com

Corporate Debt

Paul Hespel
Partner
+1 212 210 9492
paul.hespel@alston.com

Private Credit

Kate Moseley
Partner
+1 214 922 3434
kate.moseley@alston.com

Corporate Transparency Act

Chip More
Senior Associate
+1 202 239 3282
chip.more@alston.com

Delaware Trust

Jason Solomon
Partner
+1 704 444 1295
jason.solomon@alston.com

Private Real Estate Funds

Amie Benedetto
Partner
+1 404 881 4830
amie.benedetto@alston.com

Health Care

Dawnmarie Matlock
Senior Counsel
+1 404 881 4253
dawnmarie.matlock@alston.com

Structured & Warehouse Finance Multipractice Team

Mergers & Acquisitions and Joint Ventures

Alison LeVasseur
Partner
+1 404 881 4475
alison.levasseur@alston.com

Jeremy Silverman
Partner
+1 404 881 7855
jeremy.silverman@alston.com

Private Equity

Scott Kummer
Partner
+1 704 444 1077
scott.kummer@alston.com

William Snyder
Partner
+1 650 838 2119
william.snyder@alston.com

Real Estate

Eric Berardi
Partner
+1 404 881 7863
eric.berardi@alston.com

Ellen Goodwin
Partner
+1 212 210 9447
ellen.goodwin@alston.com

BEST LAW FIRMS
RANKED BY Best Lawyers
LAW FIRM OF THE YEAR
SECURITIZATION AND STRUCTURED FINANCE LAW
2024

ALSTON & BIRD | Finance