

# Funds in Focus 2018: Private Investment Funds Annual Review Conference

Expanding Your Investor Base: Capital  
Raising through Registered Alternative  
Funds, Interval Funds and BDCs

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Proskauder»



# Introduction

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# Retail Investors

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- Retail investor universe of investors typically viewed as being divided into 4 categories:
  - Investors having investable assets (excluding primary residence, collectibles, etc.) of:
    - <\$1 million (aka “mass affluent”)
    - \$1 million - \$5 million (aka “accredited investors”)
    - \$5 million - \$30 million (aka “mid-tier HNWIs”)
    - \$30+ million (aka “ultra HNWIs”)
- As of the end of 2017, HNWIs investors (accredited investors, mid-tier HNWIs and ultra HNWIs) globally represented \$70.2 trillion of wealth (\$18.6 trillion in the U.S.)
- Over the course of the past 10-15 years asset managers have used a variety of channels in seeking to effectively tap into the retail investor sector
  - Asset manager level retail investor initiatives (direct investment)
  - 3<sup>rd</sup> party placement agents/investment advisers (direct investment – upper mid-tier & ultra HNWIs)
  - 3<sup>rd</sup> party managed/administered vehicles (indirect investment – case-by-case)
- Retail investor universe represents a diversified and, compared to the institutional investor base, underpenetrated segment of the potential investor universe



# BDCs

# What is a BDC?

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A business development company, or BDC, is a type of closed-end fund that elects to be subject to certain provisions of the Investment Company Act of 1940 (Sections 54-65) (but is typically not a registered investment company under the 1940 Act).

- Created by Congress in 1980 to provide capital to small/middle market companies and restructuring companies
- May be managed internally or externally
- May be listed or unlisted
- Typically operated as a regulated investment company under Subchapter M of the Internal Revenue Code
- Subject to investing in “eligible portfolio companies”, BDCs are not required to adopt a particular investment strategy, although most tend to be credit-focused
- More flexible structure than a traditional registered closed-end fund
- Hybrid of an investment company and operating company—subject to Exchange Act reporting (e.g., 10-K, 10-Q and 8-K) vs. 1940 Act reporting (e.g., N-CSR and N-Q/N-PORT); Sarbanes-Oxley applies as though a BDC is an operating company

# Benefits of BDCs – Manager's Perspective

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- Provide access to “permanent capital”
- Flow-through tax treatment and ECI/UBTI blocker (RIC election)
- Can charge “private fund”-like management fees (base management and incentive fees)
- Publicly available financial information through quarterly reporting (appealing to investors)
- ERISA exemption/no 25% plan asset limitation (except for “private” BDCs)
- Potentially more diversified portfolio (compared to private funds, SMAs)
- Reduced 1940 Act burdens compared to closed-end funds (leverage, affiliated transactions)

# Are BDCs the Right Option?

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Depends on...

- Type of sponsor (SEC-registered, developed compliance infrastructure)
- Targeted investor base (anchor, foreign, tax sensitive, yield demand)
- Type of investments (broadly syndicated vs. originated)
- Implications on broader credit platform (1940 Act affiliated transaction restrictions)
- Cost and risk appetite (regulatory, valuation, litigation risk)

*Limited number of IPOs since 2014 as fundraising has been largely focused on private BDCs. Only 3 in the last four years—each was an IPO of a private BDC.*



# BDC IPOs (2011-2018)

BDC IPOs 01/01/11 to 11/23/18

Pricing Date	Issuer	Ticker	Deal Value (\$MM)	Post-Deal Market Cap. (\$MM)	% of Market Cap Sold	Above / Below / In Range	1 Day	% Change Offer to 1 Week	1 Month	11/23/18
11/14/18	Bain Capital Specialty Finance, Inc.	BCSF	\$ 151.9	\$ 1,042.5	15%	In Range	(11.1%)	(9.6%)	NA	(8.4%)
06/13/17	TCG BDC, Inc.	CGBD	174.9	1,127.9	16%	In Range	(2.1%)	-0.8%	-1.6%	(17.1%)
03/17/15	Goldman Sach BDC, Inc.	GSBD	138.0	707.6	20%	In Range	0.3%	3.8%	7.2%	6.1%
05/08/14	Alcentra Capital Corp	ABDC	111.2	202.8	55%	In Range	0.3%	-0.5%	-1.9%	(57.0%)
03/20/14	TPG Specialty Lending Inc.	TSLX	128.8	845.5	15%	In Range	0.0%	2.2%	10.4%	26.5%
03/05/14	TriplePoint Venture Growth BDC Corp	TPVG	143.7	147.6	97%	In Range	4.3%	4.3%	6.0%	(18.6%)
02/05/14	CM Finance Inc	CMFN	115.0	205.0	56%	In Range	5.4%	4.3%	2.5%	(47.5%)
01/15/14	American Capital Senior Floating Ltd.	ACSF	172.5	172.5	100%	In Range	(10.8%)	-8.7%	-4.0%	NA
09/24/13	Capitala Finance Corp	CPTA	80.0	263.9	30%	In Range	(6.0%)	(5.3%)	(4.5%)	(60.0%)
07/11/13	Fifth Street Senior Floating Rate Corp	FSFR	100.0	100.0	100%	In Range	(5.7%)	-4.0%	-8.0%	(43.6%)
05/02/13	Harvest Capital Credit Corp	HCAP	57.5	91.2	63%	In Range	0.0%	0.1%	0.4%	(28.6%)
03/26/13	Garrison Capital Inc	GARS	92.0	255.6	36%	In Range	0.0%	1.0%	1.9%	(50.6%)
12/04/12	WhiteHorse Finance LLC	WHF	100.0	224.5	45%	In Range	(7.3%)	(4.9%)	(0.1%)	(11.6%)
11/07/12	Stellus Capital Investment Corp	SCM	138.0	179.2	77%	In Range	0.5%	0.7%	0.5%	(9.1%)
11/07/12	OFS Capital Corp	OFS	100.0	143.0	70%	In Range	(4.3%)	(12.3%)	(9.1%)	(25.3%)
10/24/12	Monroe Capital Corp	MROC	86.3	86.3	100%	In Range	1.7%	1.7%	0.0%	(25.5%)
04/04/12	TCF Capital Corp	TCPC	84.8	314.7	27%	In Range	(1.4%)	(1.7%)	0.0%	(3.3%)
06/20/11	Fidus Investment Corp	FDUS	80.6	141.4	57%	In Range	0.0%	-1.0%	-6.4%	(6.9%)
05/19/11	New Mountain Finance Corp	NMFC	100.0	583.1	17%	Below	(5.5%)	(4.4%)	(6.2%)	(2.5%)
04/28/11	GSV Capital Corp	GSVC	50.0	50.0	100%	In Range	(2.7%)	-8.1%	-8.8%	(55.4%)
04/08/11	PennantPark Floating Rate Capital Ltd	PFLT	102.8	102.8	100%	In Range	(10.7%)	(11.0%)	(8.7%)	(12.4%)
02/24/11	Solar Senior Capital Ltd	SUNS	180.0	190.0	95%	In Range	(2.0%)	-3.0%	-4.3%	(20.5%)
01/20/11	Medley Capital Corp	MCC	128.7	216.0	60%	Below	1.2%	(0.7%)	(1.4%)	(70.3%)

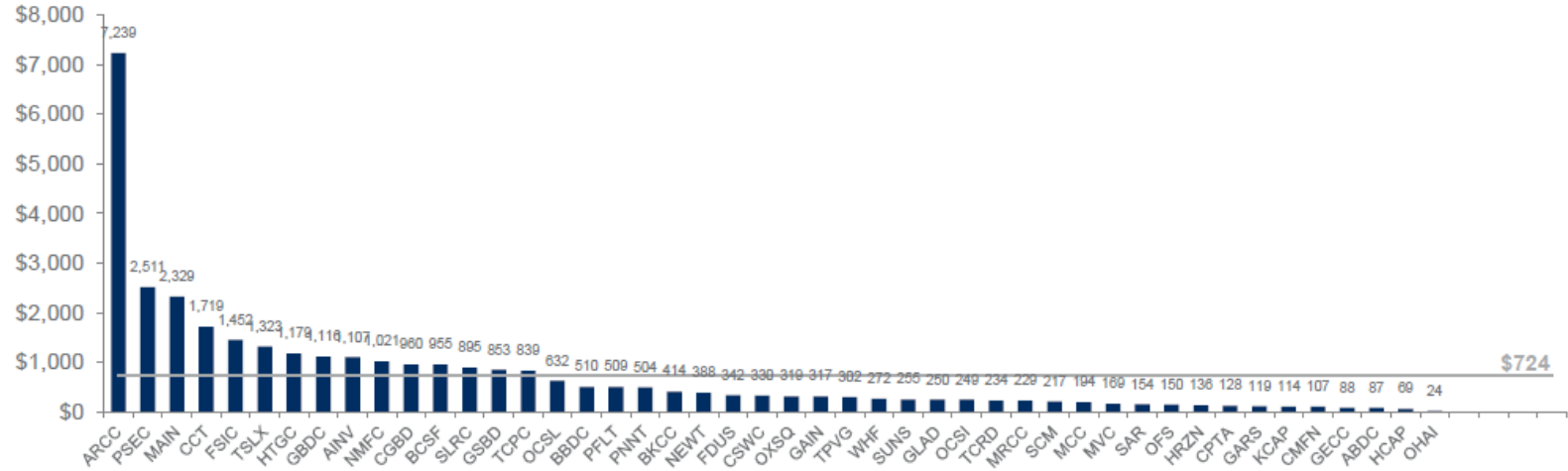
Source: Raymond James: BDC Weekly Insight

Low	15%	(11.1%)	(12.3%)	(9.1%)	(70.3%)
Mean	59%	(2.4%)	(2.5%)	(1.6%)	(24.6%)
Median	57%	(1.4%)	(1.0%)	(1.5%)	(19.5%)
High	100%	5.4%	4.3%	10.4%	26.5%



# BDC Market – General Data

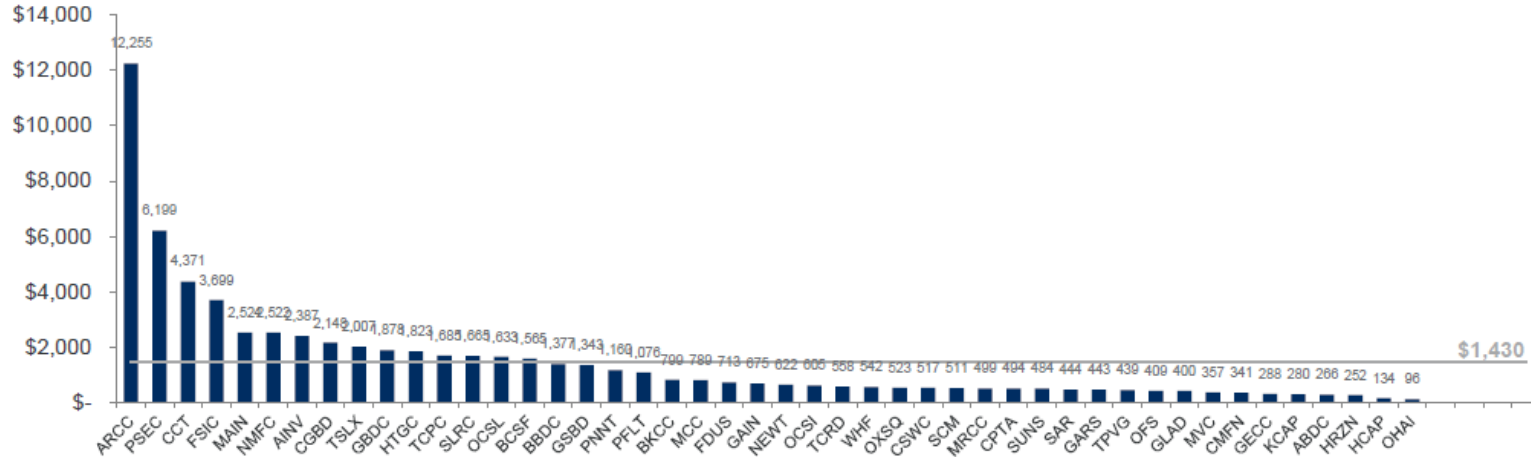
Market Capitalization (\$MM) as of November 23, 2018



Source: Raymond James

# BDC Market – General Data

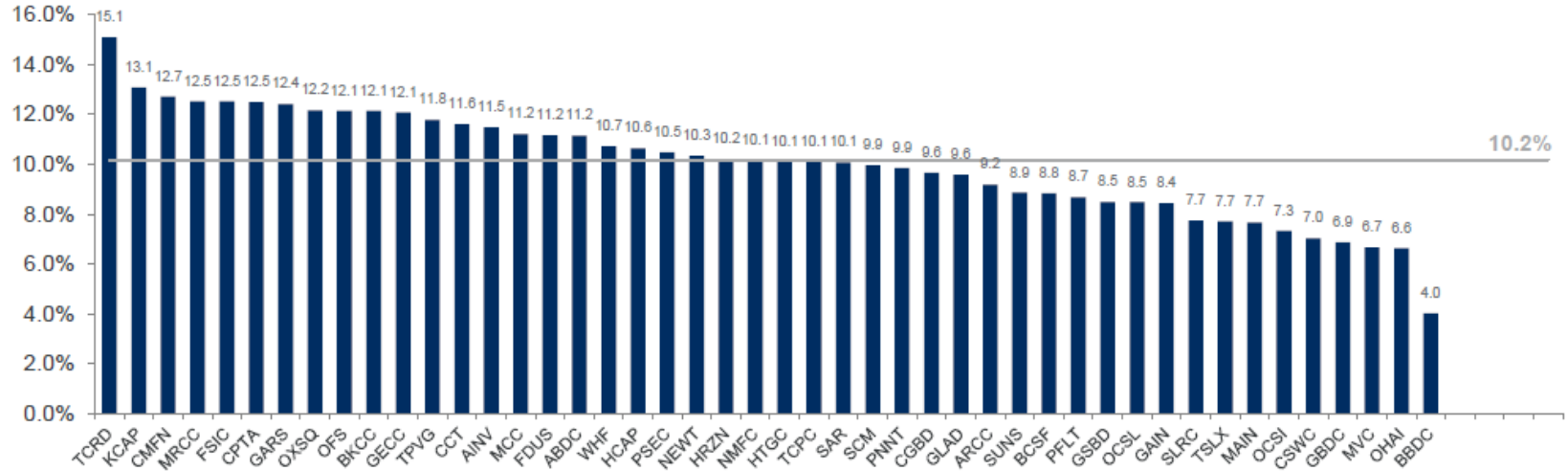
Assets (\$MM) as of November 23, 2018



Source: Raymond James

# BDC Market – General Data

## Current Dividend Yield



Source: Raymond James

Dividend rate uses current dividend annualized

MAIN includes supplemental dividend

# Non-Listed BDCs

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In January 2009, FS Investment Corporation launched the first non-listed BDC.

- Affiliated with GSO / Blackstone (ended in 2017 with KKR partnership)
- Raised \$2.67 billion through a continuous offering
- Listed its shares during 2014 to provide shareholder liquidity

A non-traded BDC enables retail investors that meet certain suitability standards to participate in the upside of pre-IPO investing.

- The BDC's shares are not listed on any exchange but issued on a continuous basis.
- Price volatility of shares reduced through the adjustment of the public offering price so that shares are not sold below NAV.
- The BDCs typically offer to repurchase a portion of their outstanding shares on quarterly basis. Periodic tender offers generally done at NAV.

# Non-Listed BDCs (con't)

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## State Blue Sky Review

- Must be approved to sell shares in each state where solicitations will occur--can take several months.
- Requires compliance with the “Omnibus Guidelines” published by the National Association of State Securities Administrators (NASAA), which provide additional investor rights.

## Suitability Requirements

- Unlike public BDCs, non-listed BDCs may only be sold to investors who meet certain suitability standards, typically through the independent broker-dealer or RIA channels.
- Default minimum suitability standards of either \$70,000 gross income and \$70,000 net worth or \$250,000 net worth

## Continuous Offering

- Typically offer to repurchase portion of outstanding shares on quarterly basis.
- Prospectus supplements filed periodically to report material events and provide updates on fundraising efforts and portfolio composition.
- Generally have a liquidity event 5-7 years following completion of offering.

# Private BDCs

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Typically sponsored by large private equity/credit firms with an existing investor base

- Operates similar to a non-listed BDC, but draws down capital through capital calls to investors, similar to a private fund structure
- Shares are offered through a private placement offering generally done under Reg. D.
- Private placement structure eliminates need for “blue sky” registration process faced by non-traded BDCs.
- Subject to 25% ERISA plan asset limitation.
- BDC/RIC election helps mitigate need for offshore feeder fund structure for foreign/tax exempt investors

Generally, a private BDC will target an initial public offering and exchange listing as a liquidity event within some period after initial offering, similar to the non-traded BDC structure.

# Comparison of Private BDCs vs. Private Funds

	Private BDC	Private Fund
<b>Liquidity for Investors</b>	Limited ability to sell until IPO or other liquidity event; liquidity through distributions or built in liquidation, limits on ability to repurchase stock	Limited ability to sell; liquidity through distributions
<b>Typical Sponsor Economics</b>	Management fee plus incentive fee (income and capital gains)	Management fee plus incentive fee or allocation of carried interest
<b>Investment Company Act</b>	Registered, subject to multiple restrictions under the 1940 Act (i.e., leverage, eligible investments, capital structure); subject to typical public reporting requirements under the 1934 Act	Exempt– no regulatory limitations around use of leverage or eligible investments or required public reporting
<b>Securities Act</b>	Exempt--offerings are generally made under Reg. D to accredited investors	Exempt--offerings are generally made under Reg. D to accredited investors
<b>Timing</b>	Relative quick launch to closing but may take longer to educate investors on product; requires SEC filing of Form 10	Relative quick launch to closing
<b>Cost</b>	High, including at start-up and ongoing	Medium
<b>Affiliate Transactions</b>	Limitations on joint investing and principal transactions with other accounts and funds managed by the same adviser	Few regulatory limitations; must have appropriate disclosure/consents
<b>Marketing</b>	Must be U.S. domiciled vehicle	Fund vehicle can be domiciled in U.S. or non-U.S. jurisdictions, which may be helpful for marketing in Europe



# BDC Exits

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- IPO (Bain, Carlyle, Goldman)
- M&A (Fifth Street, ACAS)
- Liquidation (ACSF)

# 2019 Predictions

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- Opportunities arising under SBCAA
- Outlook for offerings as increased leverage is deployed
- Outlook for private BDCs as liquidity deadlines approach
  - Liquidity events can include:
    - Listing
    - IPO and listing
    - Merger with another BDC (whether or not affiliated)
    - Orderly liquidation and wind-up
- Continued discussions surrounding consolidation



# Funds of Funds

# Fund of Funds

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- Funds of funds have been one of the most effective modes of accessing various segments of HNWI capital
  - Registered or private
  - Cover all segments of the alternative fund universe (hedge, private equity, real estate, credit, venture etc.)
- Funds of funds provide alternative asset managers:
  - Investor diversification
  - Many of the benefits of HNWI capital without bearing the full additional administrative costs and burdens of adding hundreds of investors as LPs
- Funds of funds provide HNWIs:
  - Access to a segment of the alternative fund universe not otherwise available to them
  - A single point of entry to a diversified pool of alternative funds
  - Retained ability to partially customize an alternative fund portfolio (sectors, fund type, liquidity)
- Generally, raised, managed and administered by third party asset managers

# Registered Funds of Funds

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- There has been a particular increase in recent interest in registered funds of funds
  - Funds of Private Equity Funds
  - Funds of Private Credit Funds
  - Funds of Hedge Funds
- Key Features
  - Registered under the Investment Company Act of 1940 and/or Securities Act of 1933
  - Closed-end
  - Continuous or limited offering, rather than exchange-traded
  - Liquidity—albeit limited—either through periodic tender or repurchase offers
  - Not generally available to all “retail” investors, even if publicly-offered, based on SEC staff policy
  - Partnership or Regulated Investment Company (RIC) tax structure
  - ERISA-friendly

# Benefits of Registered Funds of Funds

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- Section 3(c)(1) and (7) limitations do not apply
  - Access to “retail” investors (*i.e.*, “accredited investors”)
- Alleviate or reduce burdens associated with private capital investing
  - Simplification of access and experience for investors
  - Enhanced diversification of investments
  - Reduced suitability standards and minimum investment thresholds
  - Increased investor liquidity
  - Added degree of oversight, governance and investor protections
- Preferential tax treatment (RIC election)
  - No corporate-level taxation
  - Form 1099 reporting
- Access to retirement plan assets
  - Not subject to ERISA limitations or regulations

# Key Structural Concepts

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## Registered Funds of Funds

- Master/Feeder vs. Multi-Class Structures
  - Two means to achieve a similar end
  - Feeder funds and share classes can be structured for different subsets of investors (e.g., fee- and commission-based accounts, or “retail” and institutional investors) and offer different terms (e.g., fees, sales charges, investment minimums)
    - The advisory fee must remain the same across the share classes/feeders
    - Feeder structure is preferable if tax-exempt/deferred or non-U.S. investors
  - SEC exemptive relief is required to offer multiple classes of shares
- Unitized Shares vs. Capital Accounts
  - Funds structured as RICs for tax purposes offer unitized shares at NAV, while those structured as partnerships maintain capital accounts for each investor
  - The frequency of capital calls and closings, and the need to make NAV determinations on such dates, should factor in the consideration as to which structure to utilize



# Key Structural Concepts (cont'd)

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## Registered Funds of Funds (cont'd)

- Valuation Matters
  - Continuously-offered funds generally accept investor subscriptions on the first business day of each month; as a result, these funds provide valuation information, and issue shares at NAV, to investors on a monthly basis
  - Underlying investment funds, however, generally provide valuation information only on a quarterly basis

# Key Structural Concepts (cont'd)

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## Funds of Private Equity/Credit Funds

- Offering Period / Closings
  - Investor commitments/subscriptions are accepted on specified closing dates
  - Continuously-offered funds: closings generally occur on the first business day of each month
  - Non-continuously offered funds: limited number of closings, generally over a period of 6-12 months
- Investment Period
  - Net proceeds of an offering, whether continuous or finite, are committed to underlying investment funds in accordance with the implementation of the fund's investment program
  - Continuously-offered funds: indefinite investment period
  - Non-continuously offered funds: limited investment period—generally, 1-5 years after the initial close (which may be extended in the adviser's discretion); follow-on investments in existing underlying funds generally are permitted after the conclusion of the investment period

# Key Structural Concepts (cont'd)

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## Funds of Private Equity/Credit Funds (cont'd)

- Default / Make-Up Payments
  - Funds may take certain actions against investors that default on their commitments
    - Charge the investor with expenses and losses incurred resulting from the sale of positions
    - Reduce the investor's investment in the fund and right to receive distributions
    - Charge interest and other costs associated with borrowings necessary to cover defaulted capital calls
    - Exclude the investor from participating in future capital calls and investments
    - Accelerate the investor's remaining unfunded commitment
    - Mandate a sale or transfer of the investor's investment
  - Investors that participate in closings after the initial closing may be required to pay a "make-up" amount

# Private Fund of Funds

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- Private funds of funds and other similar access vehicles for HNWI are a popular method for providing mid-tier and certain ultra HNWIs with access to private equity and hedge funds
- Rely on exemptions from registration under the Securities Act of 1933 and Investment Company Act of 1940
  - Investors are limited to those who are both “accredited investors” and “qualified purchasers”
- Tax structure can be tailored to take into account the investor base (*i.e.*, U.S. taxable, non-U.S., tax-exempt). More complicated than registered funds
- Significant flexibility with respect to investment objectives (*i.e.*, specifically identified underlying funds to total blind pool)
- Liquidity tracks that of target underlying funds (*i.e.*, if a fund of hedge funds then limited liquidity)
- 2000 investor limit under Securities Exchange Act of 1934
- Limited ongoing regulatory burden versus registered fund of funds

# Fund Comparisons

	Funds of PE/PC Funds (Limited Offering)	Funds of PE/PC Funds (Continuous Offering)	Funds of Hedge Funds	Private Funds of Funds	
<u>General Terms</u>				<i>PE Style</i>	<i>Hedge</i>
<b>Permitted Investors</b>	Accredited Investor and/or Qualified Client	Accredited Investor and/or Qualified Client	Accredited Investor and/or Qualified Client	Accredited Investor and Qualified Purchaser	
<b>Minimum Investment</b>	\$25,000 - \$50,000*	\$25,000 - \$50,000*	\$25,000 - \$50,000*	No mandated minimum, typically \$100,000+	
<b>Capital Call Structure</b>	Yes	No	No	Yes	No
<b>Term</b>	10 - 16 yrs.	Indefinite	Indefinite	10 - 15 yrs.	Indefinite
<b>Investment Period</b>	6 mos. - 5 yrs.	Indefinite	Indefinite	6 mos. - 5 yrs.	Indefinite
<b>Recycling</b>	Permissible	Contemplated, as the investment period is indefinite	N/A	Permissible	N/A

\* Generally. Higher minimums may be mandated for Institutional investors that invest through a different share class or feeder fund.

# Fund Comparisons (con't)

	Funds of PE/PC Funds (Limited Offering)	Funds of PE/PC Funds (Continuous Offering)	Funds of Hedge Funds	Private Funds of Funds	
				<i>PE Style</i>	<i>Hedge</i>
<b>Performance Fees / Carried Interest</b>	0% - 10%	0% - 10%	0% - 10%	0% - 5%	0% - 5%
<b>Advisory / Management Fees</b>	Variable annual rate/ base over the life of the fund**	Fixed (0.70% to 1.65%)	Fixed (0.50% to 2%)	~0.25% - 1% (annual rate/ base varies; often scales down)	~0.25% - 1% on NAV
<b>Distribution / Servicing Fees</b>	Variable annual rate/ base over the life of the fund**	Fixed (0.25% to 1%)	Fixed (0% to 1%)	Variable; depends on investment size and presence of underlying sponsor placement fee	
<b>Access Fee– Investor / Fund</b>	N/A	N/A	N/A	Variable; depends on investment size and presence of underlying sponsor placement fee	

\*\* For example: 0.75% (Years 1-7) on commitments; thereafter, 0.15% on net asset value.

# Fund Comparisons (con't)

	Funds of PE/PC Funds (Limited Offering)	Funds of PE/PC Funds (Continuous Offering)	Funds of Hedge Funds	Private Funds of Funds	
				<i>PE Style</i>	<i>Hedge</i>
<b>Liquidity</b>	Generally, none	Periodic tenders	Periodic tenders	None	Periodic
<b>Withdrawals / Transfers</b>	Substantial restrictions	Substantial restrictions	Substantial restrictions	Substantial restrictions	
<b>Valuation</b>	Generally, practical expedient	Generally, practical expedient	Generally, practical expedient	Annual fair value; updated quarterly	Regular NAV assessments
<b>Credit Facility</b>	Frequently used	Frequently used	Frequently used	Frequently used	No
<b>Tax Reporting</b>	1099 or K-1	1099 or K-1	1099 or K-1	Generally, K-1	
<b>“Flow Through Underlying Fund Reporting”</b>	Limited	Limited	Very limited	Limited	No
<b>Additional Regulatory Reporting Requirements</b>	Yes	Yes	Yes	No	





# Interval Funds

# Trends in Interval Fund Formation

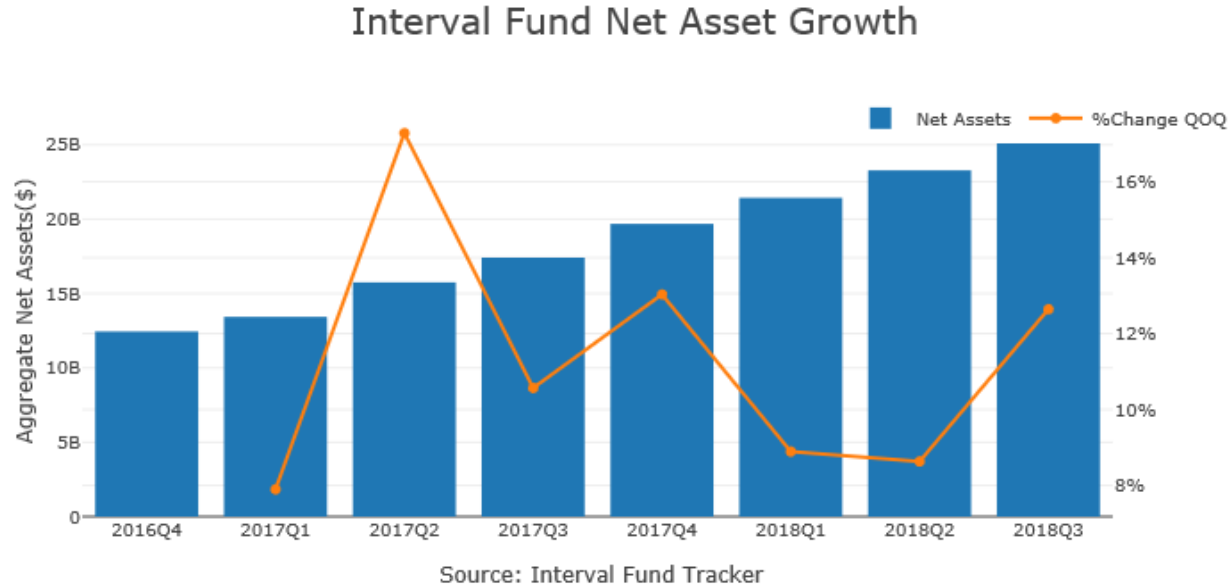
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Over 20 interval funds have been organized in the last three years, resulting in nearly 60 funds that are operational.

- Net assets in these funds have increased 50% in the past year.
- Although new entrants are gaining share, interval fund assets remain highly concentrated. The five largest alone account for 65% of total net assets.
- 36 active interval funds reported net asset growth in the most recent quarter, 12 reported a decrease. Additionally, 8 recently launched funds have still not yet filed their first financial statements.
- Most undertake quarterly repurchase offers, but there is considerable variance regarding the percentage of shares offered to be repurchased at each interval.
- More than half have been granted or have applied for SEC exemptive relief to offer multiple share classes.

***Over the past year interval fund registrations have surpassed more “traditional” retail alternative structures such as non-traded REITs and BDCs.***

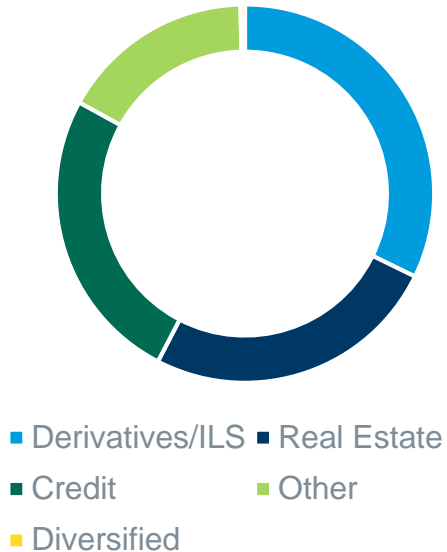
# Recent Net Asset Growth



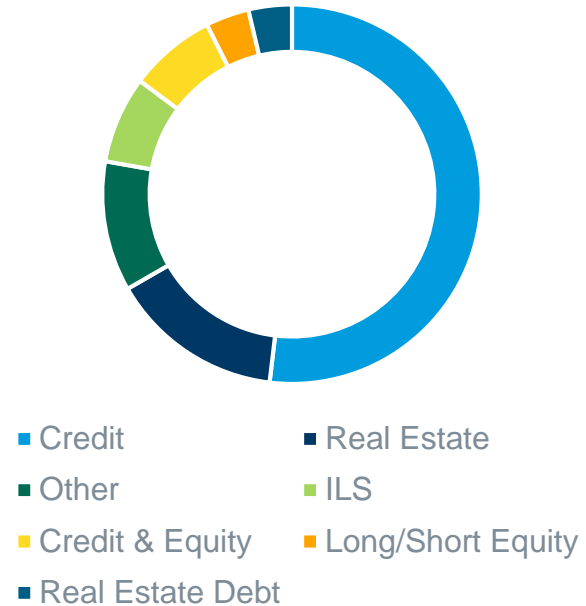
Interval fund asset growth accelerated slightly in Q3 of 2018. Total interval fund net assets equaled \$26.2 billion as of the most recent public filings, up 50% compared to the prior year, and 13% compared to the prior quarter. Data is as of October 1, 2018.

# Fund Strategies

Active Interval Funds\*



Funds in Registration\*



\* Source: Interval Fund Tracker

# Key Characteristics of Interval Funds

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An interval fund is registered under the 1940 Act as a continuously offered, closed-end investment company.

- Files a registration statement with the SEC on Form N-2
- Separate trust/corporate entity
- Exempt from ERISA investor limitations (i.e., the "plan asset rule")
- Issues 1099s to investors (if elect "RIC" tax status)

*Interval funds operate in accordance with Rule 23c-3 under the 1940 Act, which permits the fund to engage in a mandatory, periodic repurchase offer to buy back shares at NAV.*

# Key 1940 Act Requirements

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Interval funds are subject to the requirements of the 1940 Act, including:

- Fund governance, including majority of independent board members
- Fund of fund restrictions (Section 12(d)(1))
- Investment advisory contract approval process (Section 15(c))
- Prohibitions and restrictions on affiliated transactions (Section 17)
- Limitations on leverage (Section 18)
- Compliance Program (Rule 38a-1)

*Many interval funds will seek SEC exemptive relief to offer multiple share classes (similar to mutual fund class structure) and will comply with relevant SEC (e.g., Rules 6c-10, 12b-1, 17d-3, 18f-3, 22d-1) and FINRA rules.*

# Key Operating Terms for Interval Funds

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Periodic intervals for **share repurchases**:

- An interval of every 3, 6, or 12 months.
- A fund must establish a periodic interval and offer to repurchase its shares at each such interval.

Repurchase **offer amount**:

- Amount of shares that a fund commits to repurchase at each periodic interval.
- Must be between 5% and 25% of the fund's outstanding shares on a repurchase request deadline.

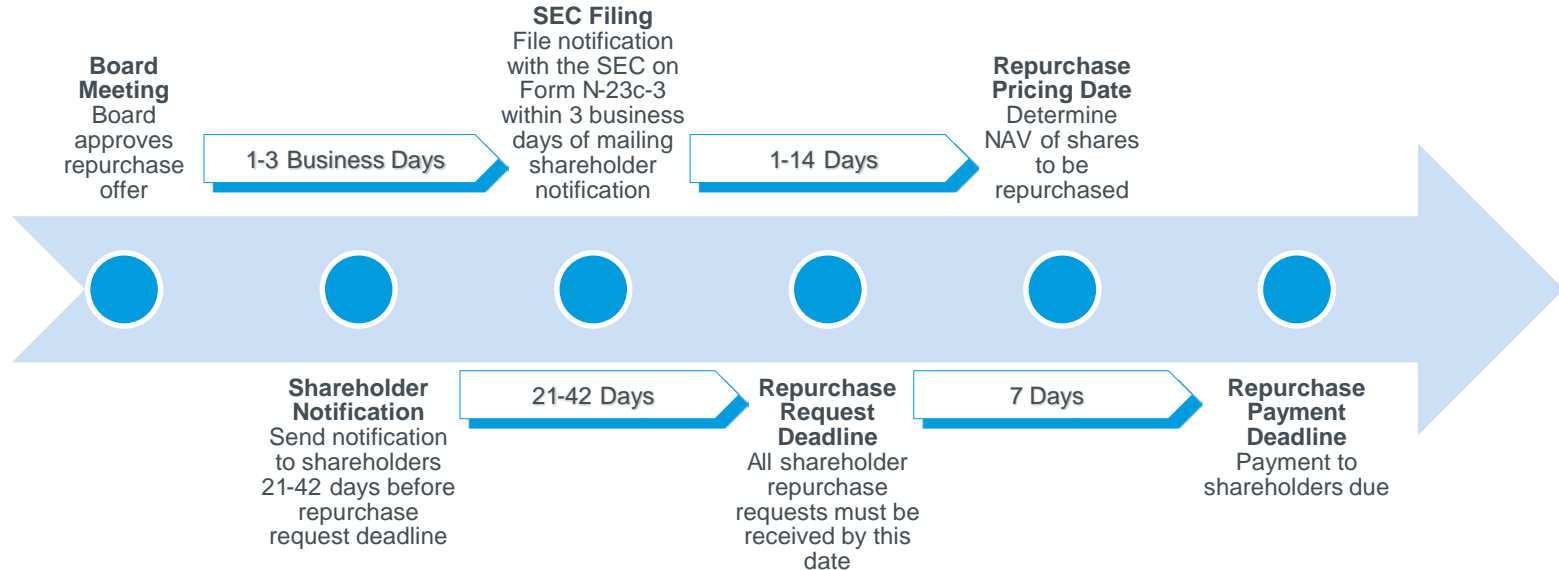
Repurchase **pricing date**: The date on which a fund determines the NAV at which it will repurchase its shares in connection with a particular repurchase offer.

Repurchase **request deadline**: The date by which a fund must receive shareholders' repurchase requests or withdrawals or modifications of previously submitted repurchase requests.

Repurchase **payment deadline**: The date by which a fund must pay its shareholders for the shares repurchased.



# Repurchase Offer Timeline



# Tender Offer Funds

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Conduct continuous offerings, similar to interval funds, but operate under different federal securities laws.

- 1940 Act registered closed-end fund (no election to operate under Rule 23c-3)
- Shares continuously offered on “shelf” registration statement under Rule 415 under the 1933 Act
- Discretionary repurchases conducted pursuant to Section 23(c)(2) of 1940 Act and issuer tender offer rules under the 1934 Act (Rule 13e-4)
- FINRA review standards vary (exemptive relief available)

*Pending SEC rulemaking on offering reform is expected to streamline shelf registration statements for closed-end funds, including tender offer funds.*

# Fund Comparisons

	Interval Fund	Tender Offer Fund	Hedge Fund
<b><u>General Terms</u></b>			
<b>Permitted Investors</b>	Any investor (assuming 1933 Act registration)	Any investor (assuming 1933 Act registration)	Accredited Investors
<b>Number of Investors</b>	No limit	No limit	3(c)(1): 100 3(c)(7): Unlimited  <i>Less than 2,000 to avoid 1934 Act reporting</i>
<b>Performance Fees</b>	Yes— to an extent. Permitted on income; also permitted on capital gains if offering limited to "qualified clients"	Yes— to an extent. Permitted on income; also permitted on capital gains if offering limited to "qualified clients"	Yes
<b>Multiple Share Classes</b>	Yes, but only with SEC exemptive relief	Yes, but only with SEC exemptive relief	Yes

# Fund Comparisons (con't)

	Interval Fund	Tender Offer Fund	Hedge Fund
<b><u>Repurchase Offers</u></b>			
<b>Liquidity Requirements</b>	Maintain liquid assets sufficient to meet repurchase offers during period of time between each notice to repurchase and the repurchase pricing date	None	None
<b>Frequency of Repurchases</b>	Repurchases must occur on the interval period selected by the fund (e.g., 3, 6 or 12 months) absent shareholder approval	At the discretion of the fund's board (generally follow offering document disclosure, but not-binding)	As determined by GP/Adviser (consistent with LP disclosures)
<b>Payment Delay</b>	No. Payment deadline is 7 days after the repurchase pricing date	Yes (consistent with offering documents)	Yes (consistent with offering documents/side letters)

# Fund Comparisons (con't)

	Interval Fund	Tender Offer Fund	Hedge Fund
<b><u>SEC/FINRA Filings</u></b>			
<b>SEC Process for Updating Offering Documents</b>	Annual filing to update financial statements pursuant to Rule 486(b). Filing will go effective automatically.	Requires annual filing for updating of financial statements, which is subject to SEC review and effectiveness. Can file for SEC no-action relief to rely on Rule 486(b).	N/A (outside of Reg. D filings)
<b>FINRA Review and Compensation Limits</b>	Subject to Rule 2341	Subject to Rule 5110 (can seek relief) if 1933 Act registered offering	Generally N/A
<b><u>Other Regulatory Matters</u></b>			
<b>Exempt from ERISA“ Plan Asset’ Regulation?</b>	Yes	Yes	No
<b>1099 Eligible?</b>	Yes (assuming can satisfy Subchapter M rules)	Yes (assuming can satisfy Subchapter M rules)	No

# Annex: Rule 23c-3 Requirements

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## Sales and Repurchases

The fund must repurchase its securities pursuant to a fundamental policy, changeable only by "a majority vote of the outstanding voting securities" of the fund, providing:

- That the fund will make repurchase offers at periodic intervals pursuant to the Rule.
- The periodic intervals between repurchase request deadlines—either 3, 6 or 12 months.\*
- The repurchase request deadline or the manner in which such deadline will be determined.
- The maximum number of days between the repurchase request deadline and the repurchase pricing date.

The fund may not suspend or postpone a repurchase offer, except under certain specified circumstances and only pursuant to a vote of a majority of the fund's directors (including a majority of the fund's independent directors).

\* Some funds have sought exemptive relief to conduct repurchases on a different periodic basis (e.g., monthly).

# Annex: Rule 23c-3 Requirements

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## Sales and Repurchases

- The fund must repurchase shares for cash at the NAV determined on the repurchase pricing date and must pay shareholders by the repurchase payment deadline, subject to certain exceptions.
- The fund may deduct from a shareholder's repurchase proceeds only a repurchase fee, not to exceed 2% of the proceeds, that is paid to the fund and is reasonably intended to compensate the fund for expenses directly related to the repurchase.
- The fund may not condition a repurchase offer upon the tender of any minimum amount of shares.
- If tenders are received in excess of the stated repurchase amount then the fund may either (i) purchase up to an additional 2% of its outstanding shares on the repurchase request deadline, or accept tenders on a pro rata basis, subject to certain exceptions.

# Annex: Rule 23c-3 Requirements

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## Shareholder Notification

A fund must notify shareholders at least 21 days and not more than 42 days in advance of each repurchase request deadline of relevant information relating to the repurchase offer, such as:

- a statement that the fund is offering to repurchase its shares from shareholders at NAV;
- information about procedures to tender the shares and notification of the right to modify or withdraw tenders until the repurchase request deadline;
- any fees applicable to the repurchase;
- the repurchase offer amount, repurchase request deadline, repurchase pricing date, and repurchase payment deadline;
- the NAV of the fund's shares computed no more than 7 days before the date of notification and the means by which shareholders may ascertain the NAV after such date; and
- the risk of fluctuation in the NAV between the repurchase request deadline and the repurchase pricing date.

The fund must file notification of the offer with the SEC via EDGAR on Form N-23C3A within 3 business days after sending the notification to shareholders.



# Annex: Rule 23c-3 Requirements

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## Other Requirements

- First repurchase request deadline must occur no later than two periodic intervals after the effectiveness of the fund's registration statement.
- Generally required to compute NAV at least weekly. However, the fund's NAV must be determined daily during the five business days preceding any repurchase request deadline.
- Must maintain "liquid" assets equal to at least 100% of the repurchase offer amount during the period from the time notice of the repurchase offer is first sent to shareholders until the repurchase pricing date.
- The board must adopt written procedures reasonably designed to ensure that the fund's portfolio assets are sufficiently liquid so that the fund can comply with its fundamental policy on repurchases, and comply with the liquidity requirements set forth above.



## Other Means of Capital Raising

# If you don't want to build it...

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## **Buy it—M&A opportunities**

- Stock vs. asset acquisitions (platform acquisitions, single funds)
- 1940 Act requirements (Sections 15(c) and (f))

## **Convert it—Hedge fund to registered fund conversions**

- Track record/performance

## **Manage it—Sub-advisory mandates**

- Manager of managers funds
- Sub-advisory relationships in BDC/interval fund space

## **Partner up!**

- JV Relationships

# Funds in Focus 2018: Private Investment Funds Annual Review Conference

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