

Event Materials

Please click the links below to
access additional resources.

[Click for
today's agenda](#)

[Today's
Presentations](#)

[Secondaries
Pulse Check
Paris](#)

[Speaker
Biographies](#)

[Key
Contacts](#)

[Knowledge
Sharing](#)

[AI: Proskauer
Recent Experience](#)

[Post-Event
Survey](#)

AGENDA

NAVIGATING

LIQUIDITY

SECONDARIES PULSE CHECK CONFERENCE

Private Capital
Conference Series

Tuesday 8 October 2024
London

Think Tank Auditorium and
The Lookout
8 Bishopsgate

1:30 p.m. Arrivals & Networking

2:00 p.m. **Welcome Remarks**
Bruno Bertrand-Delfau, Proskauer

2:10 p.m. **Opening Panel: General Market Trends**
Charlie Bridgeland, Partner, Lexington Partners
Sebastien Burdel, Partner, Ares Management Secondaries Group
Bertrand Chevalier, Senior Managing Director, Ardian
Michael Suppappola, Partner, Proskauer
Bruno Bertrand-Delfau, Partner, Proskauer (*Moderator*)

- Where are we in terms of secondaries deal activity and fundraising after 2 years of macroeconomic and geopolitical headwinds?
- Is liquidity still a strong driver for sellers? What is the current discount level?
- Is the market sufficiently capitalized? Is there room for new entrants?
How are secondary funds adapting to the increasing appetite of HNWs for secondaries?
- What assets classes, types of deals and geographies are secondary funds prioritizing?
- Is the secondary market global or fragmented? Is specialization a trend or necessity?
- How is AI impacting the market? What innovations are to be expected?
- Will 2024 be a record year? Where will the market be in 2030?

3:00 p.m. Break

3:05 p.m. **Presentation: GP and LP Transactions Data Presentation**
Blake Halperin, Partner, Proskauer
Jordan Hurwitz, Partner, Proskauer

3:30 p.m. Break

Proskauer

3:35 p.m.

Fund Finance

Stuart Ingledew, Fund Solutions, Investec Bank
Richard Sehayek, Managing Director, Ares Management Credit Group
Matthieu Teyssier, Senior Managing Director, Ardian
Cameron Roper, Partner, Proskauer
Paul Tannenbaum, Partner, Proskauer (*Moderator*)

- How do secondaries funds use debt?
- Sub lines vs. NAV facilities: what is the optimal strategy for use of financing?
- Key legal and structuring considerations for LP-led and GP-led secondaries facilities
- Who are the lenders of secondaries facilities and what are their underwriting criteria?
- How do LPs view use of debt by secondaries funds?

4:15 p.m.

Coffee Break

4:45 p.m.

European and US Regulatory Review

Rob Sutton, Partner, Proskauer
John Verwey, Partner, Proskauer

- What can we expect from the SEC following the Court of Appeals ruling striking down the Private Fund Adviser Rules?
- European regulatory developments and trends relevant to secondaries

5:05 p.m.

European and US Tax Review

Mary Kuusisto, Partner, Proskauer
Frazer Money, Partner, Proskauer

- Developments in ECI and FIRPTA withholding
- Trends in buyer tax protections in GP-leds

5:25 p.m.

Break

5:30 p.m.

Closing Panel: Focus on Continuation Funds

Nik Morandi, Senior Managing Director, Blackstone
Steven Nicholls, Senior Investment Partner and Head of GP-led solutions, Hollyport Capital
Daniel Ward, Principal, CPP Investments
Chris Robinson, Partner, Proskauer
Warren Allan, Partner, Proskauer (*Moderator*)

- Due diligence, process, pricing, Reps & Warranties, Indemnities, WI insurance: is the GP-led market continuing to drift toward the M&A market practices?
- Are the US and European markets standards converging or diverging?
- Is the entry of LBO funds managers in the market threatening the traditional secondary funds?
- Single Asset vs. Multi Asset continuation funds: pros and cons
- How do market participants adapt to the increased focus of regulators on conflicts of interests?

6:20 p.m.

Closing Remarks

Nigel van Zyl, Partner, Proskauer

6:30-9:00 p.m.

Cocktail Reception

The Lookout, 8 Bishopsgate

NAVIGATING LIQUIDITY
**SECONDARIES
PULSE CHECK
CONFERENCE**

Proskauer»

NAVIGATING

LIQUIDITY

SECONDARIES PULSE CHECK CONFERENCE

Private Capital
Conference Series

Tuesday 8 October 2024
London

Proskauer»

Welcome Remarks



Bruno Bertrand-Delfau
Partner
Proskauer

Proskauer»

NAVIGATING LIQUIDITY
**SECONDARIES
PULSE CHECK
CONFERENCE**

General Market Trends



Michael Suppappola
Partner
Proskauer



Charlie Bridgeland
Partner
Lexington Partners



Sebastien Burdel
Partner
Ares Management



Bertrand Chevalier
Senior Managing Director
Ardian



Bruno Bertrand-Delfau
Partner
Proskauer
Moderator

Proskauer»

NAVIGATING LIQUIDITY
**SECONDARIES
PULSE CHECK
CONFERENCE**

Data Insights: Trends in the Terms of Secondaries Transactions



Blake Halperin
Partner
Proskauer



Jordan Hurwitz
Partner
Proskauer

Proskauer»

NAVIGATING LIQUIDITY
**SECONDARIES
PULSE CHECK
CONFERENCE**

Executive Summary

Proskauer's Secondaries Pulse Check data benchmarks a variety of secondaries transaction terms, including key legal, economic and governance provisions, across 91 traditional LP secondaries transactions and 61 GP-led deals. The data covers transactions closed between the third quarter of 2023 and the third quarter of 2024, providing key insights into how terms are changing over time and the market shifts we anticipate moving forward.

The analysis and related commentary reflect our experience from representing sponsor, buy-side and sell-side clients, providing a unique insight into the market from all angles.

Proskauer's Secondary Transactions and Liquidity Solutions practice continues to monitor the evolution of the secondaries market, offering our clients data-driven insights to aid their transactional and fundraising needs.

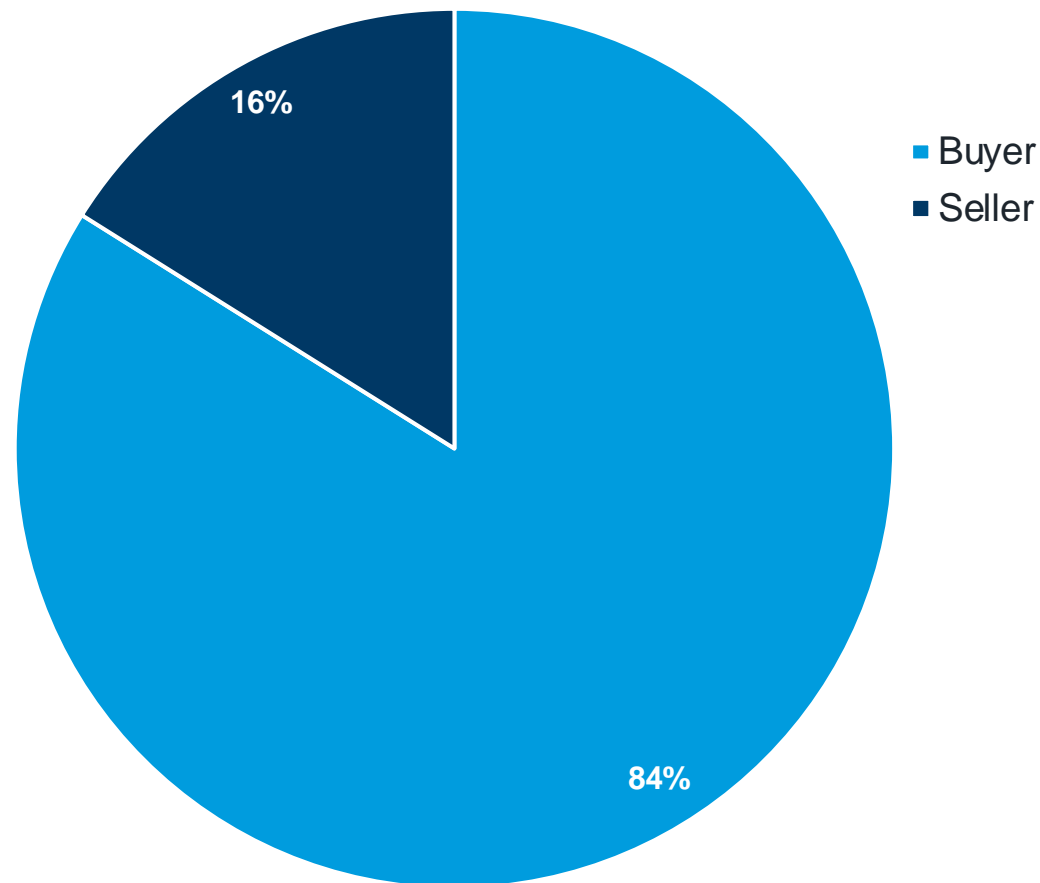
Contents

Section 1	Data Insights: Traditional LP Secondaries Transactions
Section 2	Data Insights: GP-Led Secondaries Transactions

Data Insights: Traditional LP Secondaries Transactions

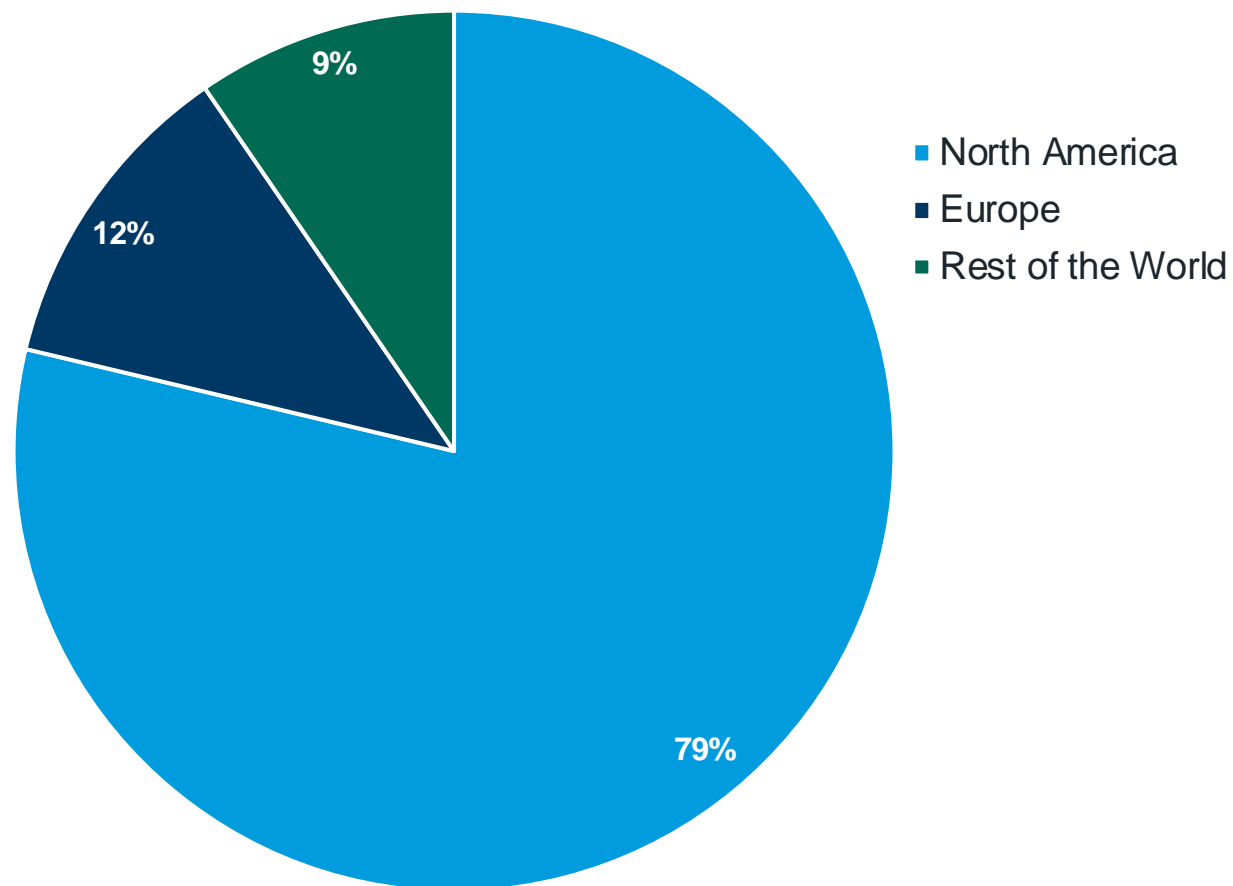
Party Represented

Of the 91 traditional secondaries transactions closed in the last year, Proskauer acted on the buy-side on 84% of occasions and acted on the sell-side for the remaining 16% of deals.



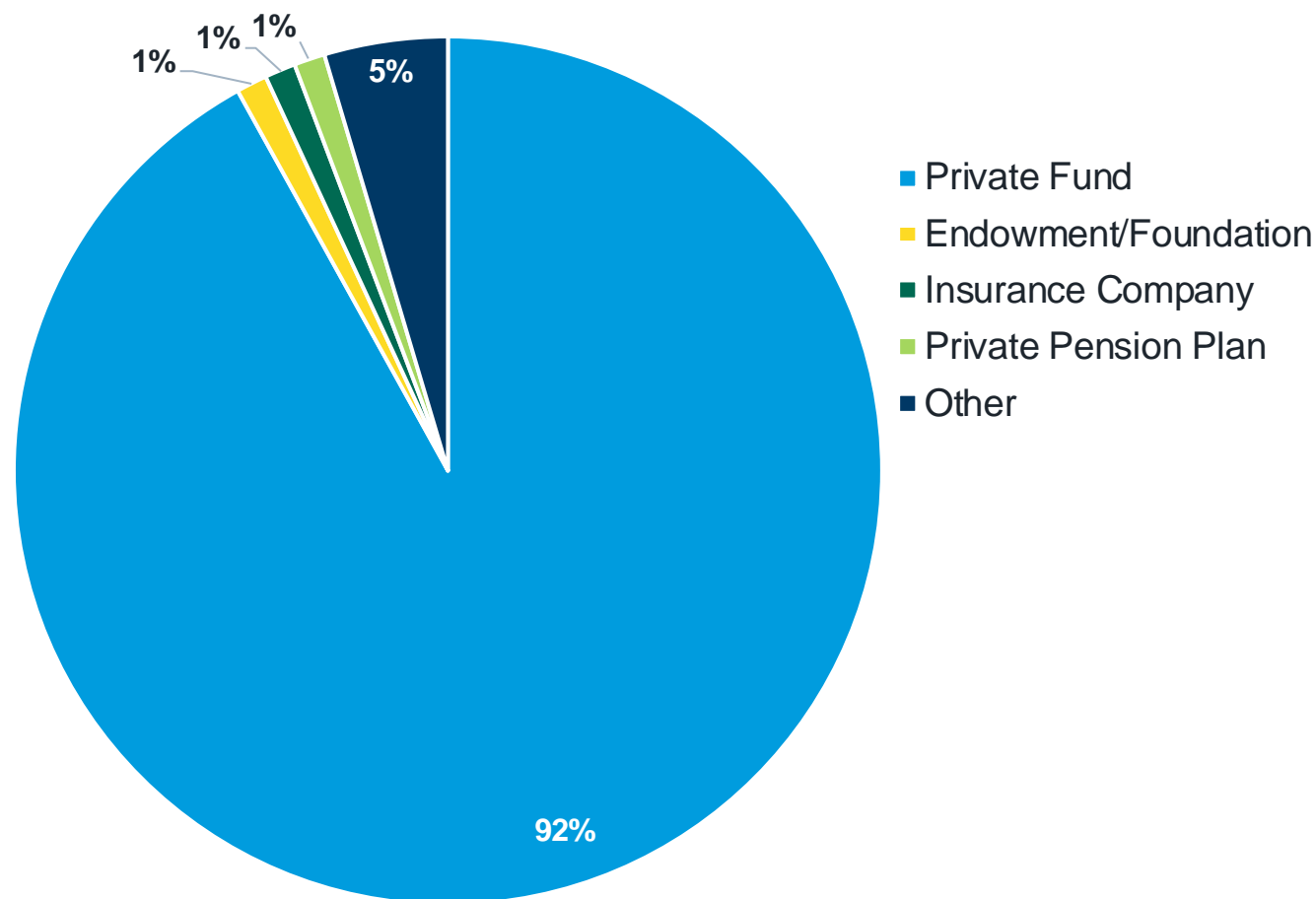
Buyer Legal Jurisdiction

Buyer geography remains predominantly North American-based, representing 79% of buy-side transactions.



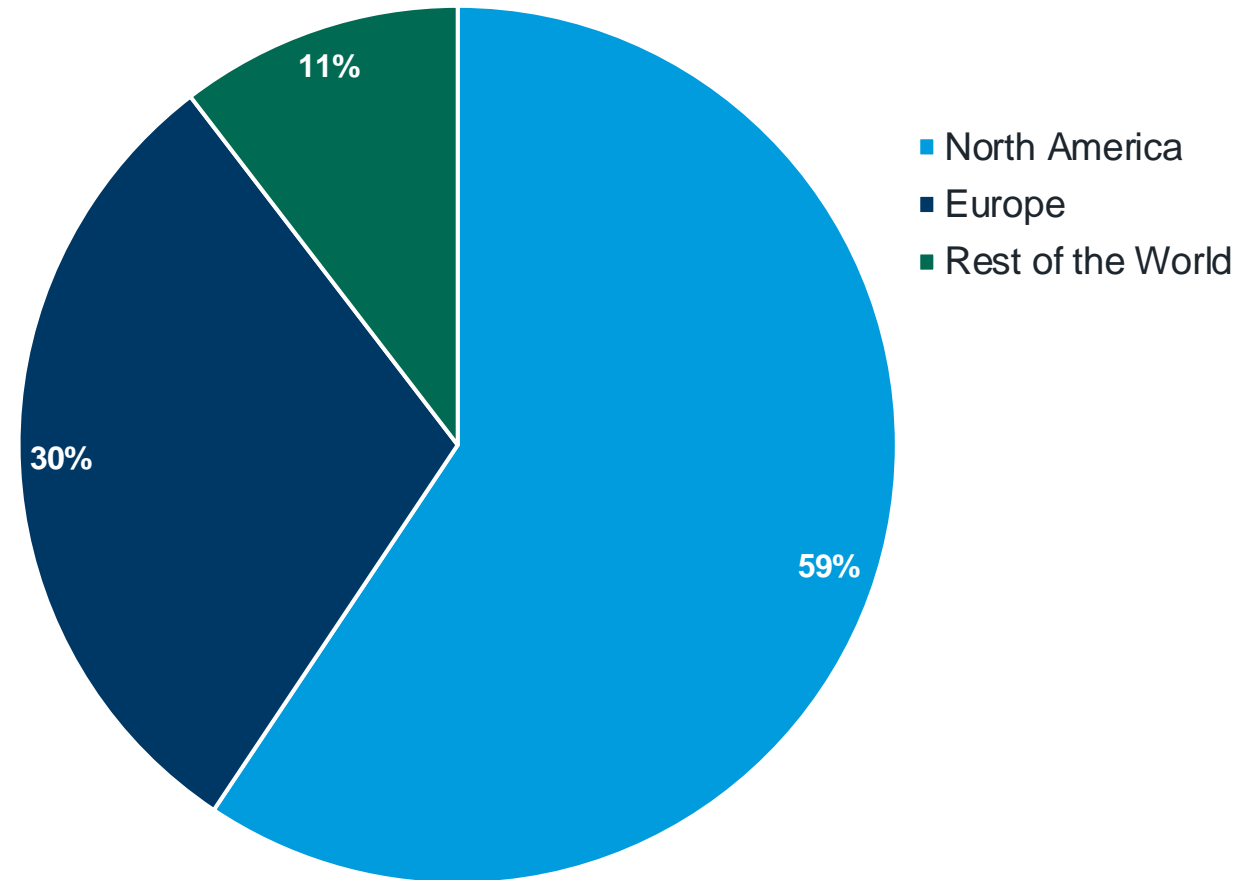
Buyer Type

Unsurprisingly, 92% of the traditional deals we worked on involved secondaries funds as the purchaser. This figure is consistent with prior years.



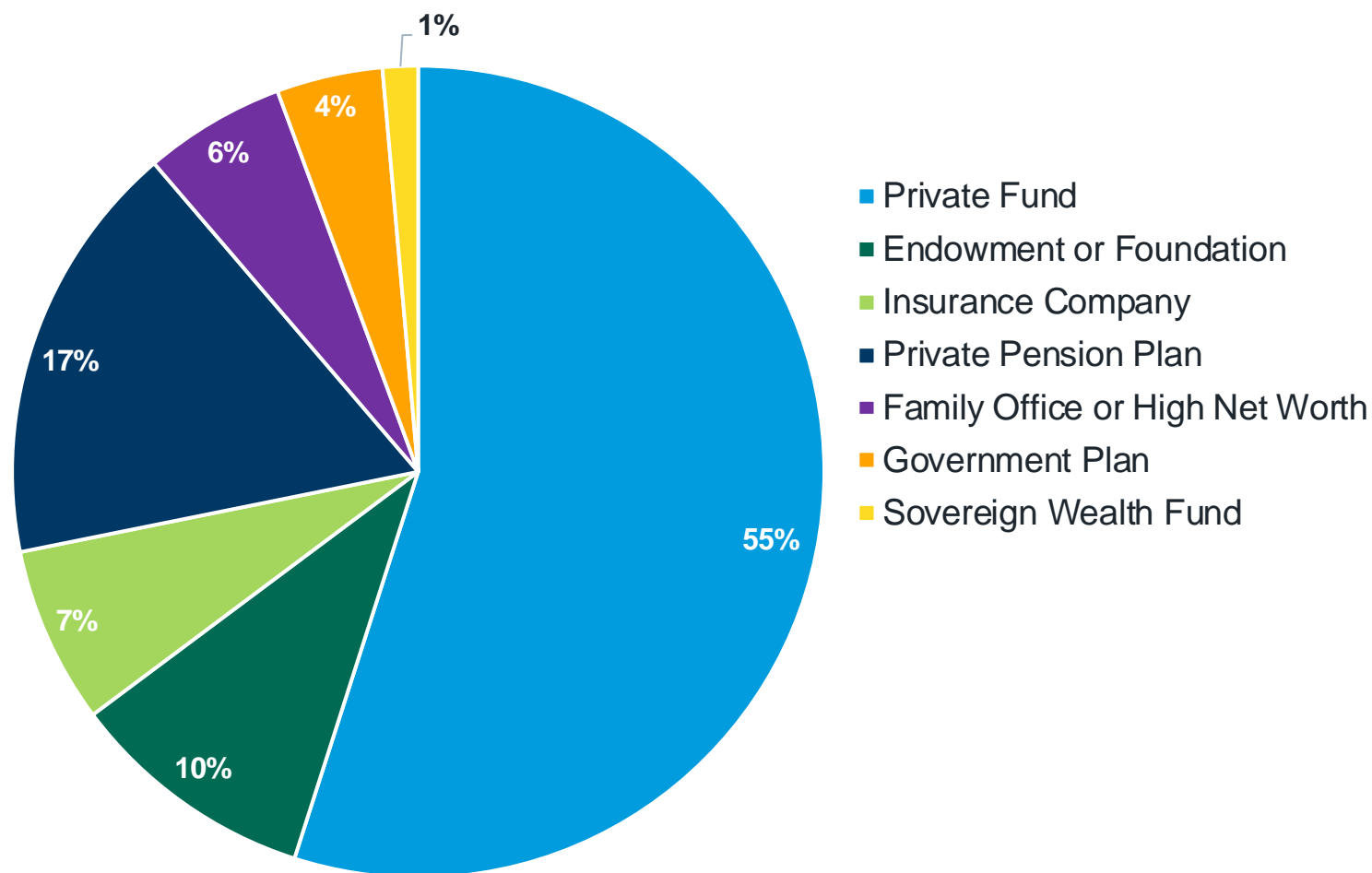
Seller Legal Jurisdiction

We saw much more of a global influence in seller jurisdiction between Q3 2023 – Q3 2024. Prior years consistently reported approximately 70% of sellers based in North America.



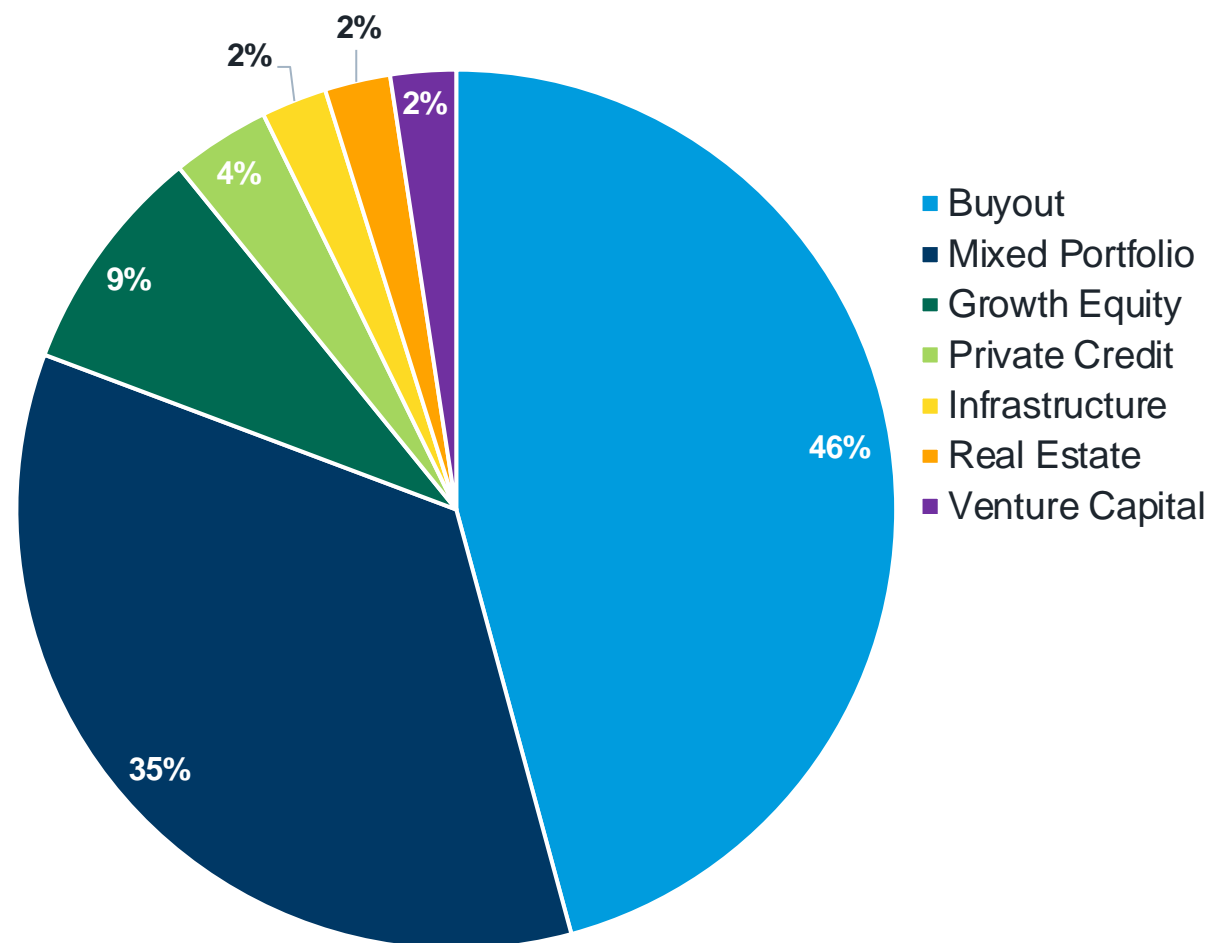
Seller Type

Sellers tend to cast a broader net in transaction work than buyers, as this chart illustrates. The past year featured private funds (55%), private pension plans (17%), endowments and foundations (10%) and insurance companies (7%) as the principal sellers.



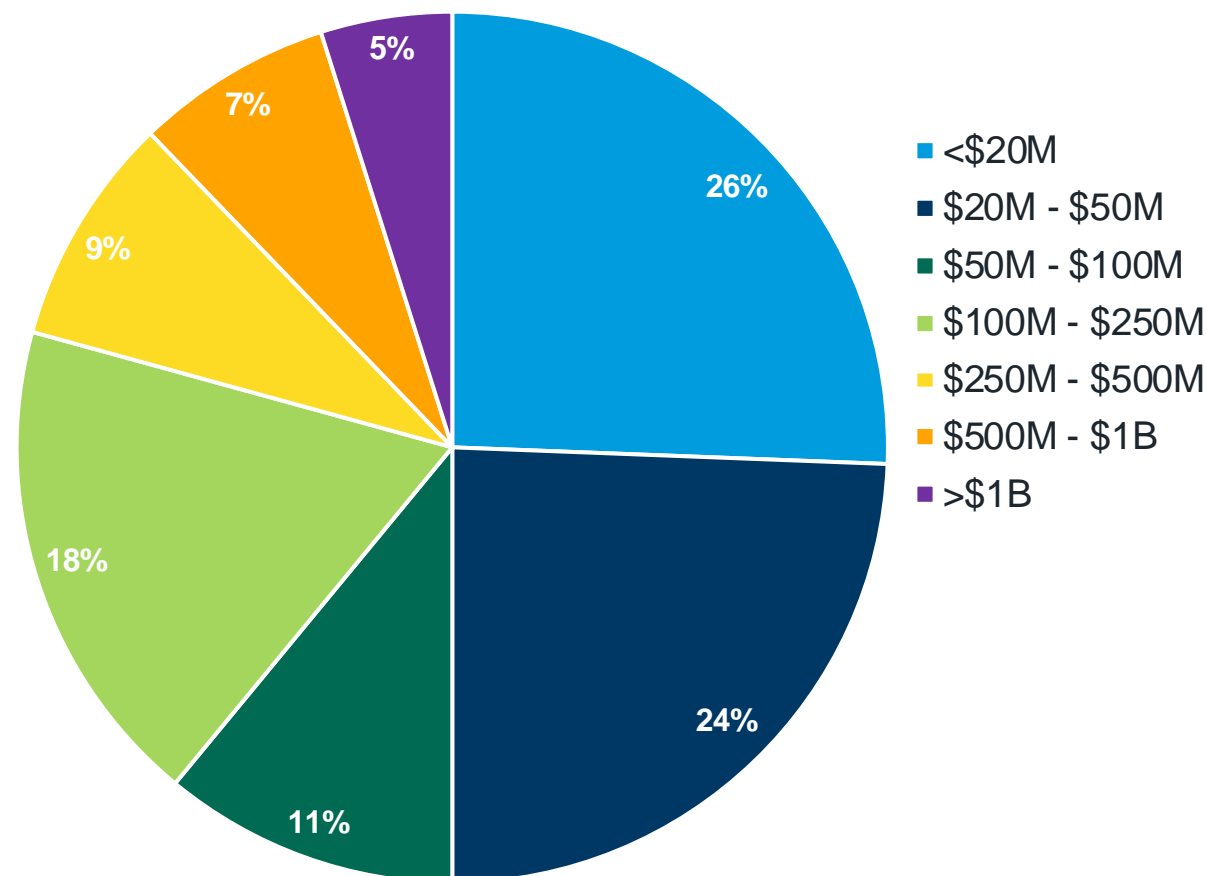
Primary Asset Class of Interests

Buyout portfolios accounted for 46% of traditional transactions. Private Credit, Infrastructure, Real Estate and Venture Capital portfolios accounted for 10% of transactions in the aggregate.



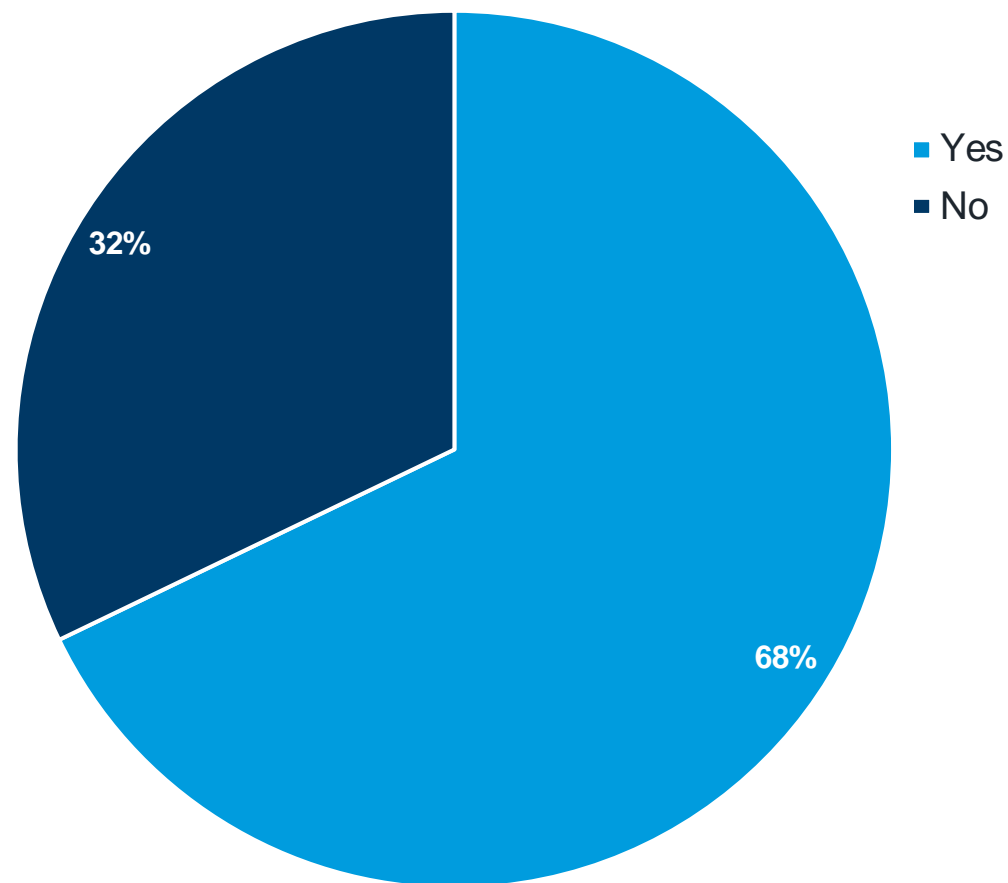
Size of Deal

Six deals involved portfolios in the \$500 million-\$1 billion range and five transactions saw portfolios traded with values in excess of \$1 billion.

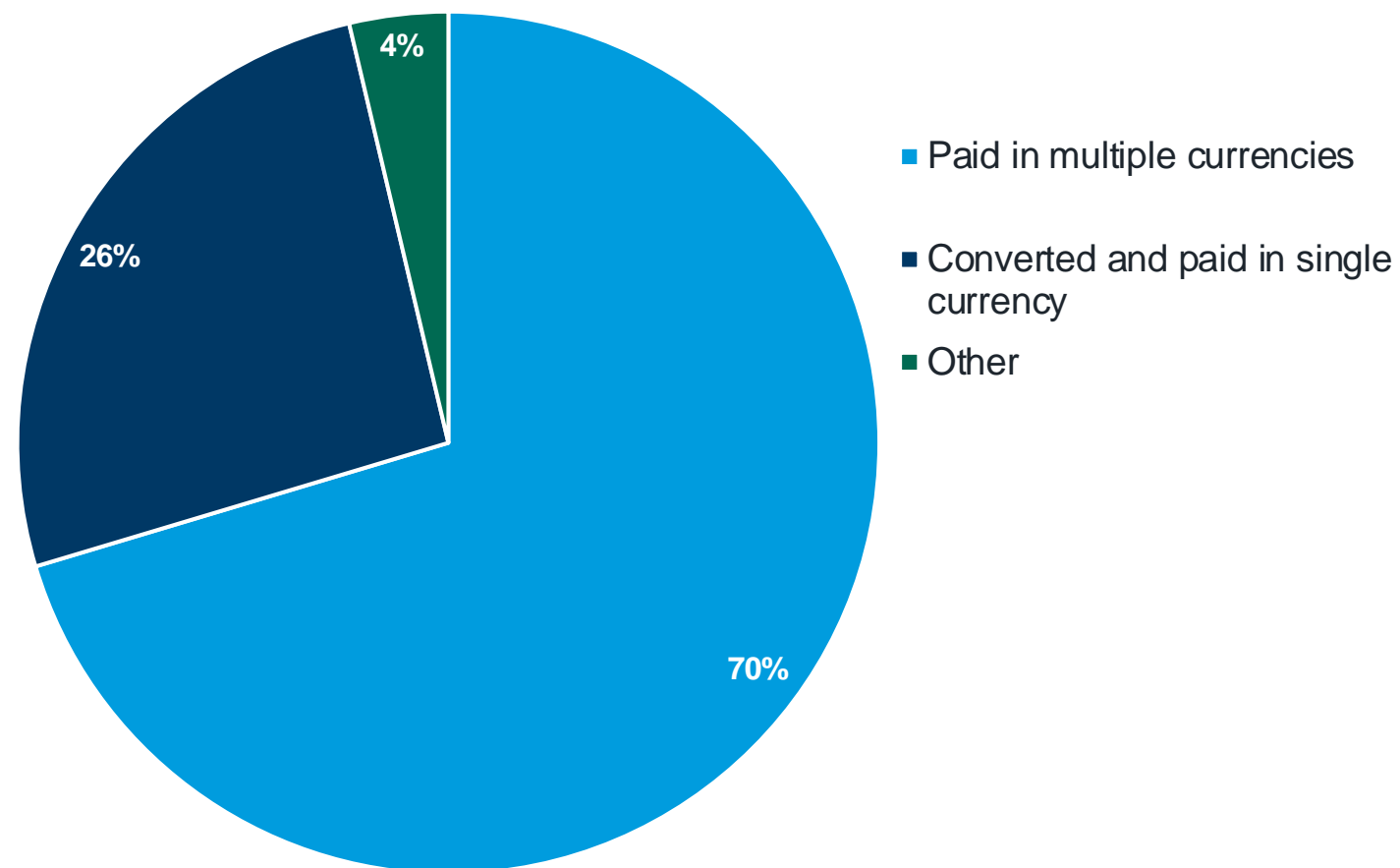


Multiple Currencies?

The ratio of multi-currency deals has significantly increased, given only 9% of the 55 deals reviewed between Q3 2022 – Q2 2023 were multi-currency, whereas this survey shows 68% of the 91 deals between Q3 2023 – Q3 2024 involved multiple currencies.

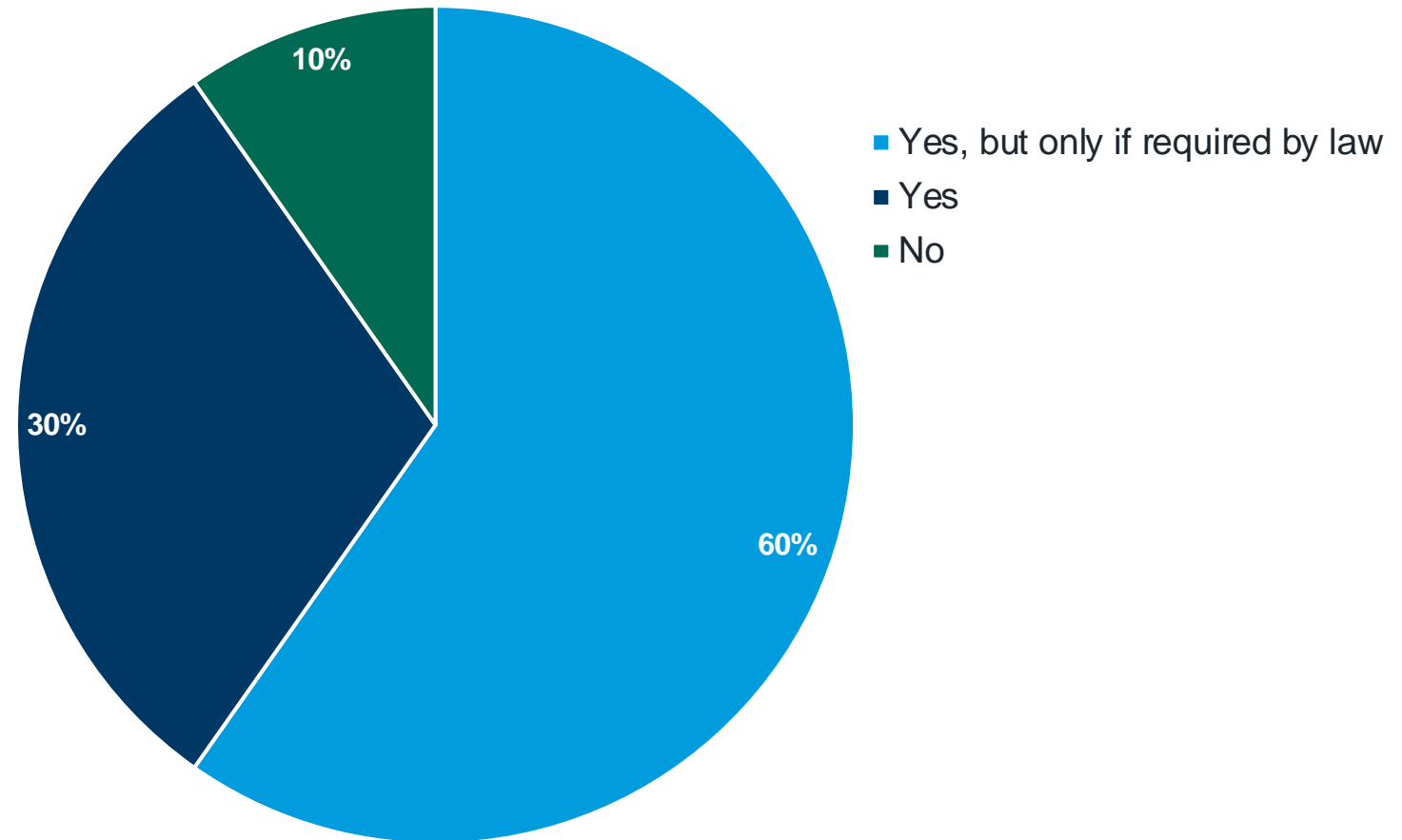


If Multiple Currencies, Purchase Price Paid in Multiple Currencies or Converted?



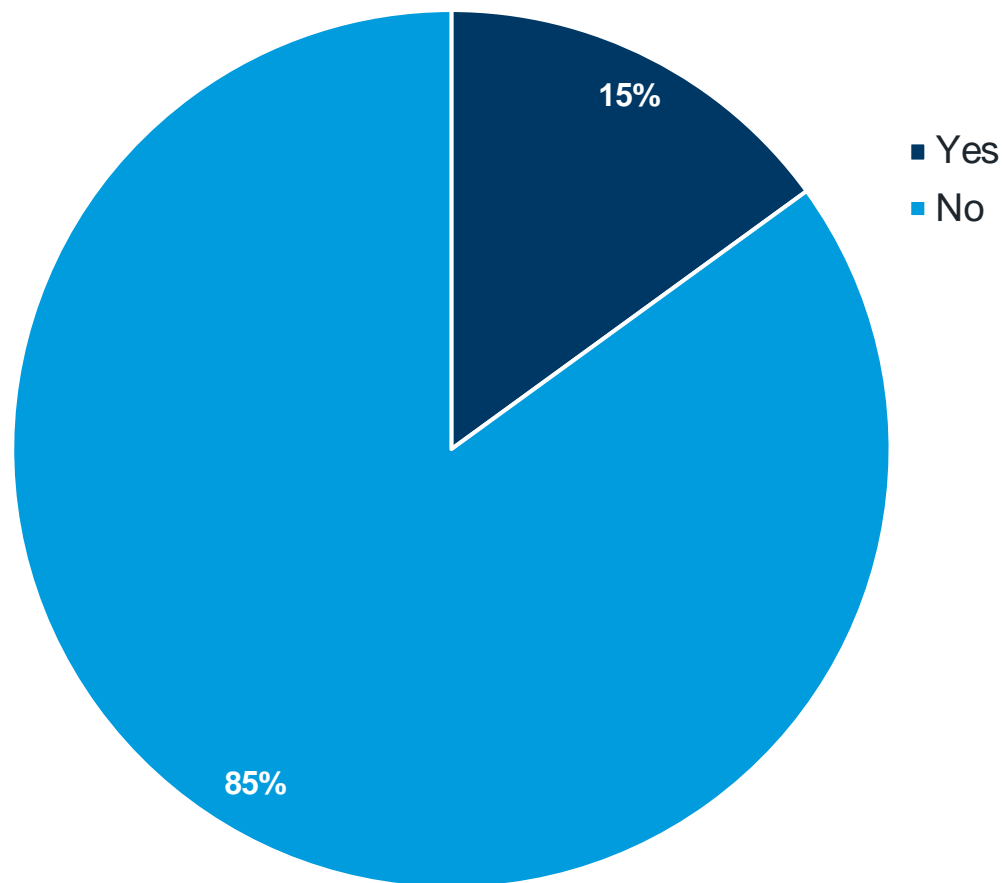
Purchase Price Withholding

A heavily negotiated topic is whether a buyer is permitted to withhold from the payment of the purchase price, which requires careful tax due diligence to determine whether withholding is applicable.



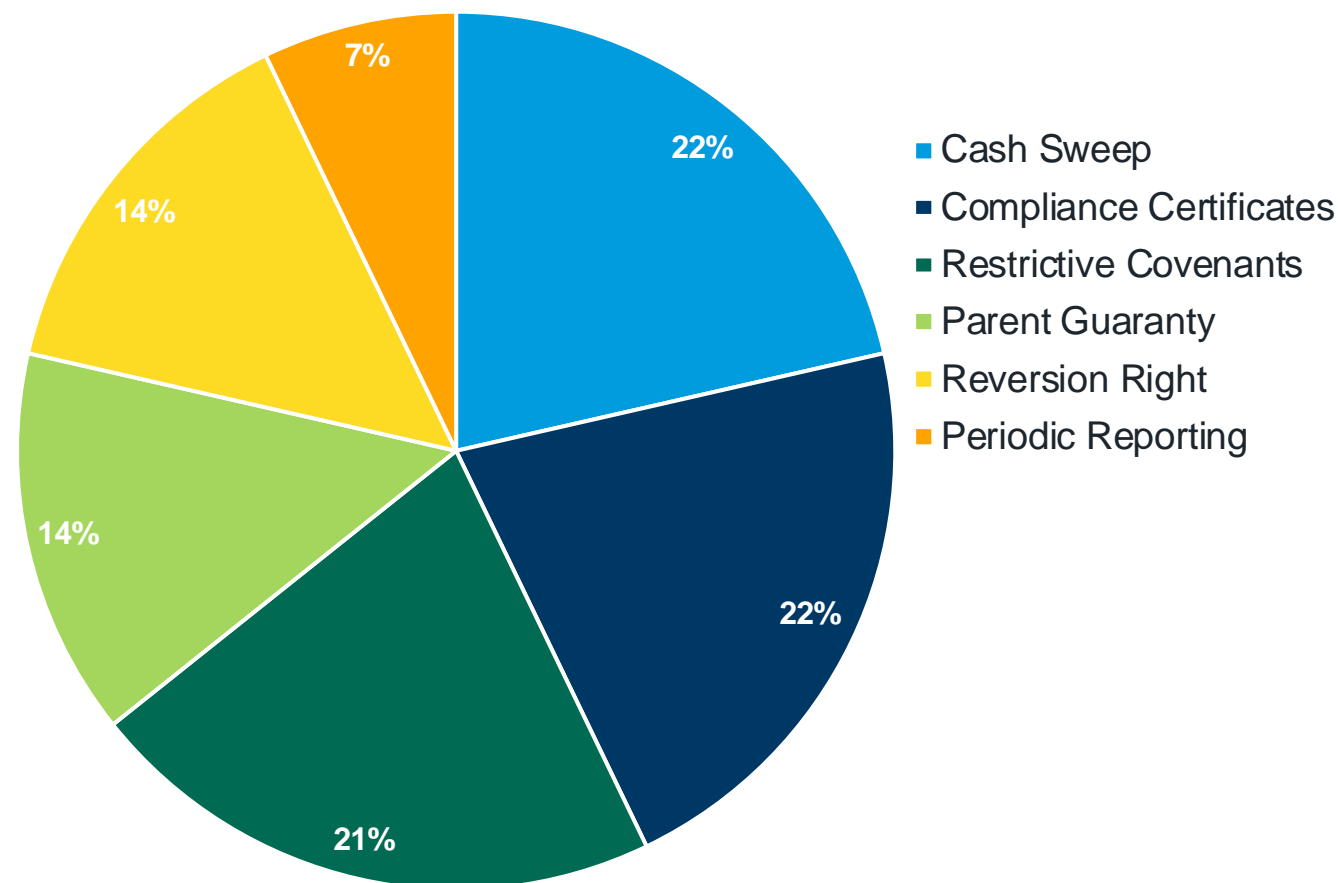
Purchase Price Deferrals

15% of our most recent deals involved a deferral of a portion of the purchase price, meaning the seller would not have received the full consideration at closing, but is likely to receive a better overall price.



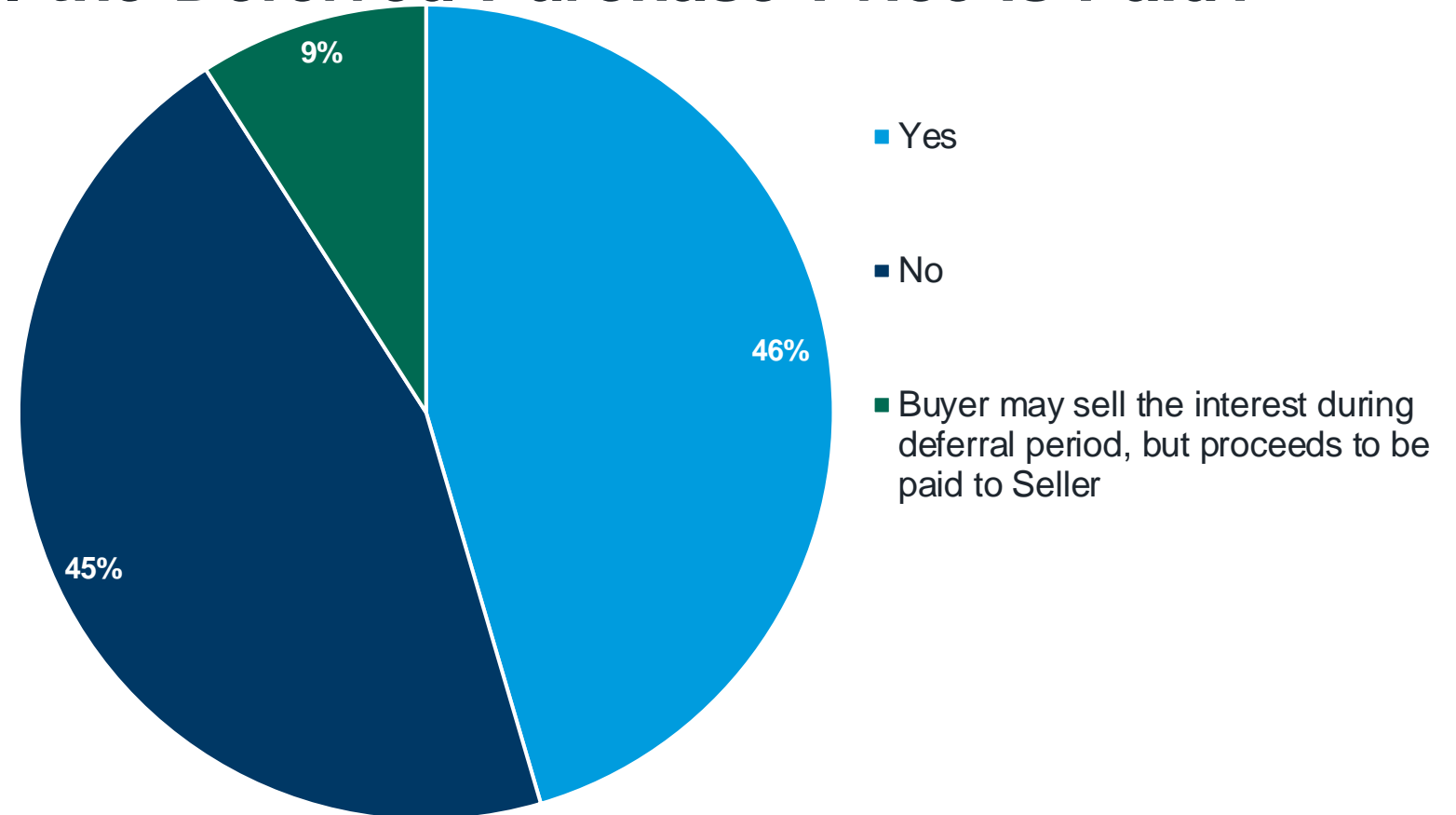
If Deferred Purchase Price, Payment Assurances?

Sellers often request various protections from the Buyer that last throughout the deferral period. In prior surveys, a parent guaranty has been the most common form of security, but in this data set, it fell behind protections afforded by a cash sweep, compliance certificates, and restrictive covenants.



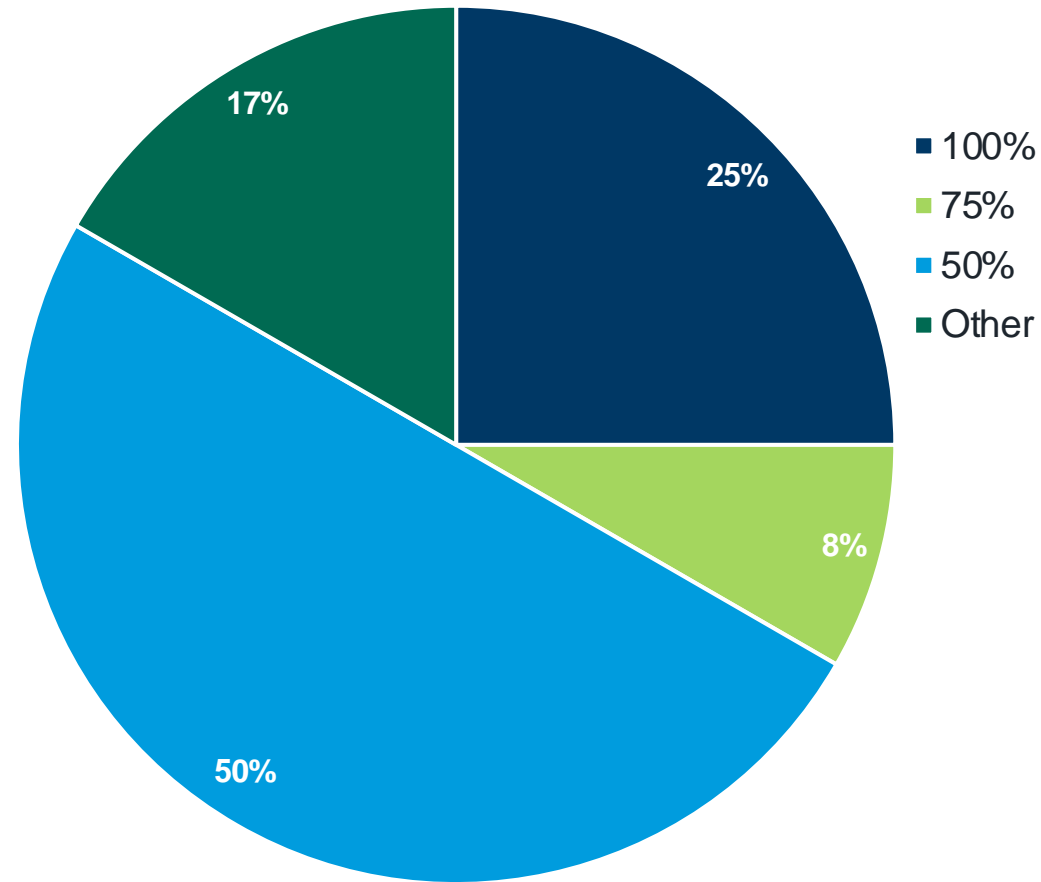
If Deferred Purchase Price, Are there Restrictions on Sales/Transfers until the Deferred Purchase Price is Paid?

We found that there's a near-even split amongst restrictions on sales/transfers during the deferral period.



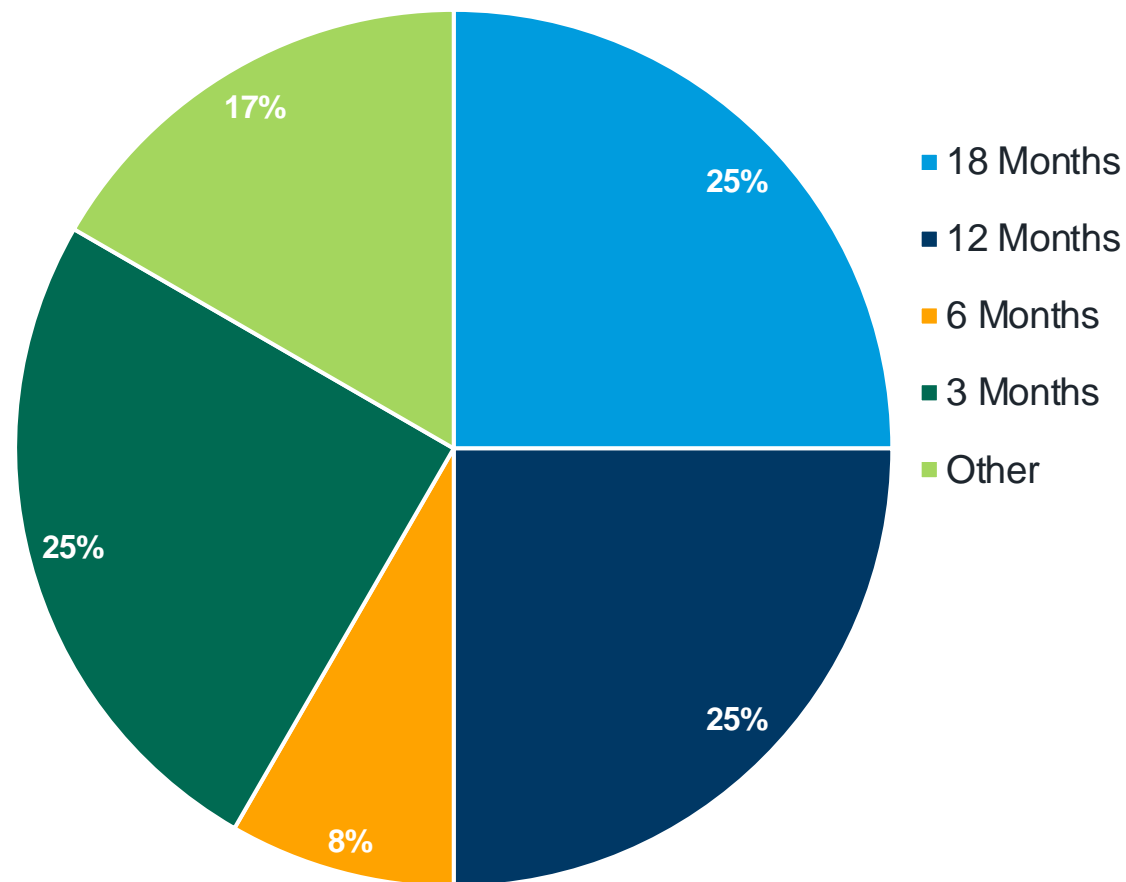
If Deferred Purchase Price, Percentage Deferred?

We had almost identical responses in our last two surveys with exactly 50% of purchase price deferrals involving a 50% deferral of the purchase price.



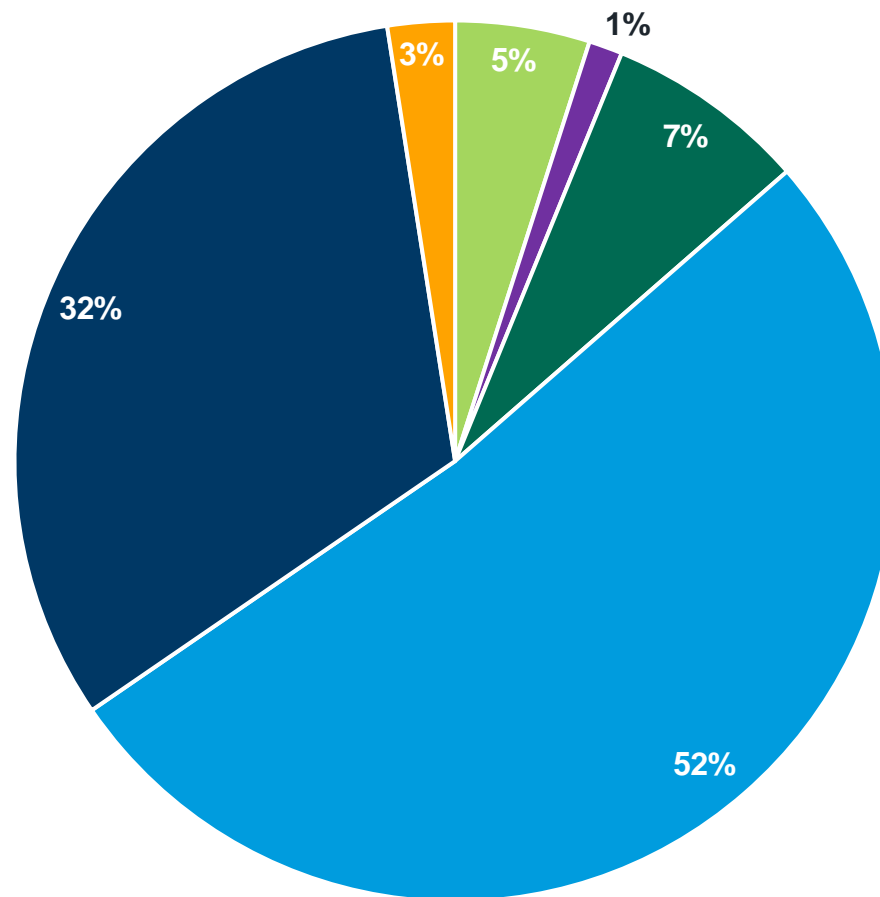
If Deferred Purchase Price, Length of Deferral?

Our prior survey showed a clear trend with the most common deferral period being 12 months. Over the past year, however, we saw an even number of deals containing deferrals of 18 months, 12 months and three months, each in 25% of cases.



Survival Period for General Reps

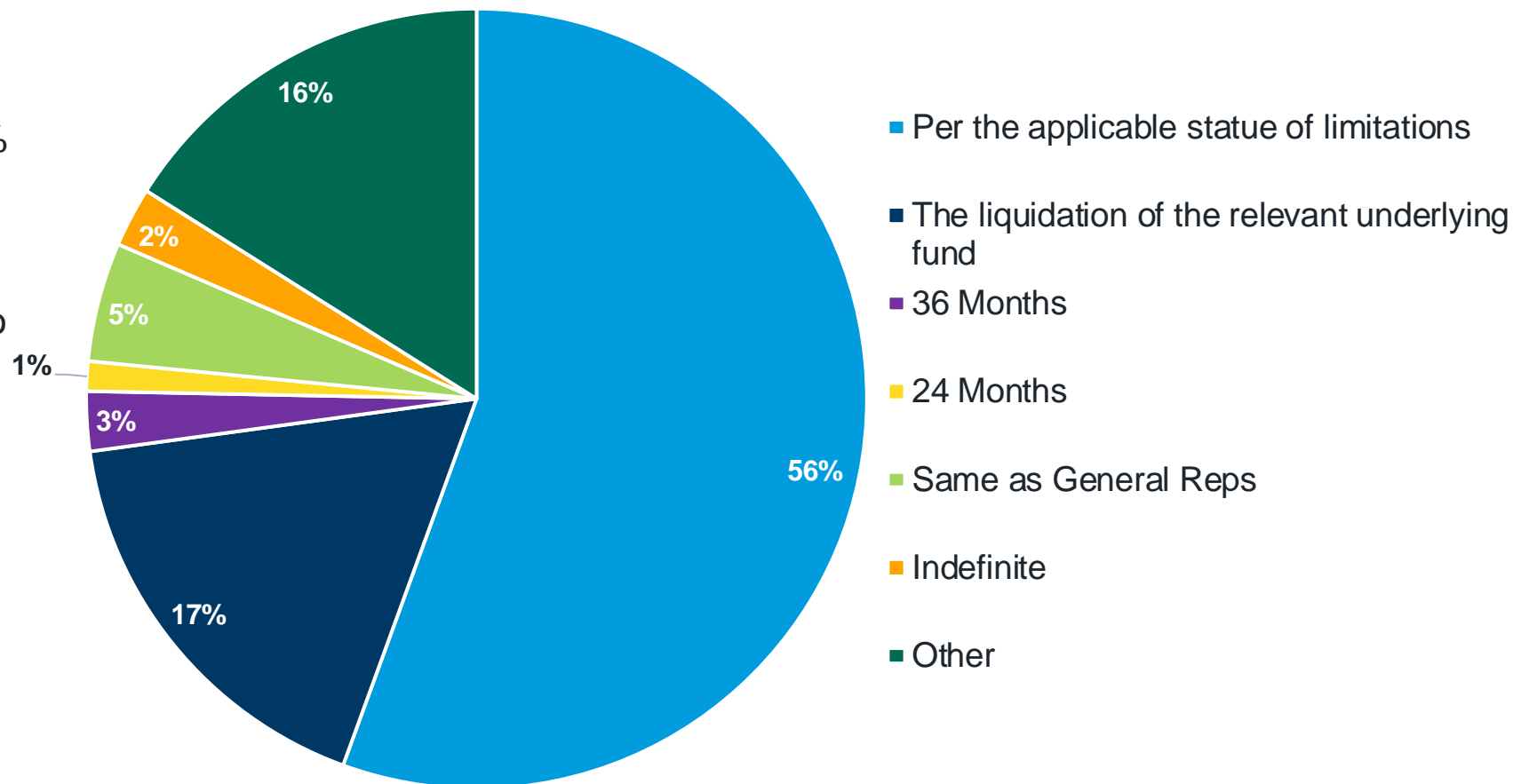
Regarding claims for breach of the general warranties, an 18-month survival period from the closing date was seen in 52% of deals and a 12-month survival period was seen in 32% of deals. Such percentages remain relatively consistent with data from our prior surveys.



- The later of 12 months and the receipt of audited financials for the calendar year in which the closing occurred
- 25-36 Months
- 24 Months
- 18 Months
- 12 Months
- <12 Months

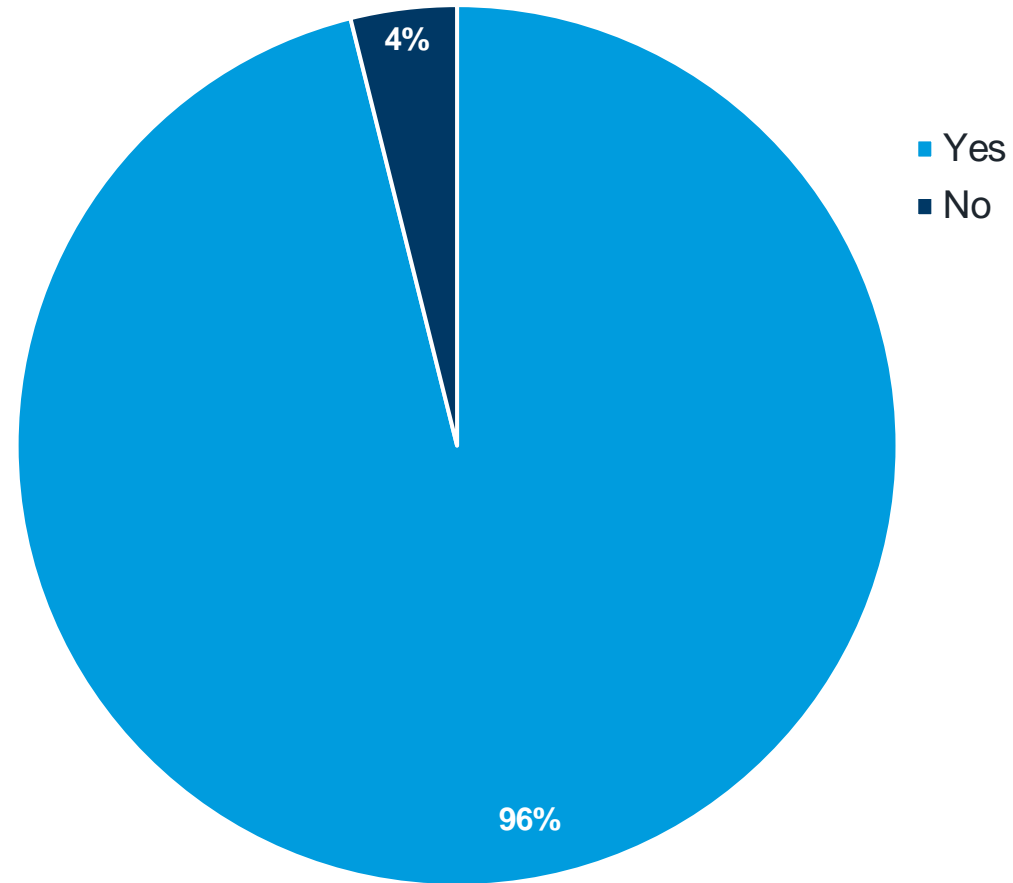
Survival Period for Fundamental Reps

For fundamental warranties, 56% of deals saw the survival period tied to the expiration of the applicable statute of limitations and 17% of deals by reference to the liquidation of the underlying partnership.



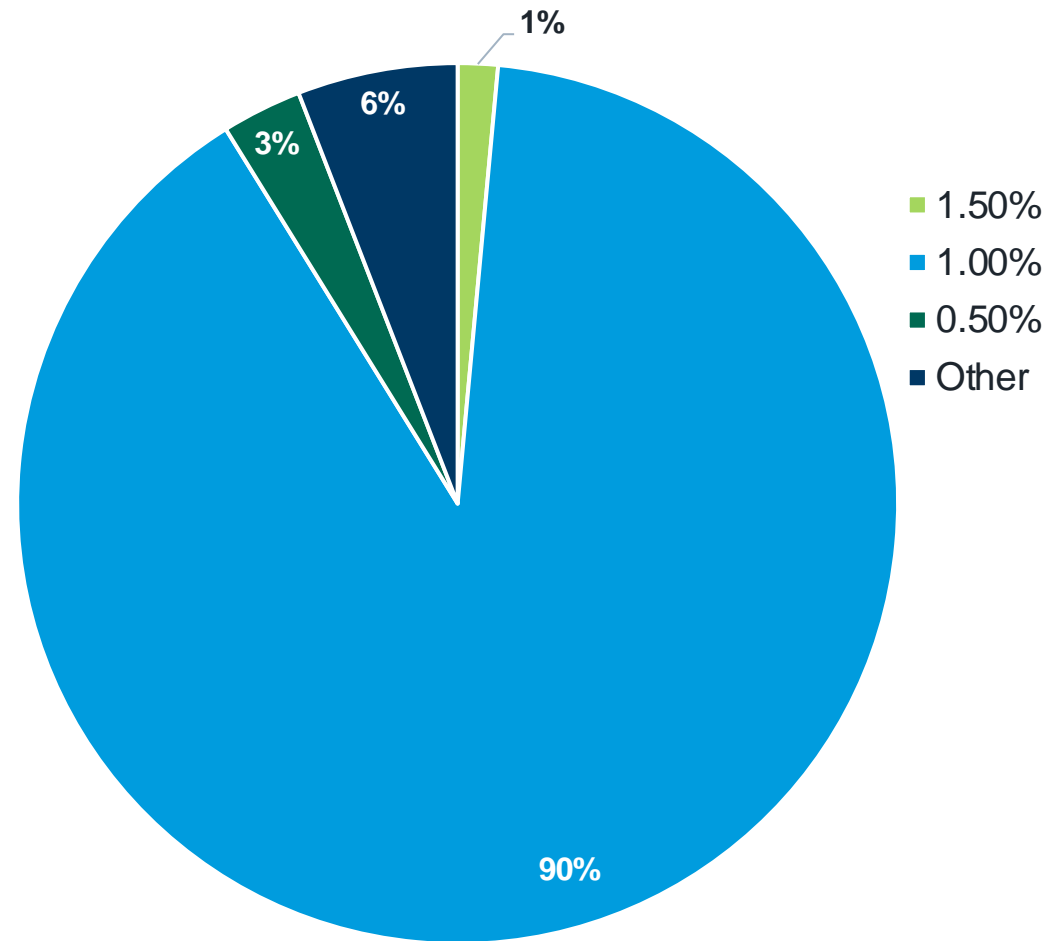
Indemnity?

As is customary, 96% of secondaries sale and purchase agreements saw the parties granting one another an indemnity in respect of certain claims.



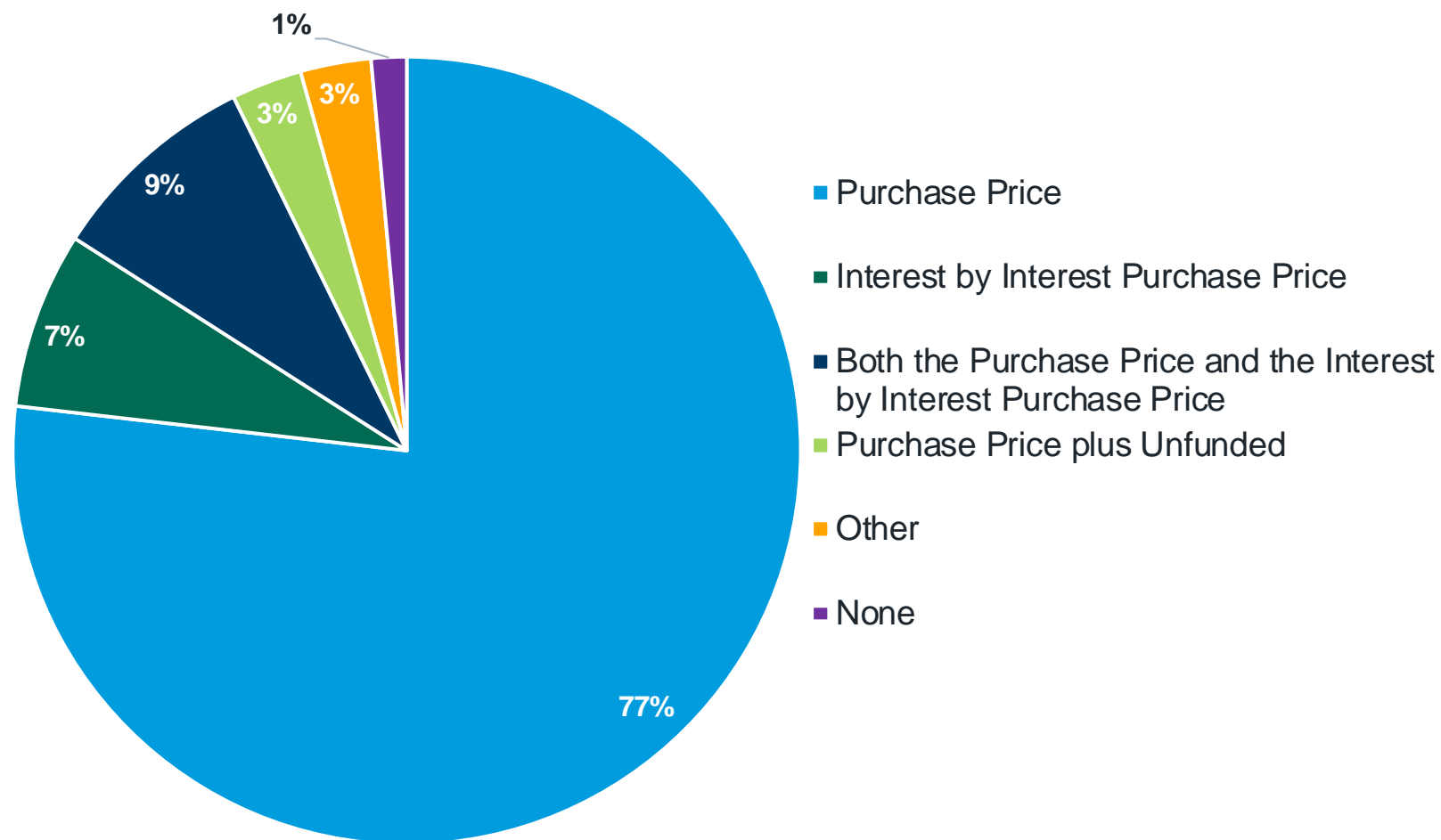
Indemnity Threshold

In 90% of deals (an 8% increase from our prior survey), the threshold for bringing indemnity claims was set at 1.00% of the purchase price, which continues to be a relatively standard market position.

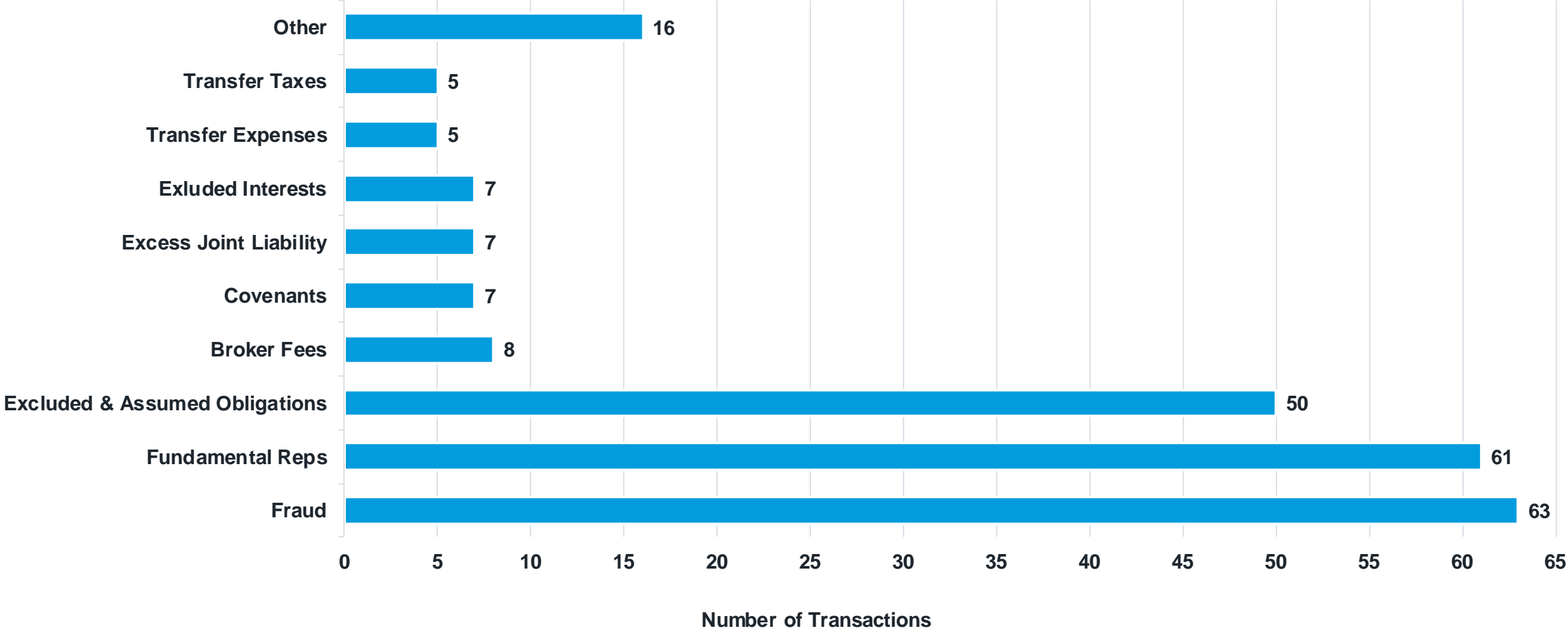


Indemnity Cap

With regard to an overall cap for indemnity claims – i.e., the maximum amount payable by one party to another – in 77% of cases this was set at the purchase price.



Carveouts to Financial Limitations

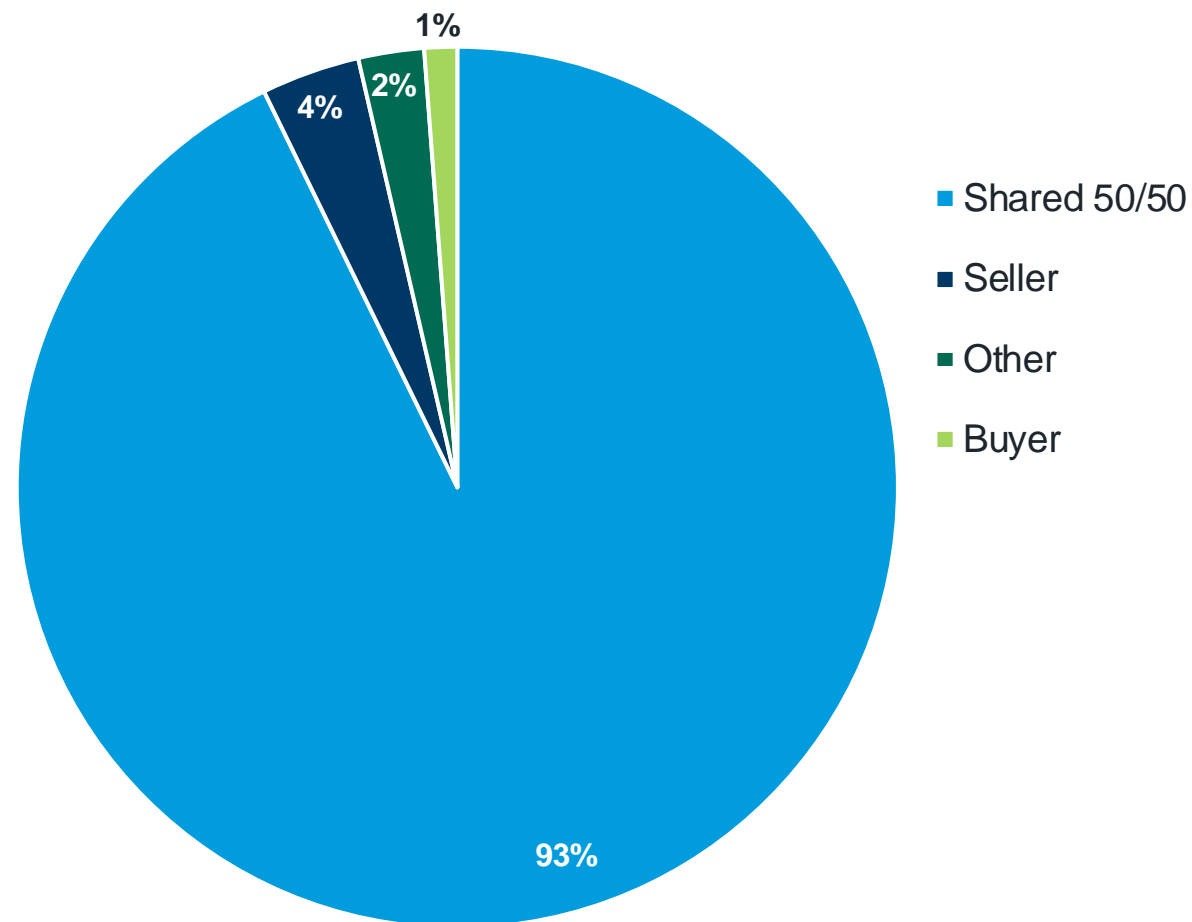


Excluded Obligations

Buyer Indemnity Type	Prevalence in Deals
Breach of Seller under the Portfolio Property Agreements	96%
Tax liabilities arising from or attributable to the holding of an Interest on or before the applicable Closing Date	95%
LP Clawback	92%
Obligations or liabilities with respect to the transferred interests which arise, accrue, relate or are otherwise attributable to the period prior to the Closing Date and result from the acts or omissions of Seller	78%
Obligations or liabilities relating to any Excluded Interest	64%
Obligations or liabilities of Seller other than those arising under the Portfolio Property Agreements	57%
Waivers or deferrals of carried interest	42%
Waivers or deferrals of management fees	31%
Obligations or liabilities with respect to the Interests pursuant to any document not disclosed by Seller to Buyer	18%
Transfer Expenses	11%

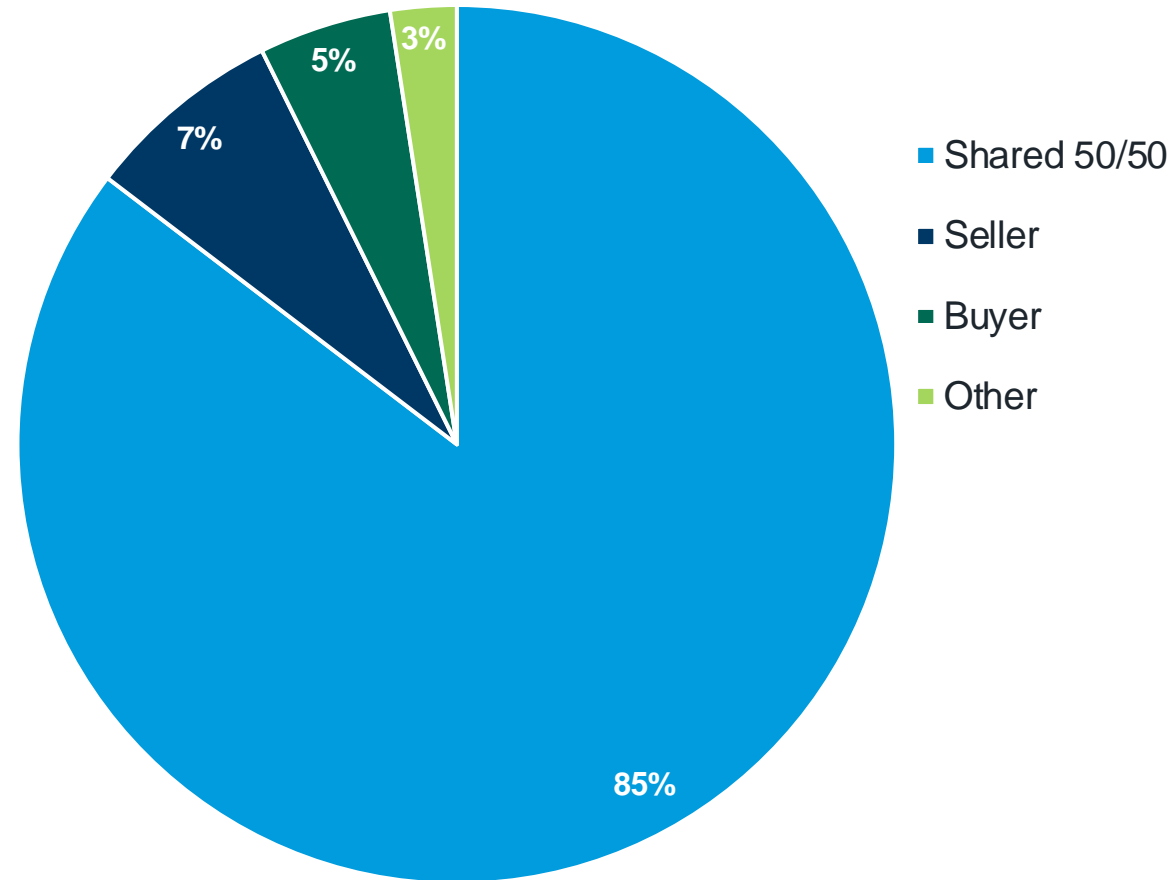
Transfer Expenses Borne by Which Party?

Transfer expenses charged by the underlying GPs to facilitate the transfers are regularly shared between the transferring parties on a 50/50 basis.



Transfer Taxes Borne by Which Party?

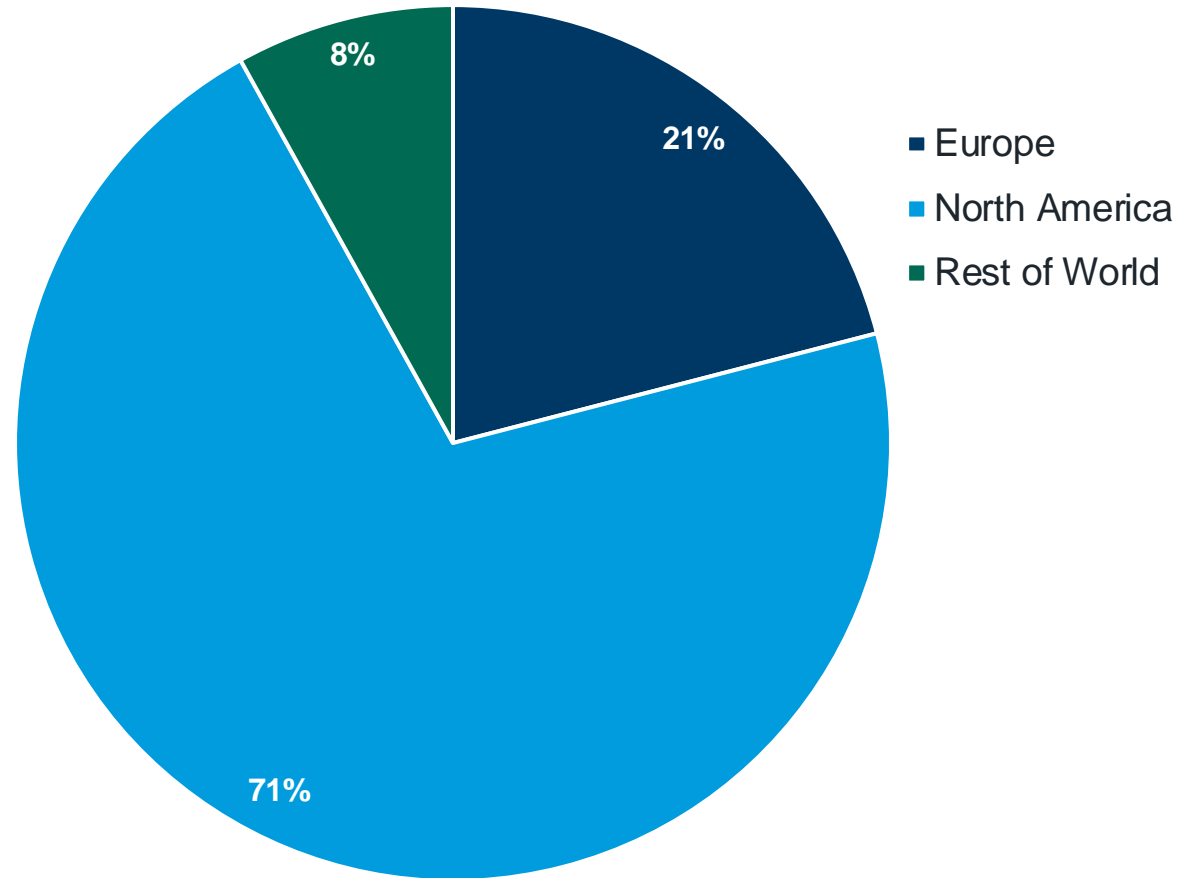
Transfer taxes, if any, are also most commonly shared equally between buyer and seller.



Data Insights: GP-Led Secondaries Transactions

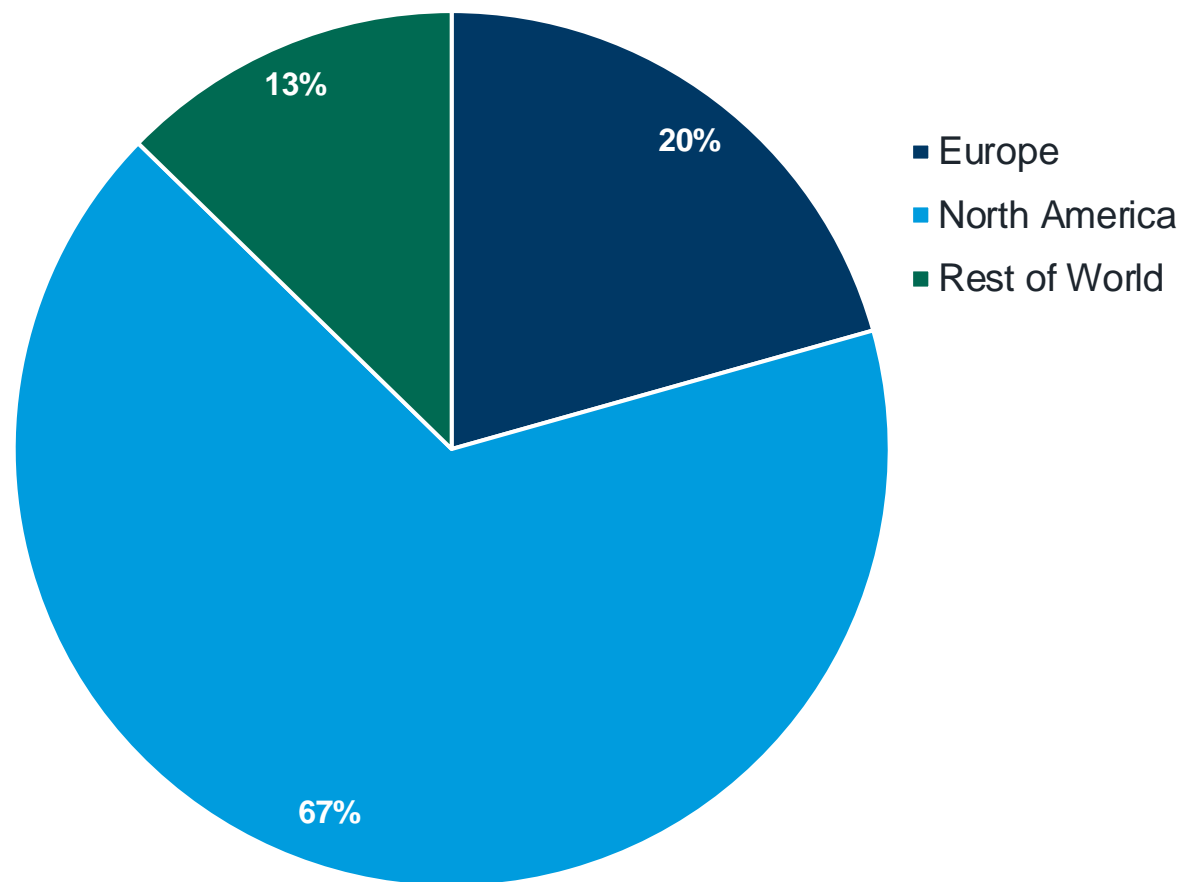
Sponsor Geography

This chart highlights the principal jurisdiction of the sponsors, with the largest representations being North America (71%) and Europe (21%). We saw smaller percentages of sponsors based in other parts of the world.



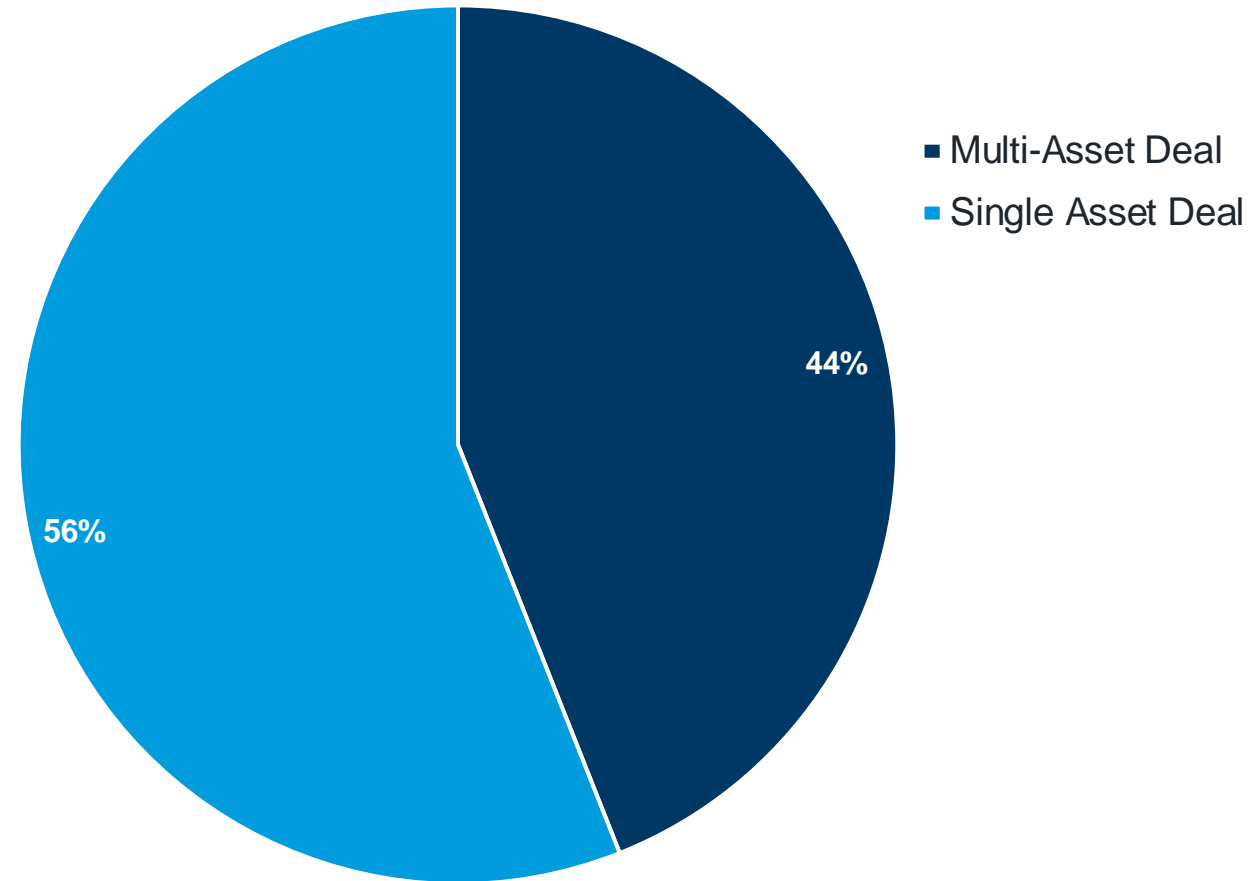
Portfolio Geography

This chart highlights the principal jurisdiction of the subject portfolio companies, with the largest representations being North America (67%) and Europe (20%). This year, we saw a slight increase in the number of transactions with portfolio companies located throughout the rest of the world.



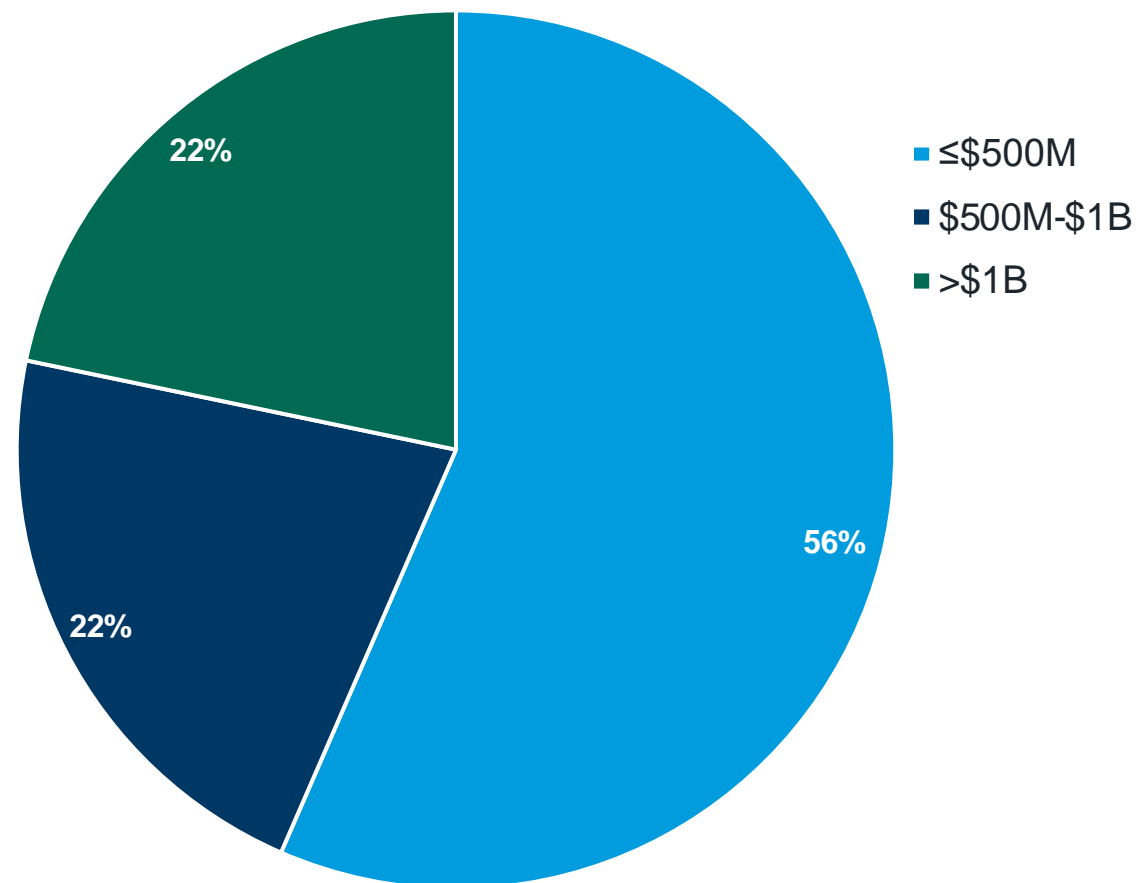
Single Asset Deal or Multi-Asset Deal?

We continue to see more single asset deals, with those transactions making up 56% of the GP-led transactions our lawyers worked on the past year.

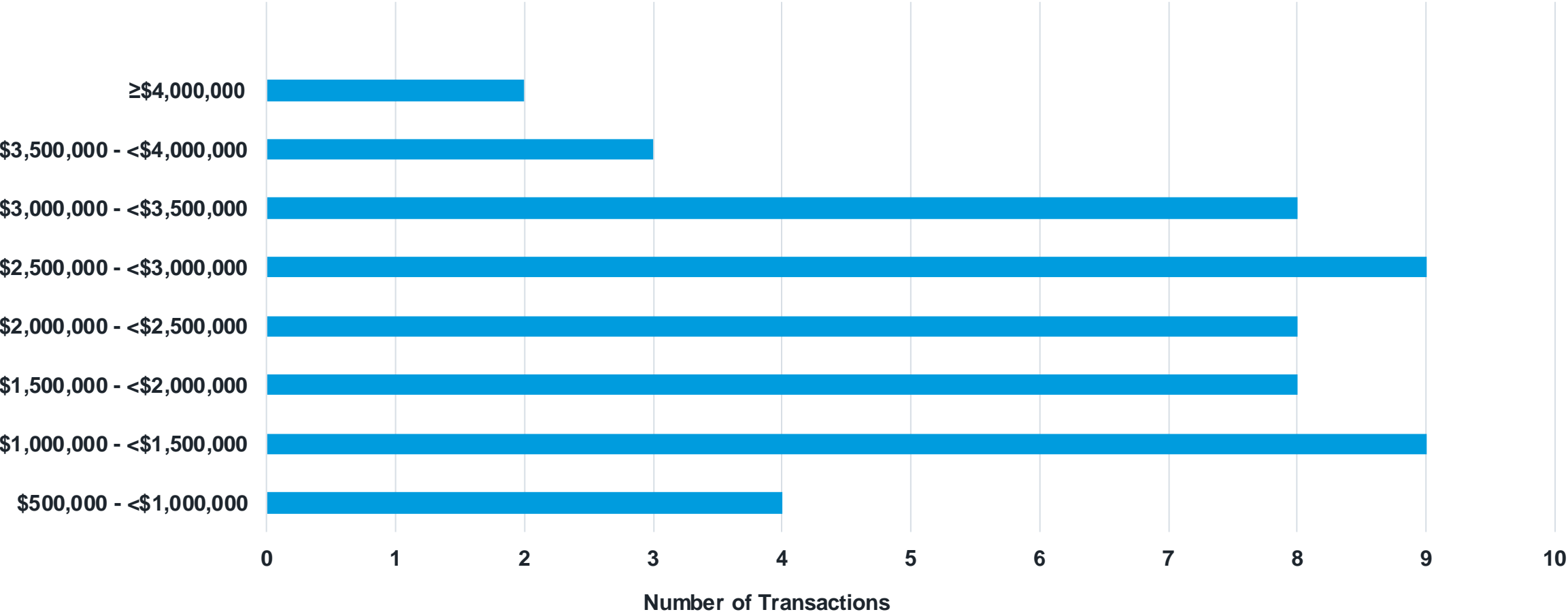


Size of Deal

The majority of the GP-led deals worked on over the applicable time period were slightly smaller in size, with an overall deal size of less than \$500 million.



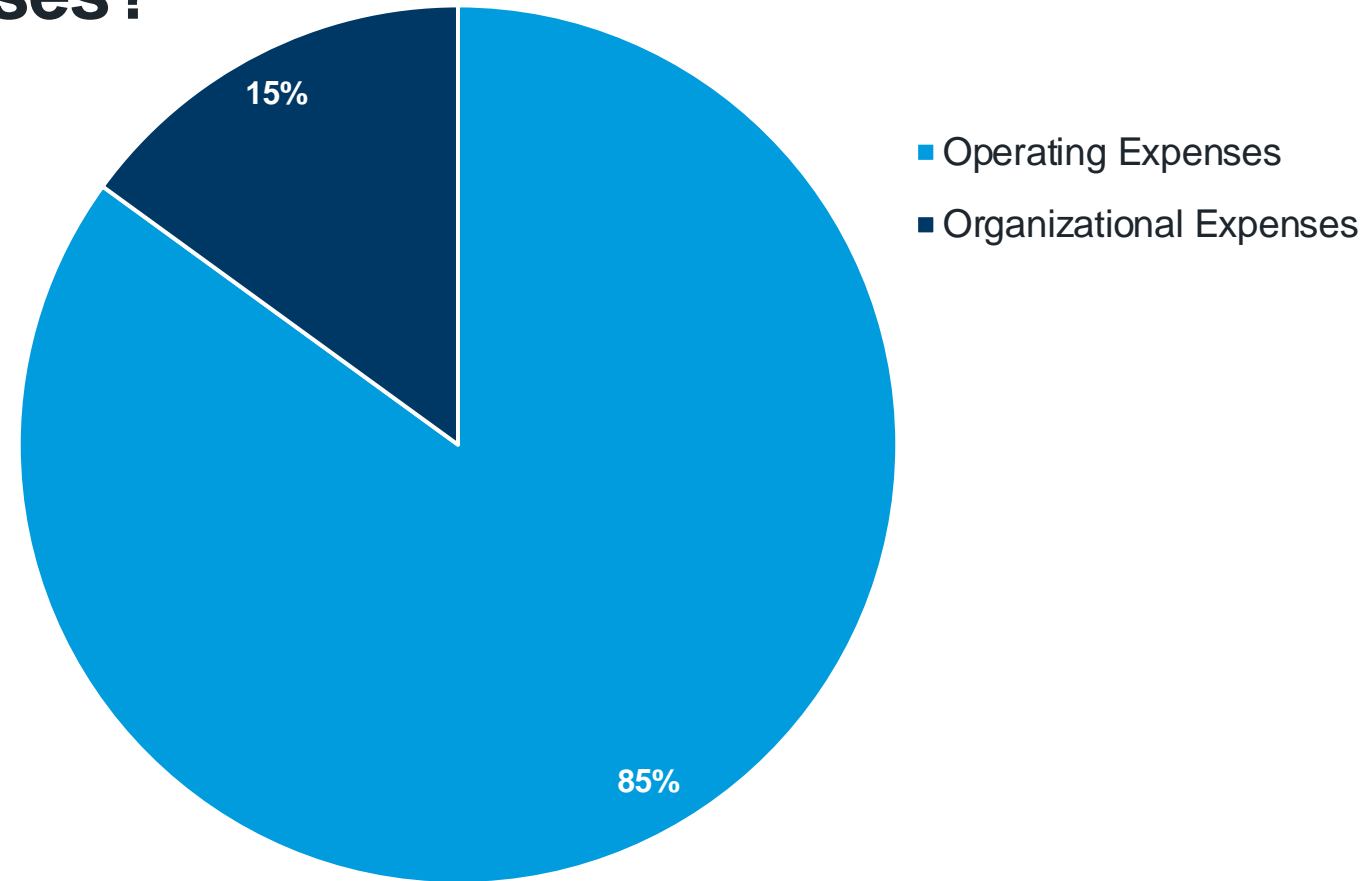
Organizational Expense Cap



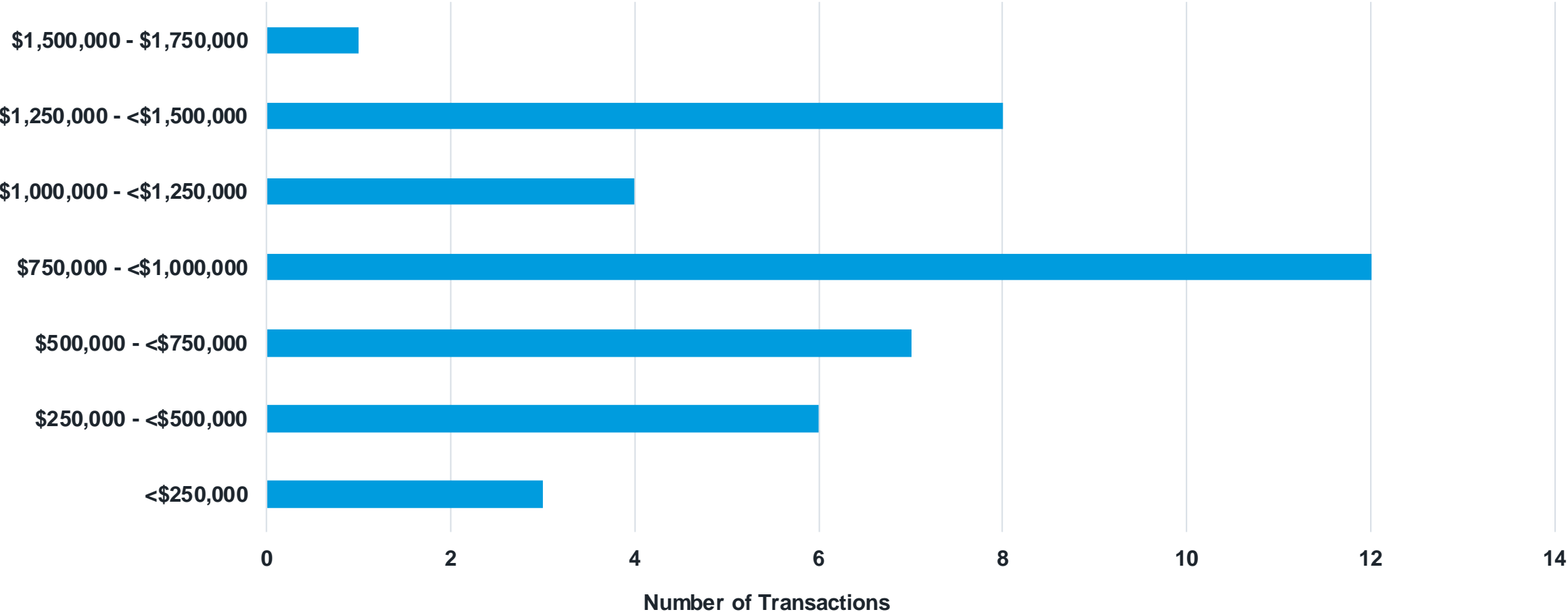
Recent transactions have seen increases in organizational expense caps for GP-led transactions. Half of the funds have an organizational expense cap of at least \$2 million.

Are Lead Investor Expenses Treated as Organizational Expenses or Operating Expenses?

The vast majority of transactions do not include lead investor expenses in the applicable continuation fund's organizational expenses. Transactions that do include lead investor expenses in the definition of organizational expenses will correspondingly increase the caps of organizational expenses, which could contribute to some of the higher caps we saw on the prior slide.

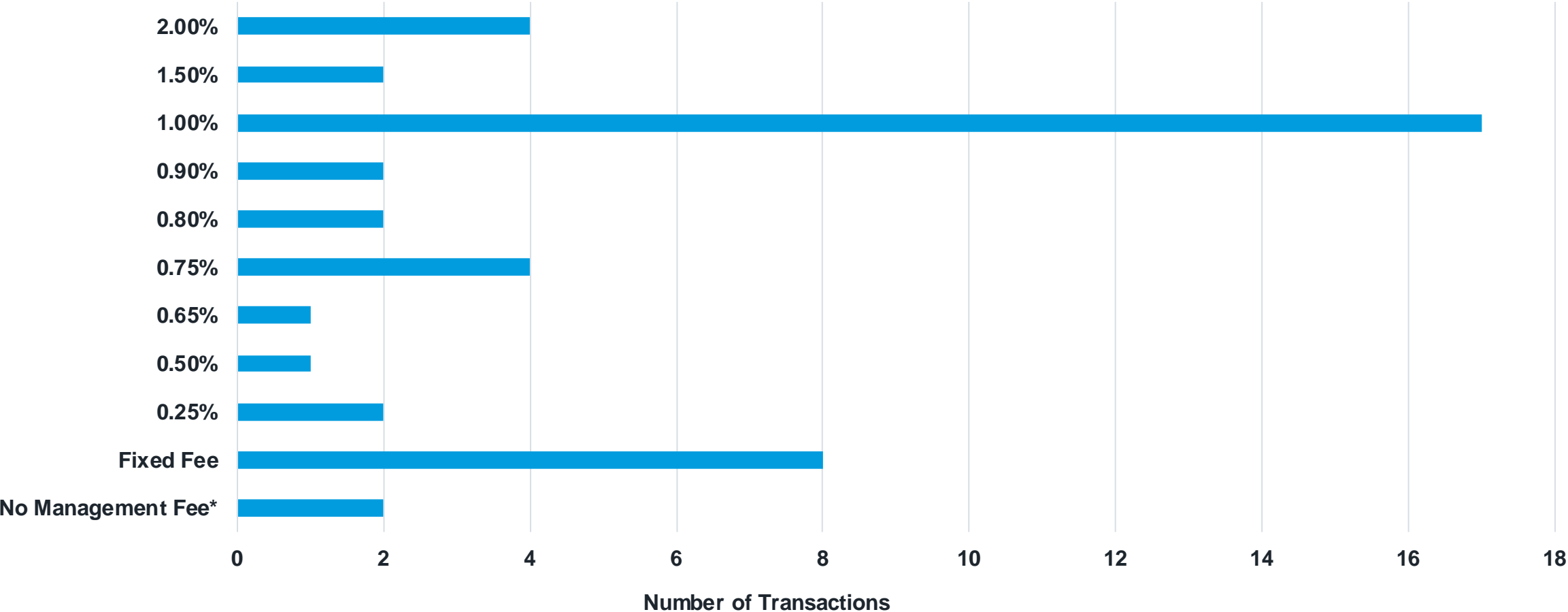


Lead Investor Expense Cap



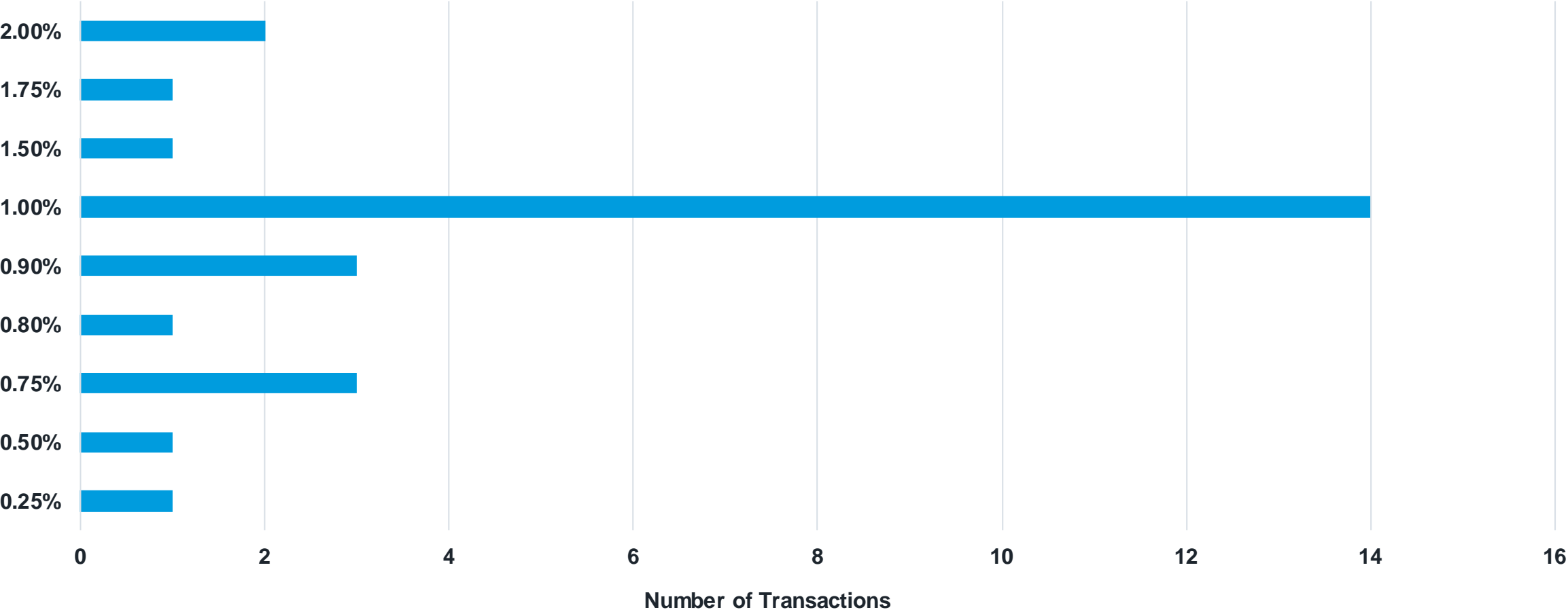
Lead investor expense caps are often marked at or around half of a continuation fund’s organizational expense cap, so as organizational expense caps have increased, lead investor expense caps have unsurprisingly been on the rise as well.

Management Fees For New Investors



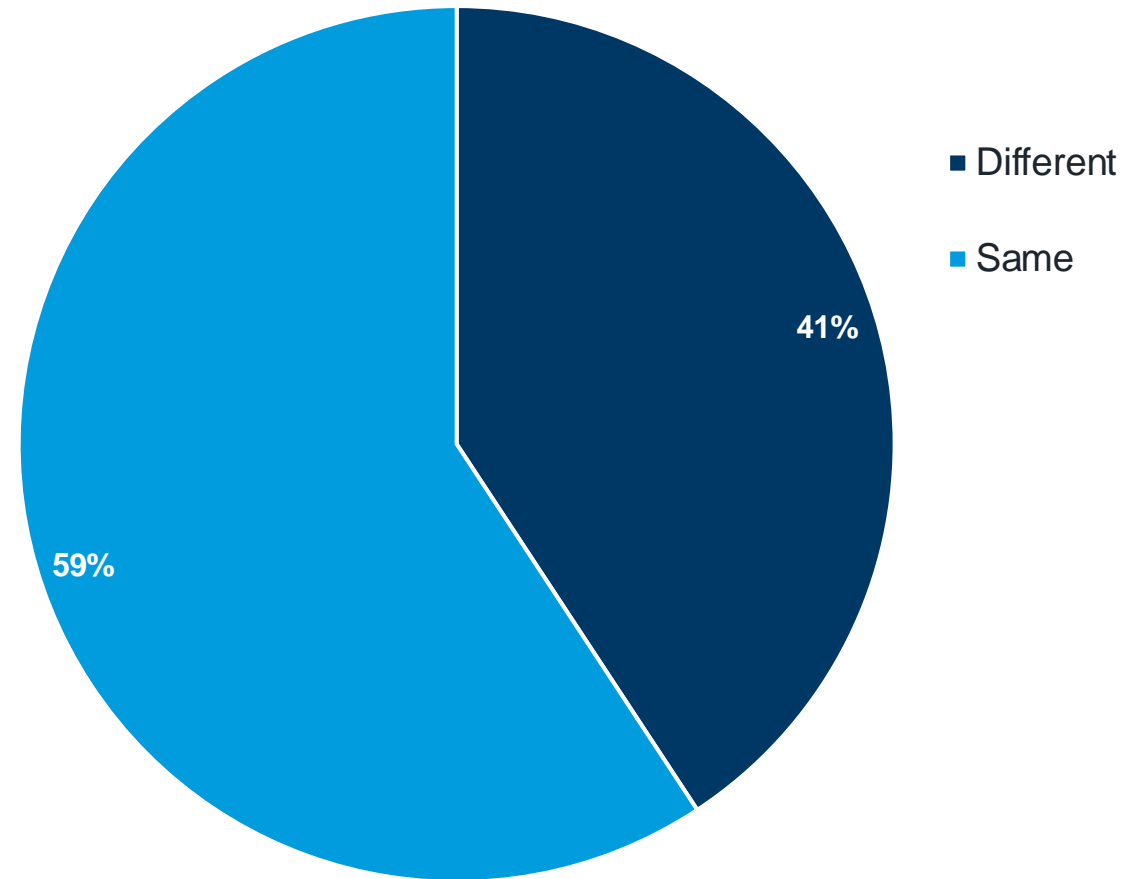
*No management fee, but manager receives monitoring fees from the portfolio.

Management Fees for Rolling Investors



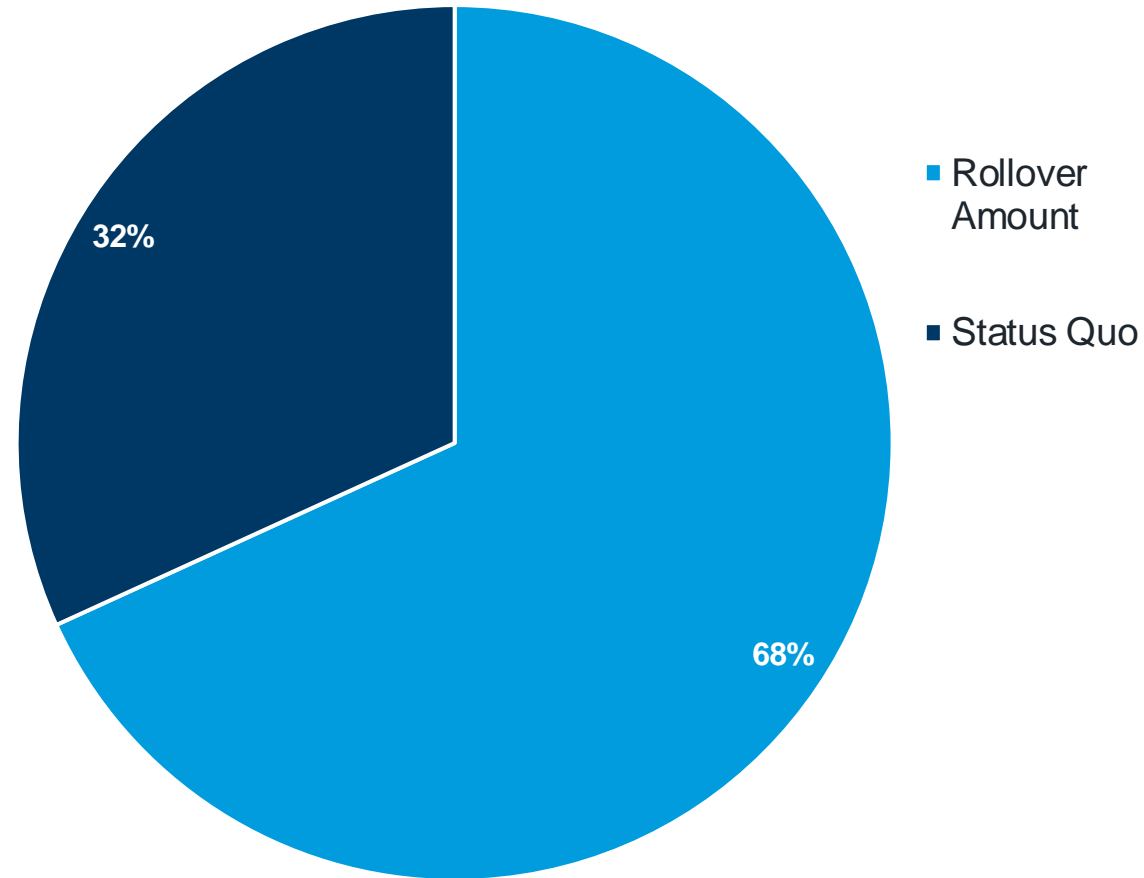
Are Management Fee Rates the Same for Rolling Investors and New Investors?

Management fee rates for rolling investors and new investors are the same in 59% of deals.



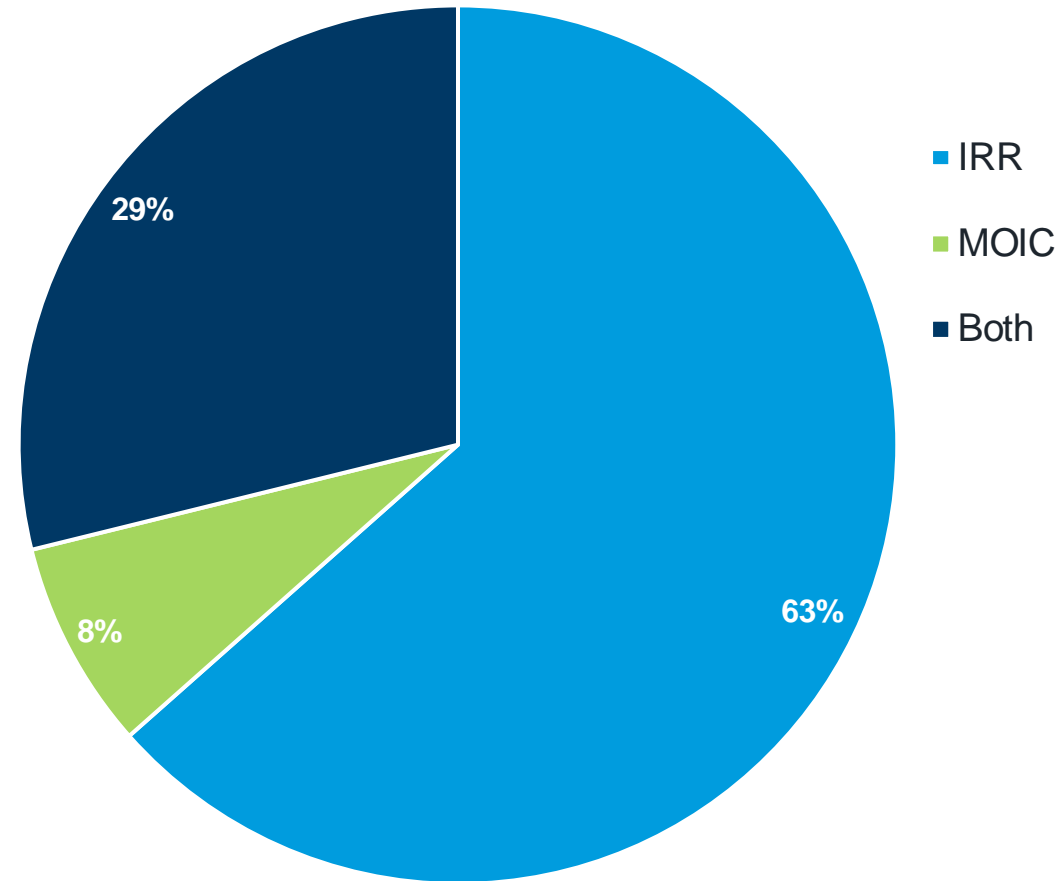
What is the Management Fee Based upon for Rolling Investors?

Management fee for rollover investors is based upon the rollover amount in 68% of deals.



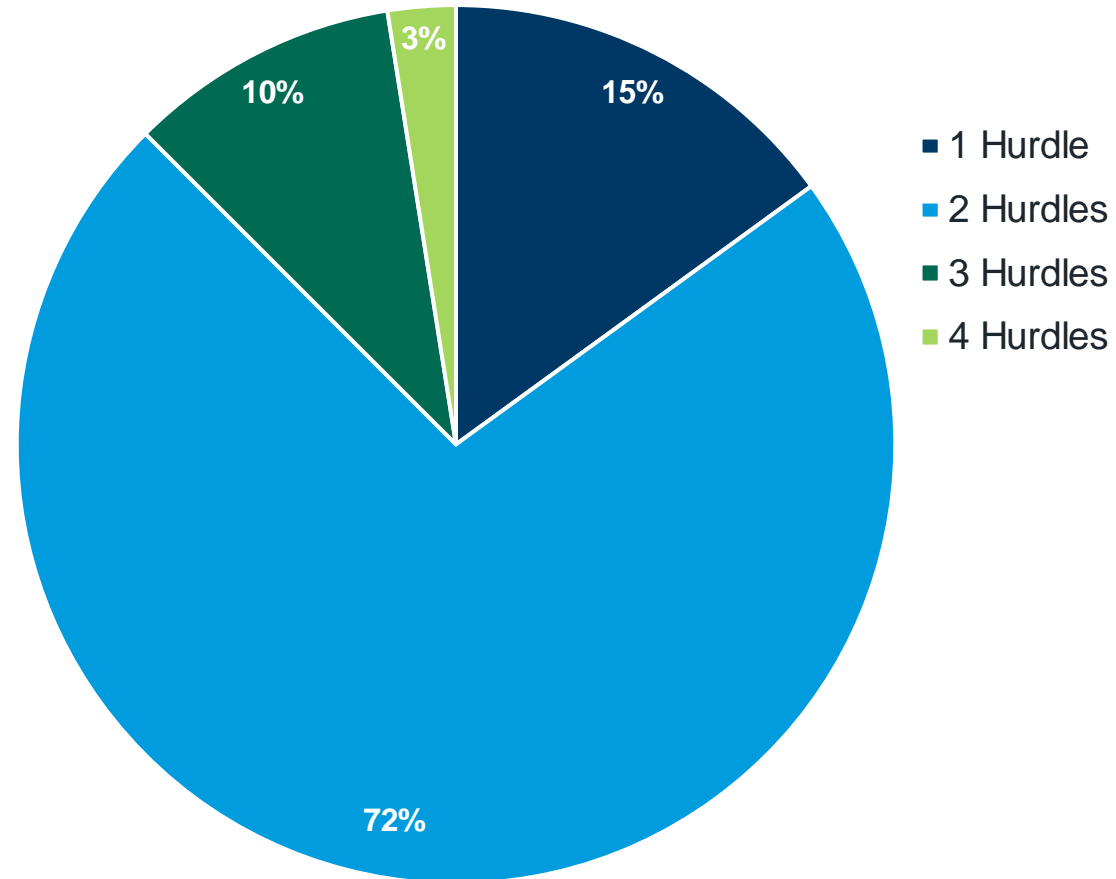
Is there an IRR or MOIC Hurdle Before the GP Receives Carried Interest?

92% of deals we saw included an IRR Hurdle, either exclusively or with MOIC attached.



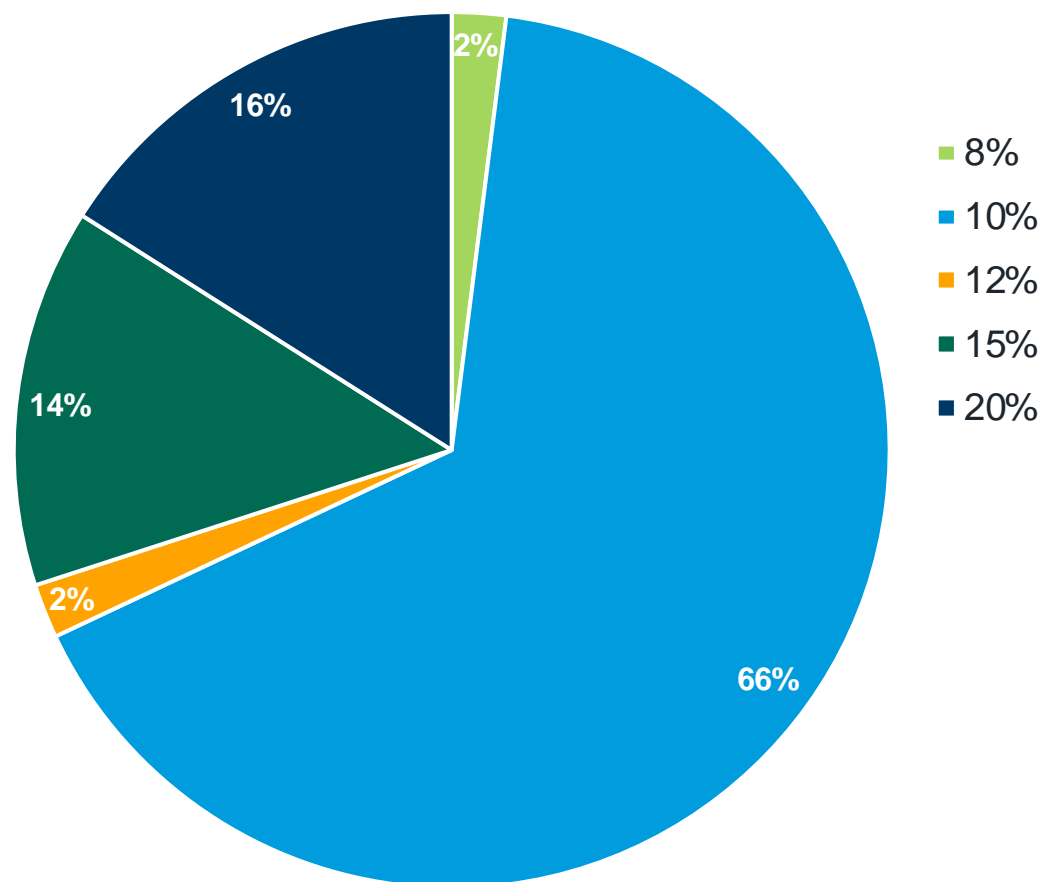
If there is a Carry Ratchet, How Many Performance Hurdles?

Two hurdles is the most commonly used formulation (72% of deals).



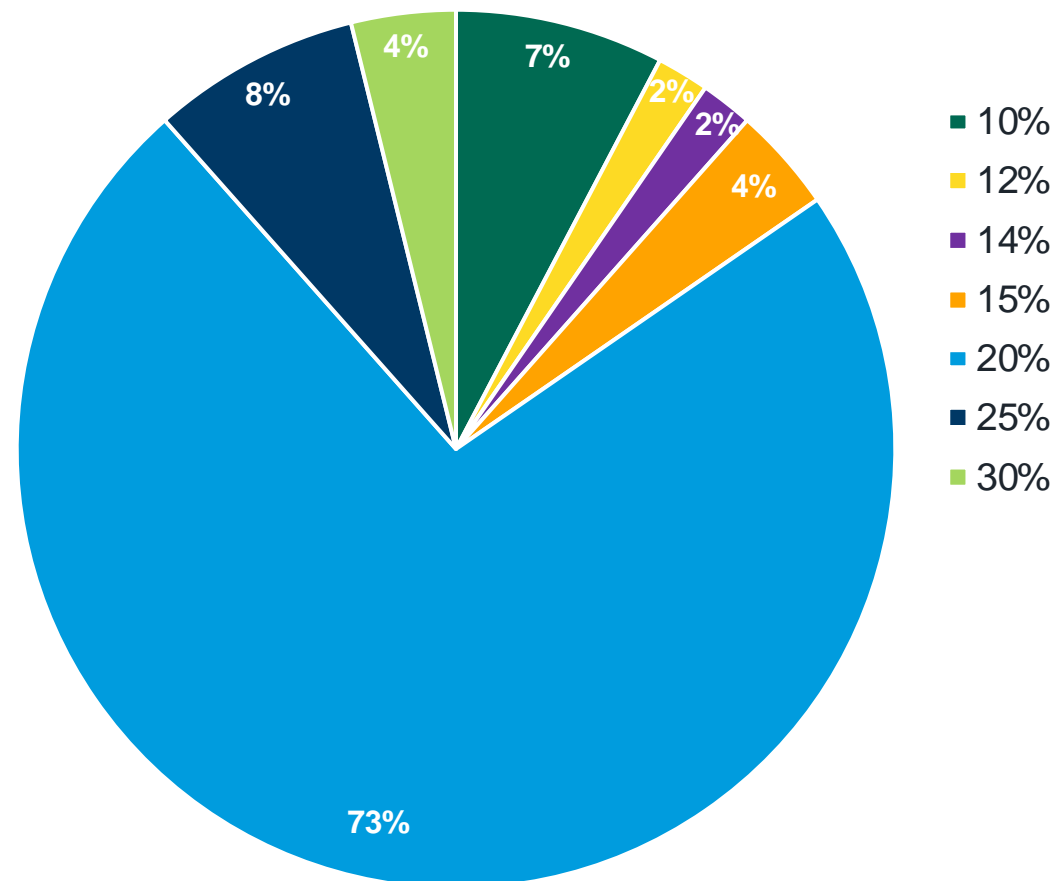
If there is a Carry Ratchet, What is the Lowest Attainable Carry Percentage?

10% is the most common first tier of carried interest (66%), with 30% of the deals starting at 15% or 20% carried interest.



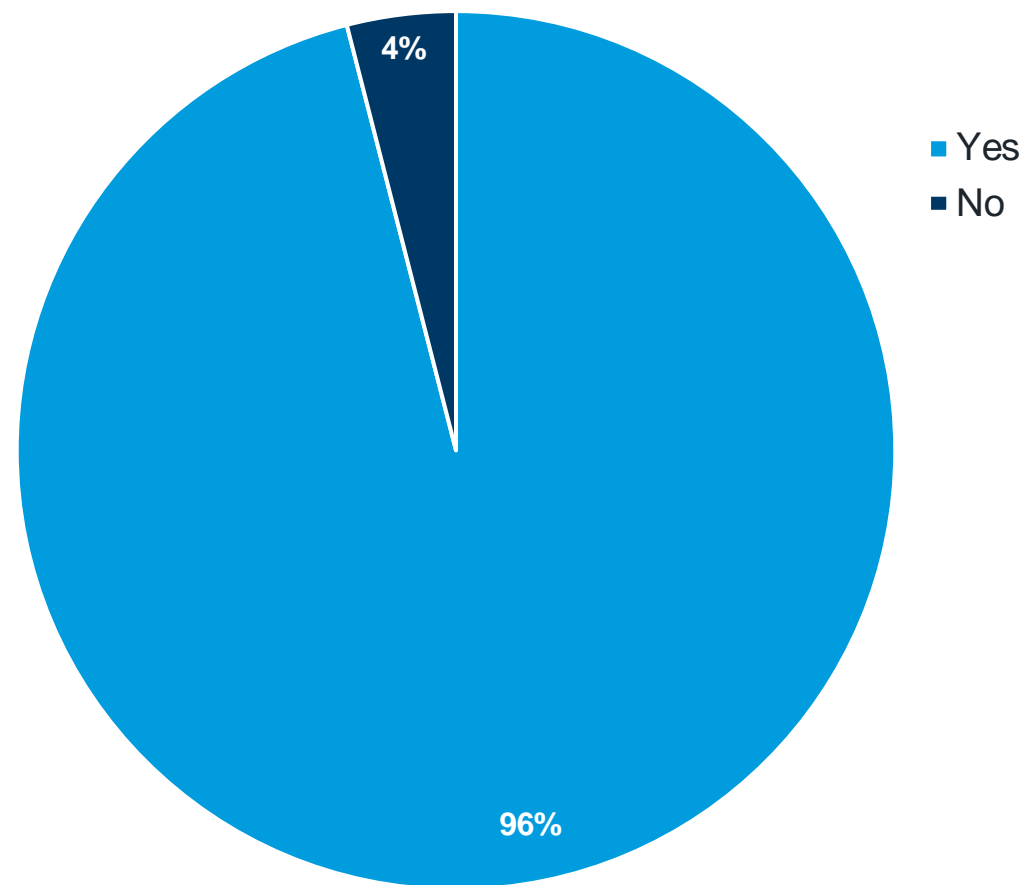
If there is a Carry Ratchet, What is the Highest Attainable Carry Percentage once All Hurdles Are Satisfied?

Nearly three-quarters of recent deals have seen the highest attainable carry top out at 20%.



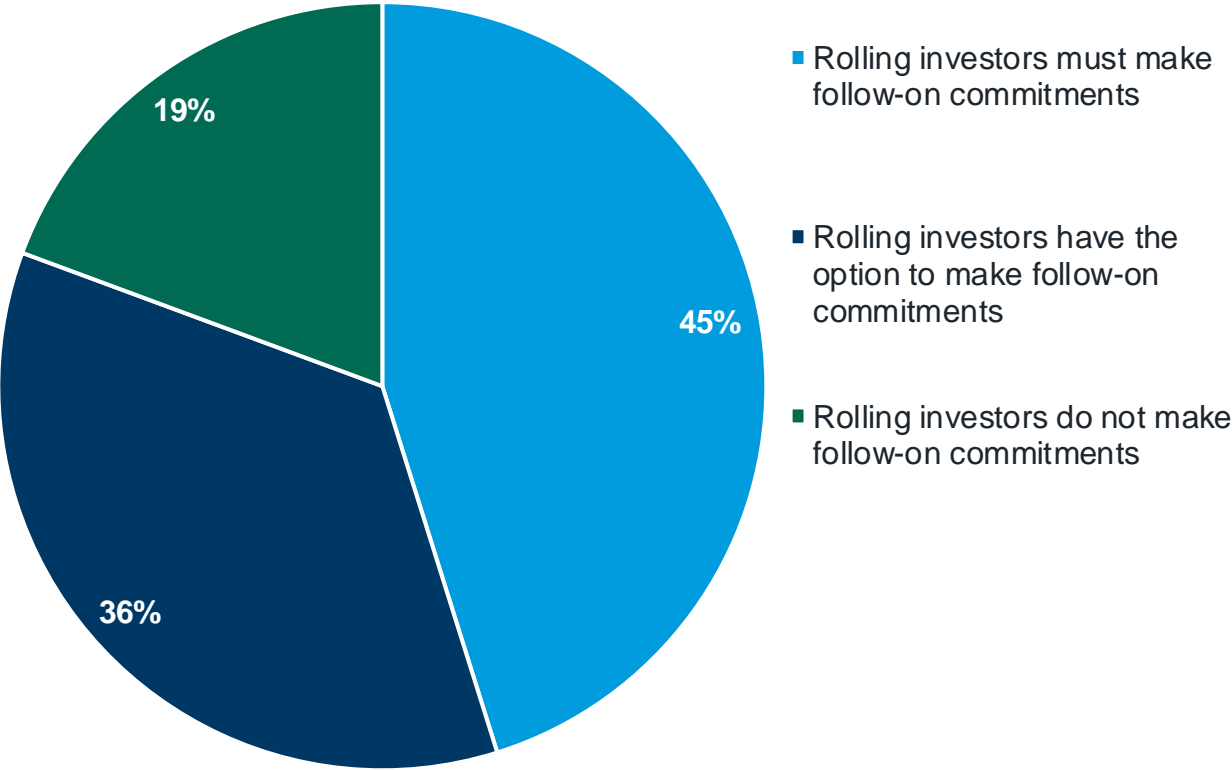
Is there a Catch-Up?

Nearly all deals include a GP catch-up.

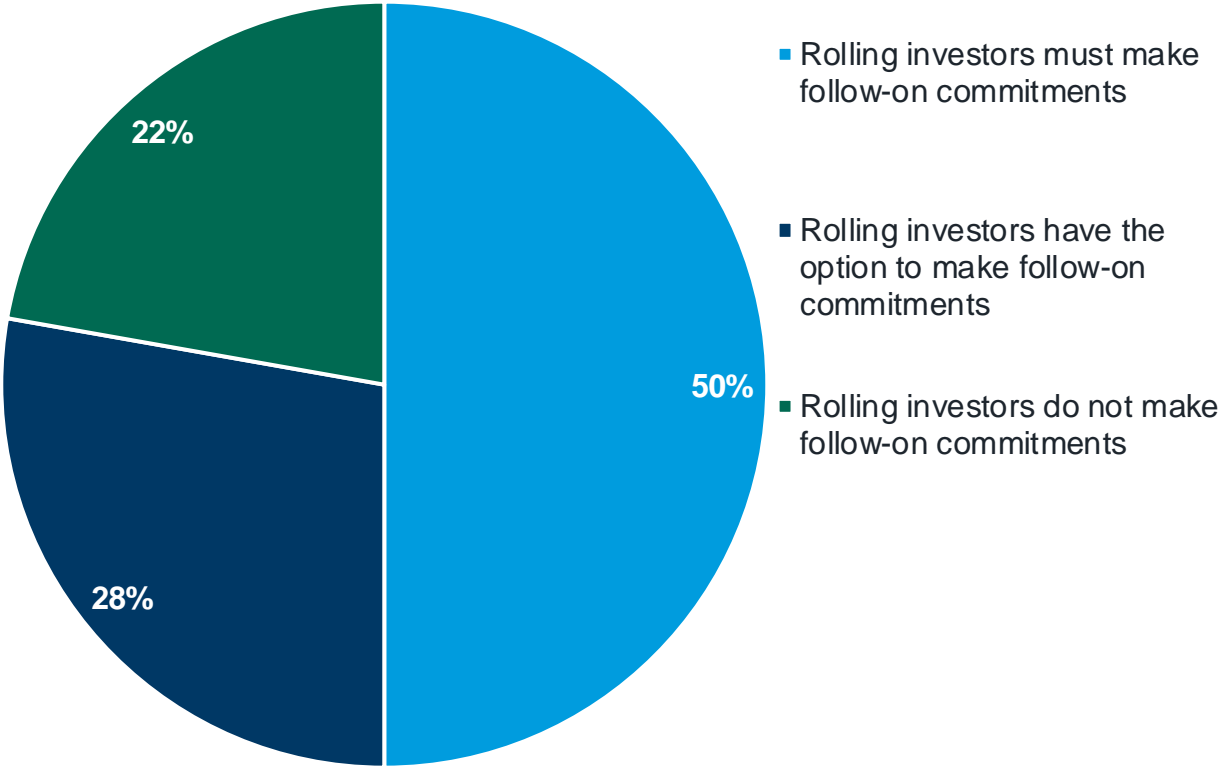


Rolling Investors and Follow-On Commitments

Single Asset Deals

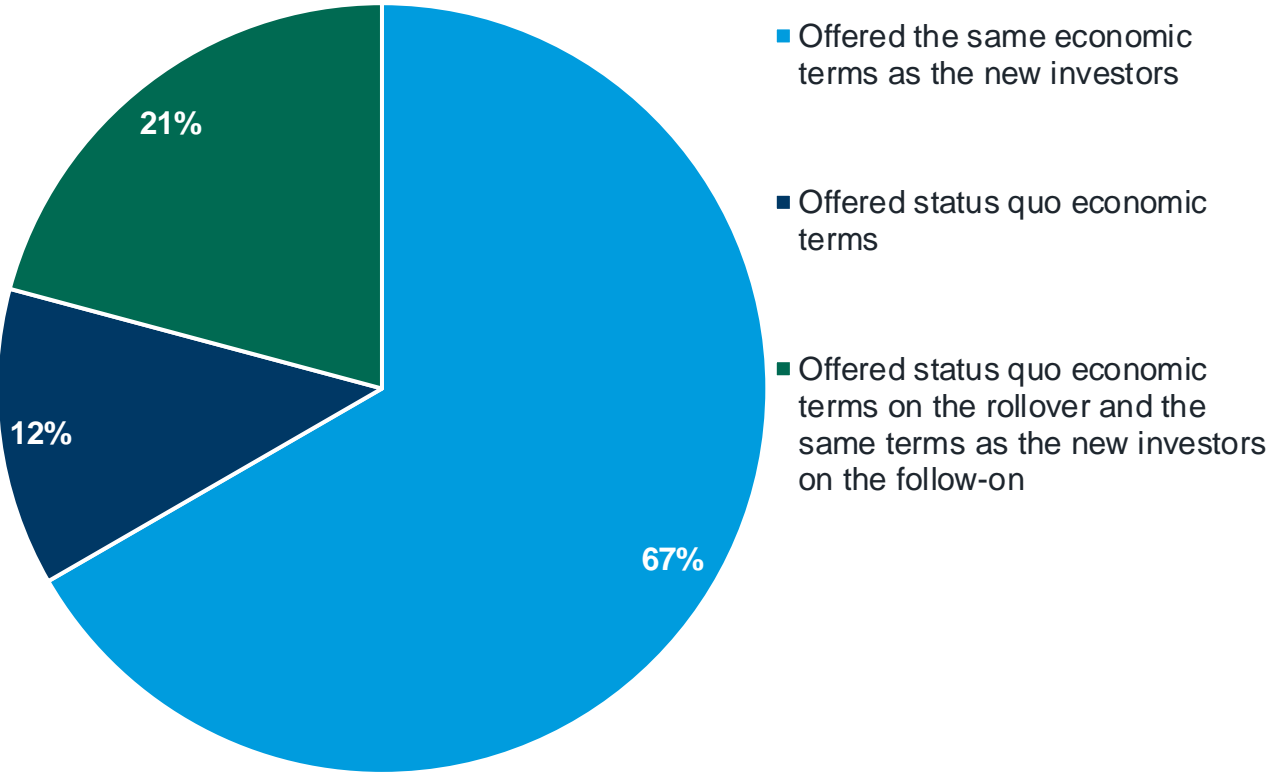


Multi-Asset Deals

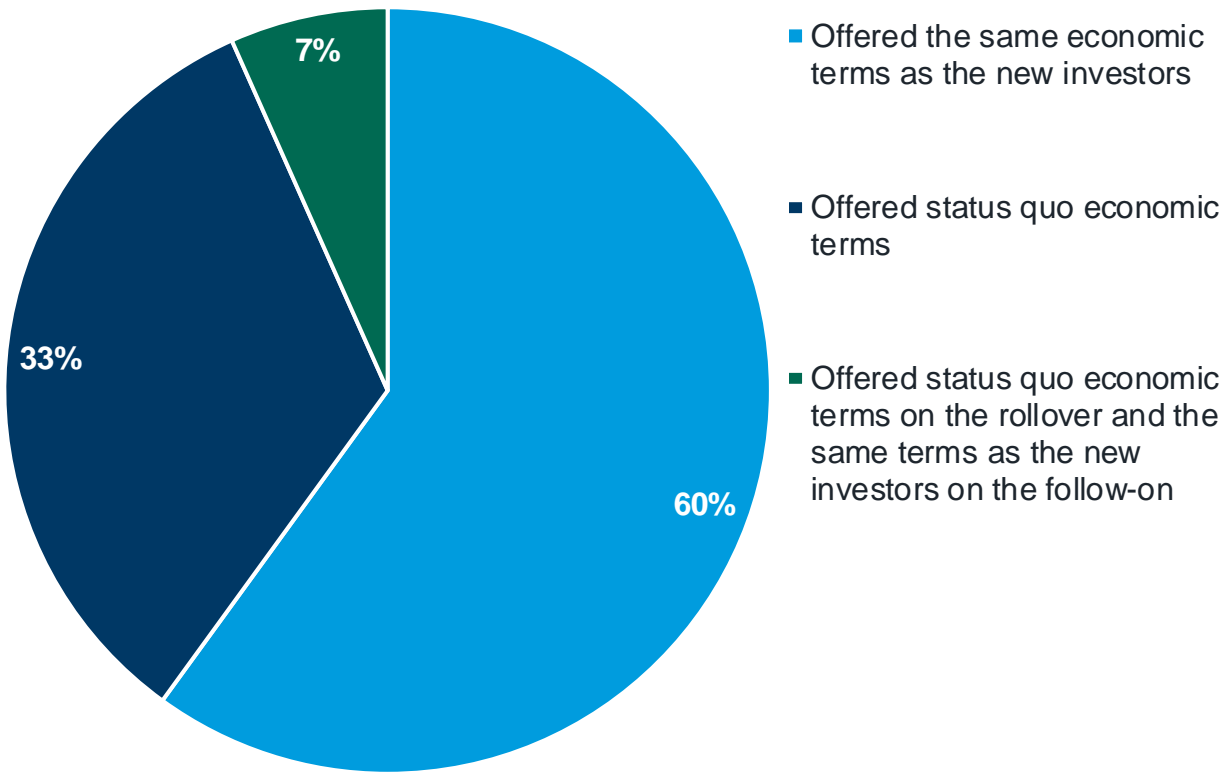


Offerings to Rolling Investors

Single Asset Deals

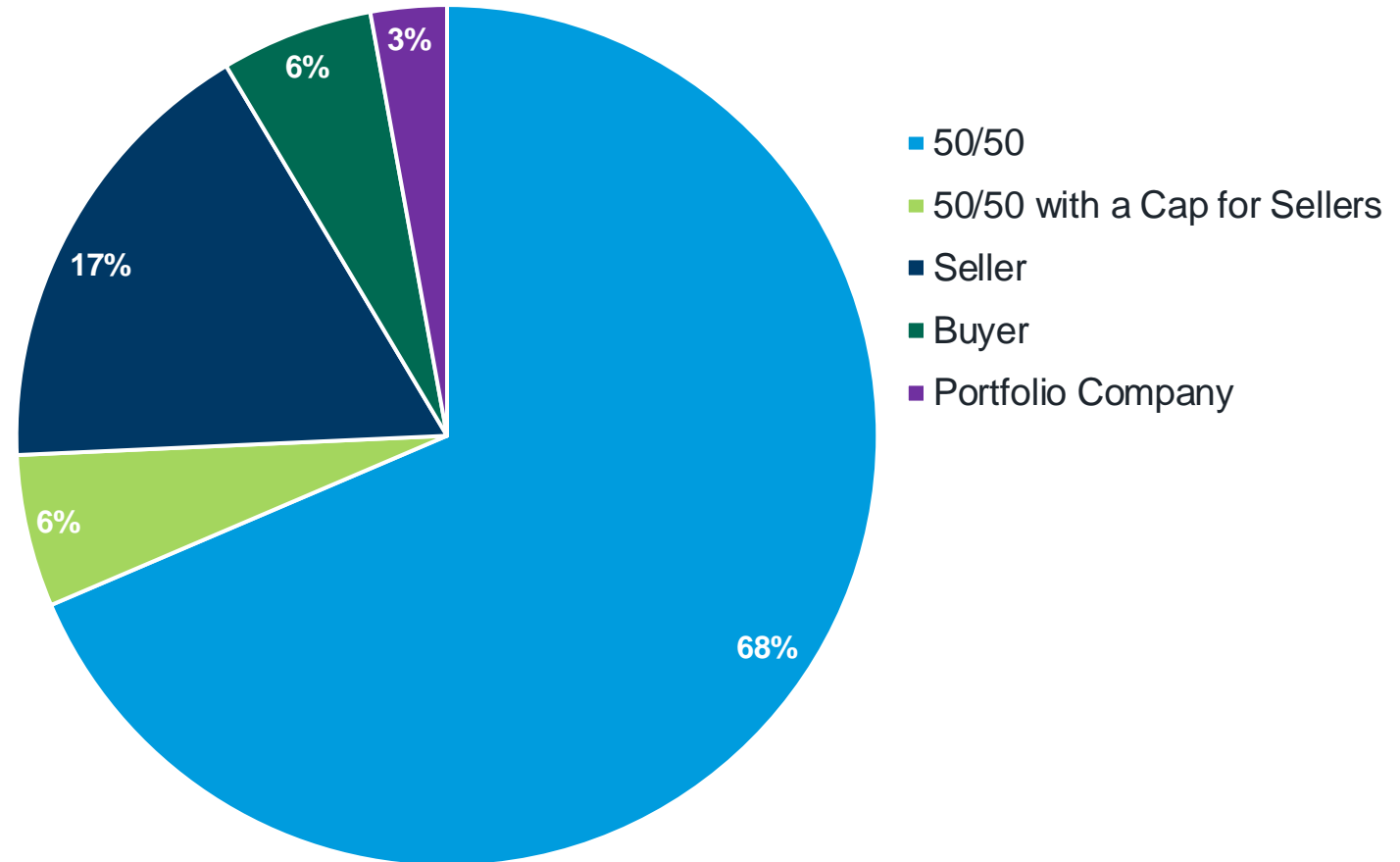


Multi-Asset Deals



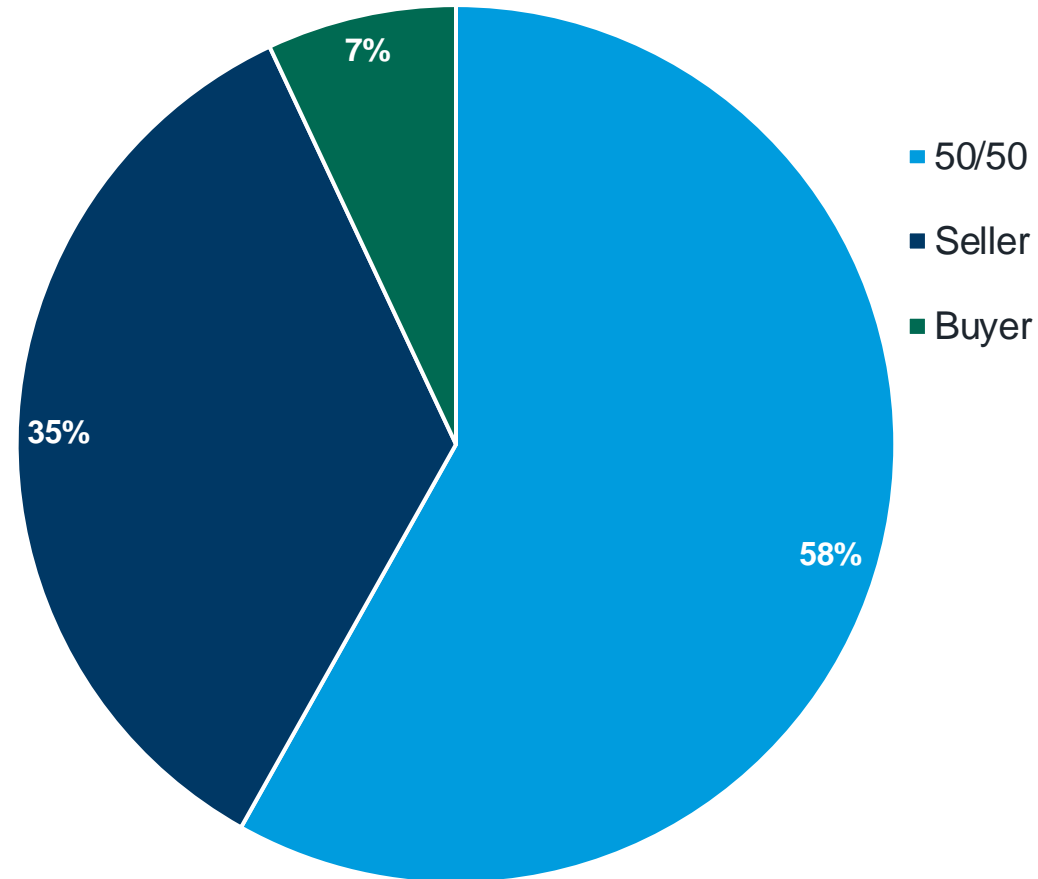
Who Pays for the RWI Policy?

68% of the deals we closed during the relevant period used a pure 50/50 split on RWI.



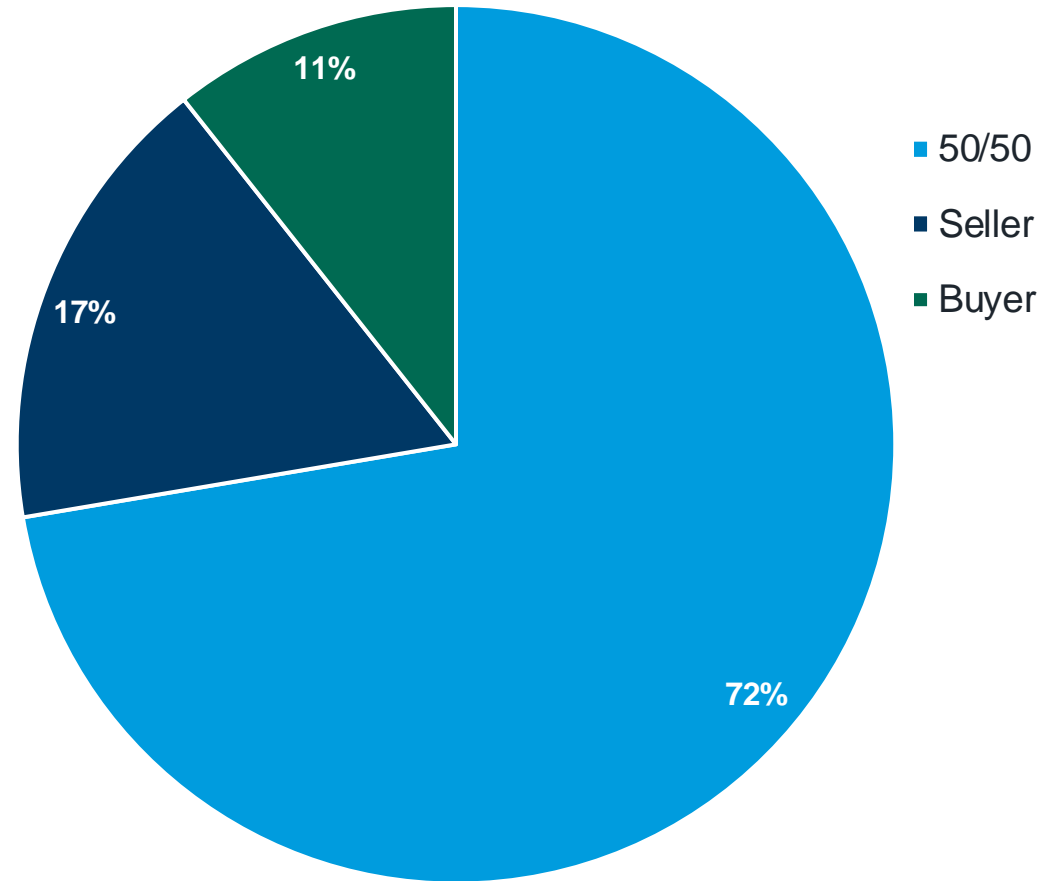
Who Bears the Expense for Negotiating the Transaction Agreement?

The seller was solely responsible for bearing the expense for negotiating the transaction agreement in 35% of deals.



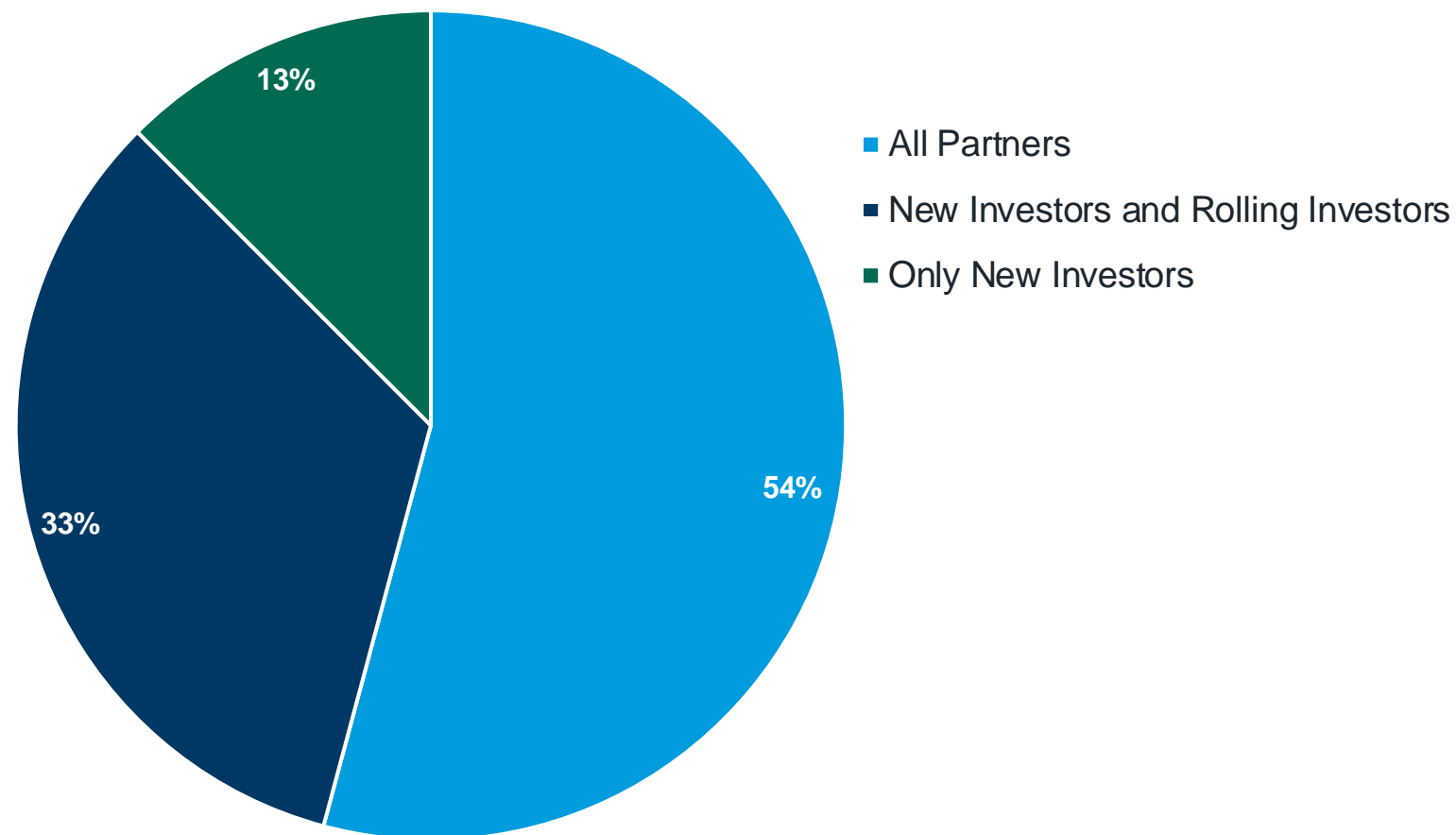
Who Bears the Transfer Taxes?

The vast majority of deals continue to split any transfer taxes 50/50 between the parties.



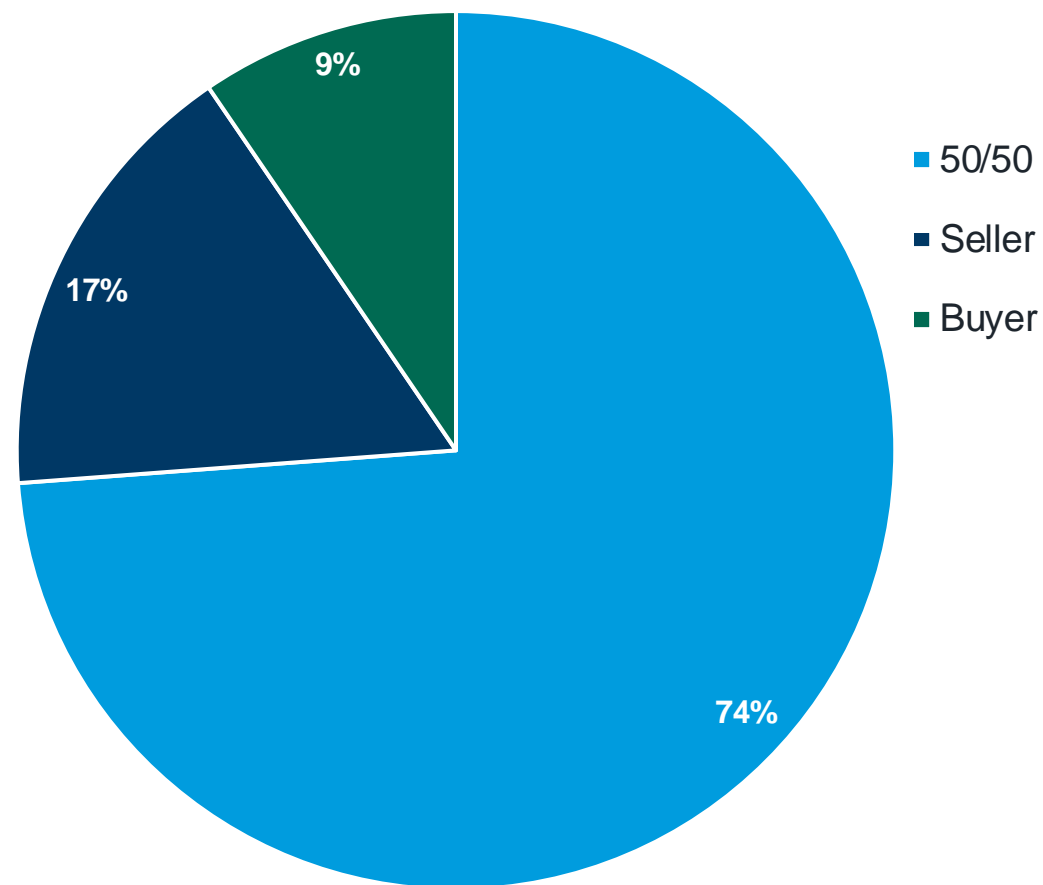
Who Bears the Organizational Expenses?

All partners are responsible for bearing the organizational expenses in more than half of deals.



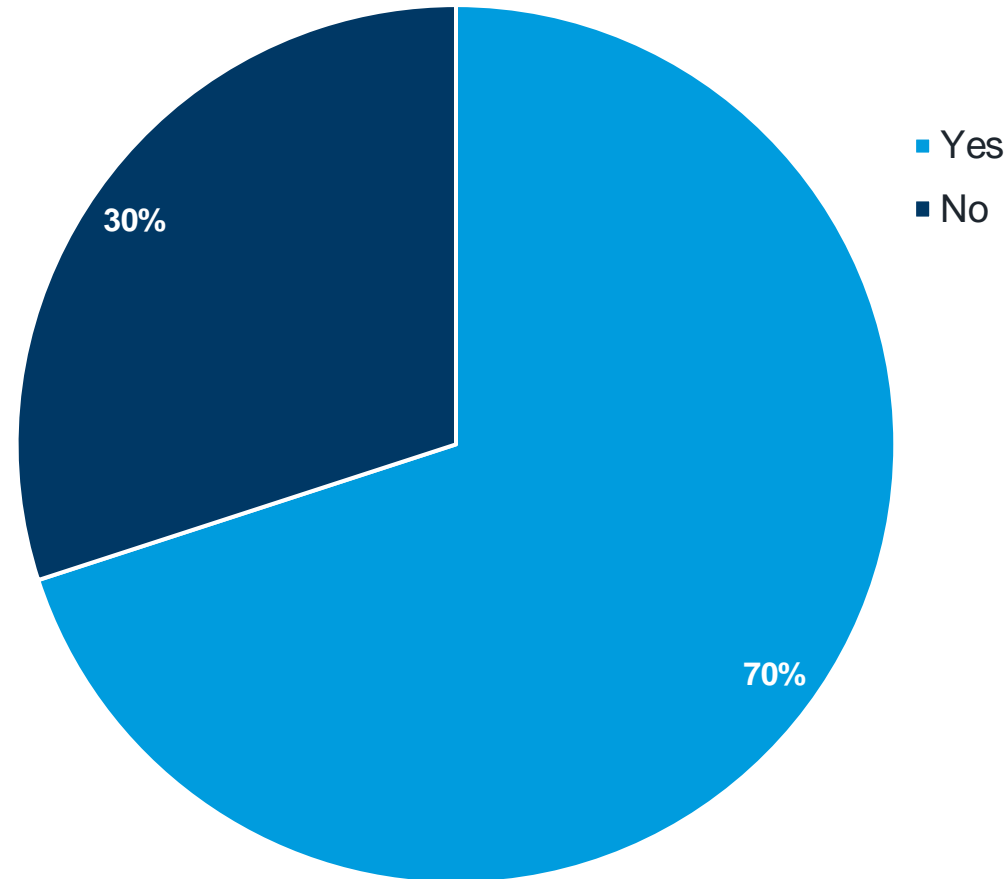
Who Bears the Regulatory Expenses?

The vast majority of deals continue to split any regulatory expenses 50/50 between the parties.



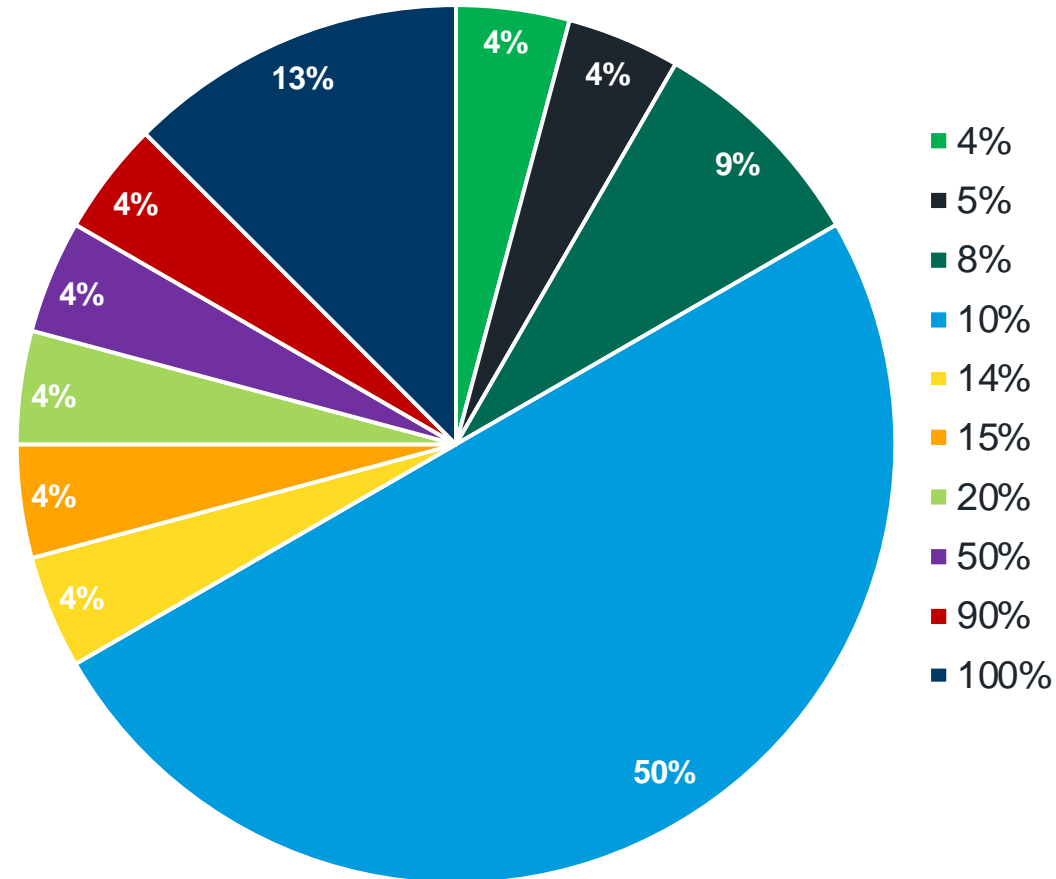
Is there Representation and Warranty Insurance?

70% of deals include RWI.



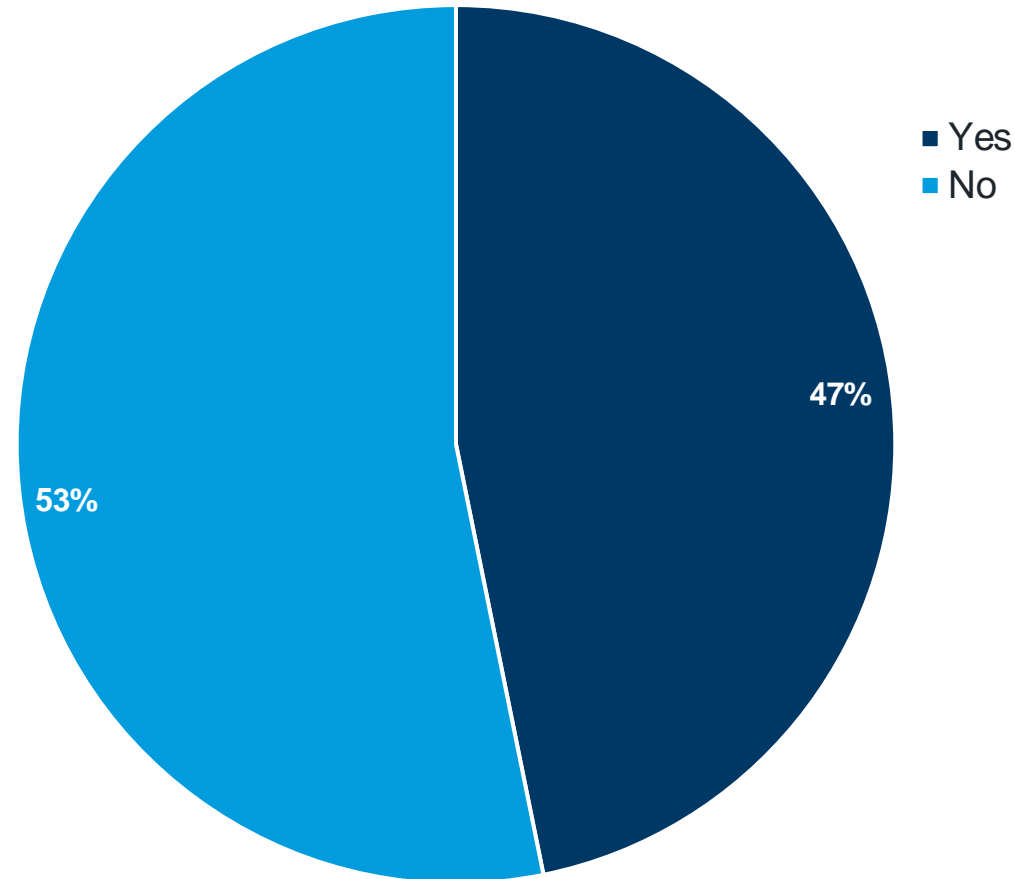
What is the Amount of the Primary Coverage?

10% is the amount of the primary coverage in half of the deals.



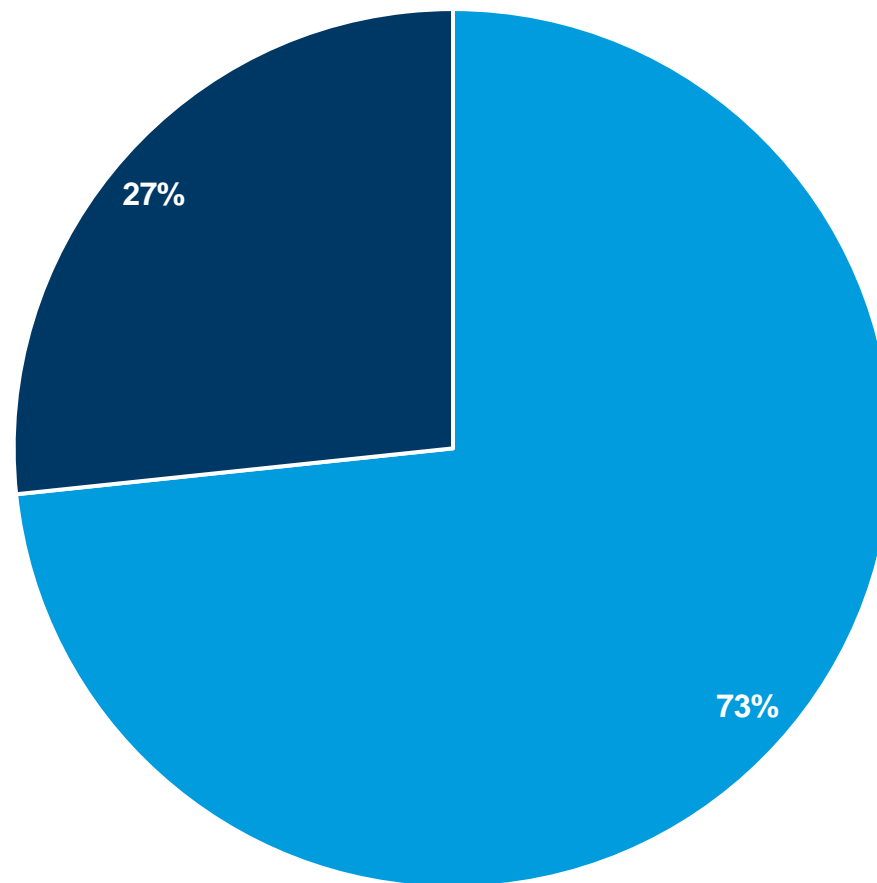
Is there Excess Coverage?

There is a relatively even split in deals that include coverage for excluded obligations insurance.



What Does the Excess Coverage Cover?

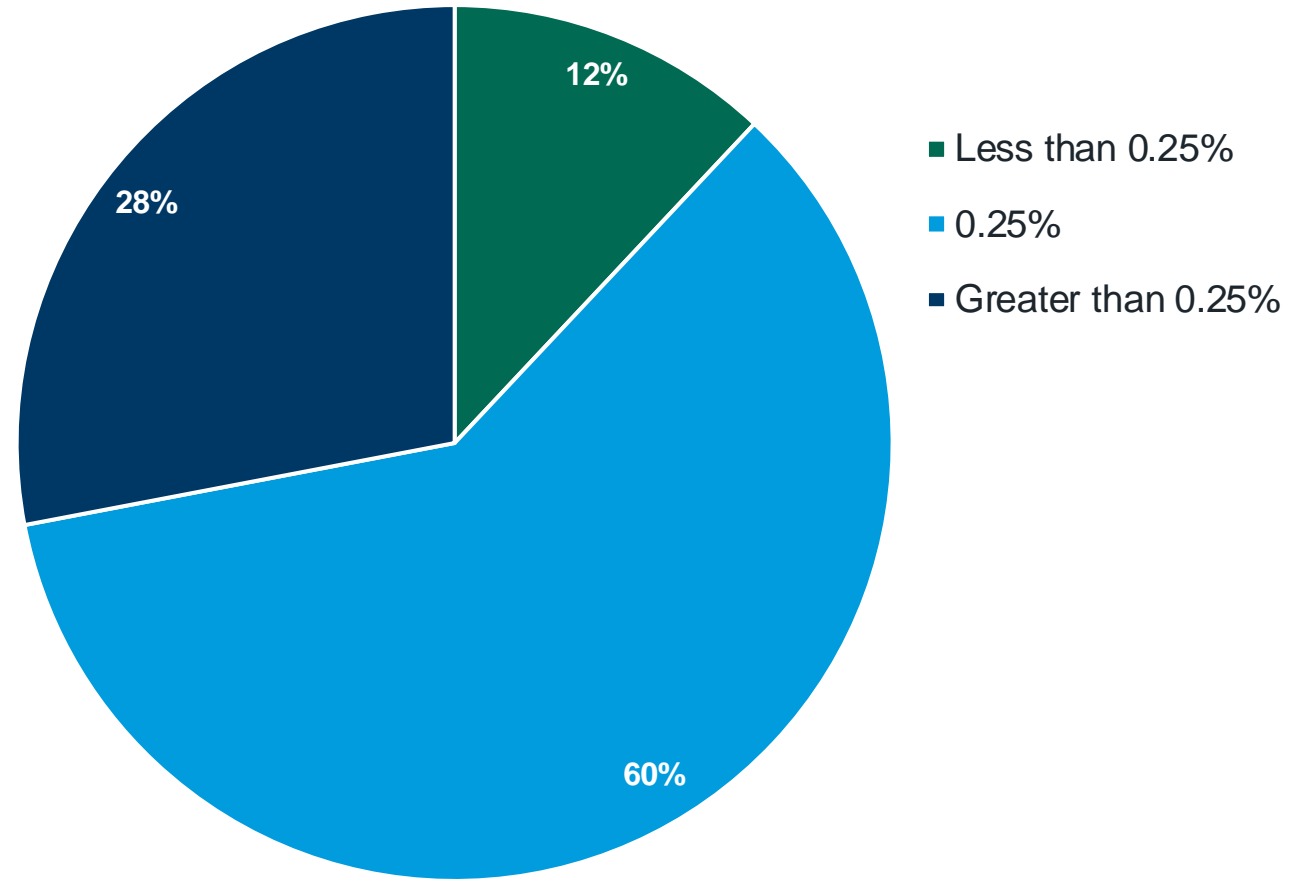
The excess coverage includes both fundamental representations and excluded obligations in nearly three-quarters of deals.



- Both Fundamental Representations and Excluded Obligations
- Fundamental Representations

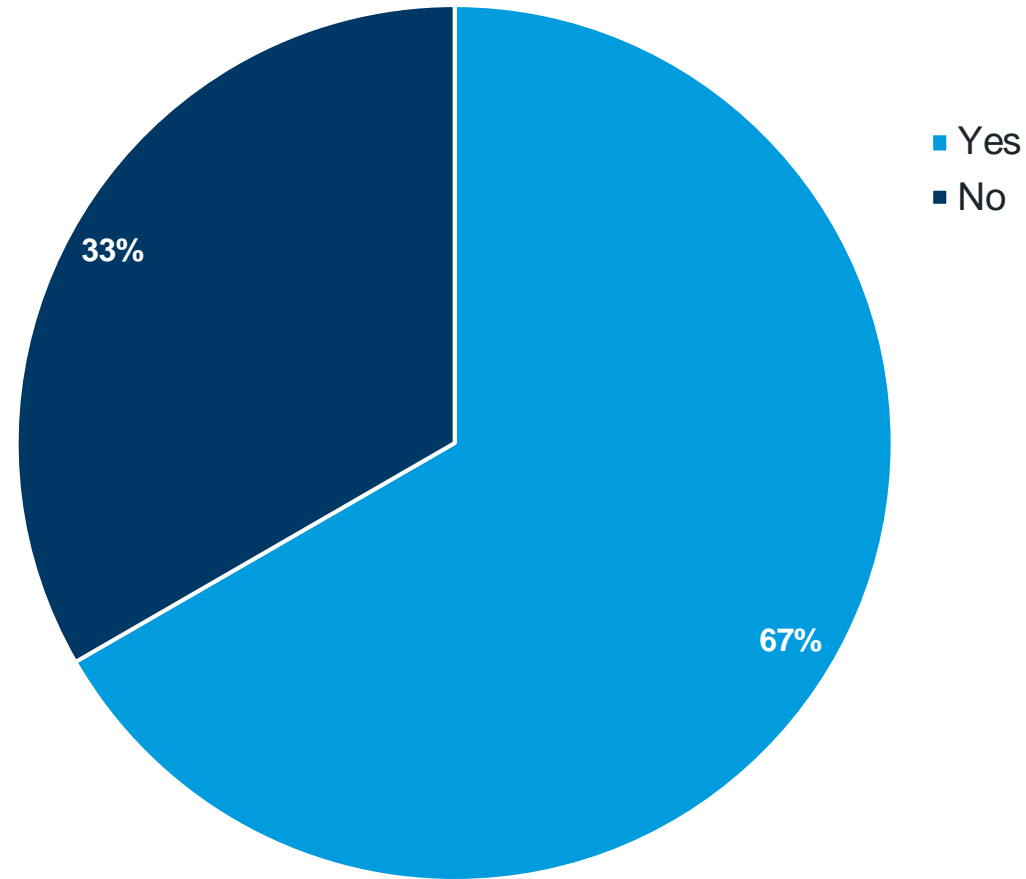
What is the Retention Amount?

The retention amount is 0.25% in 60% of the deals.



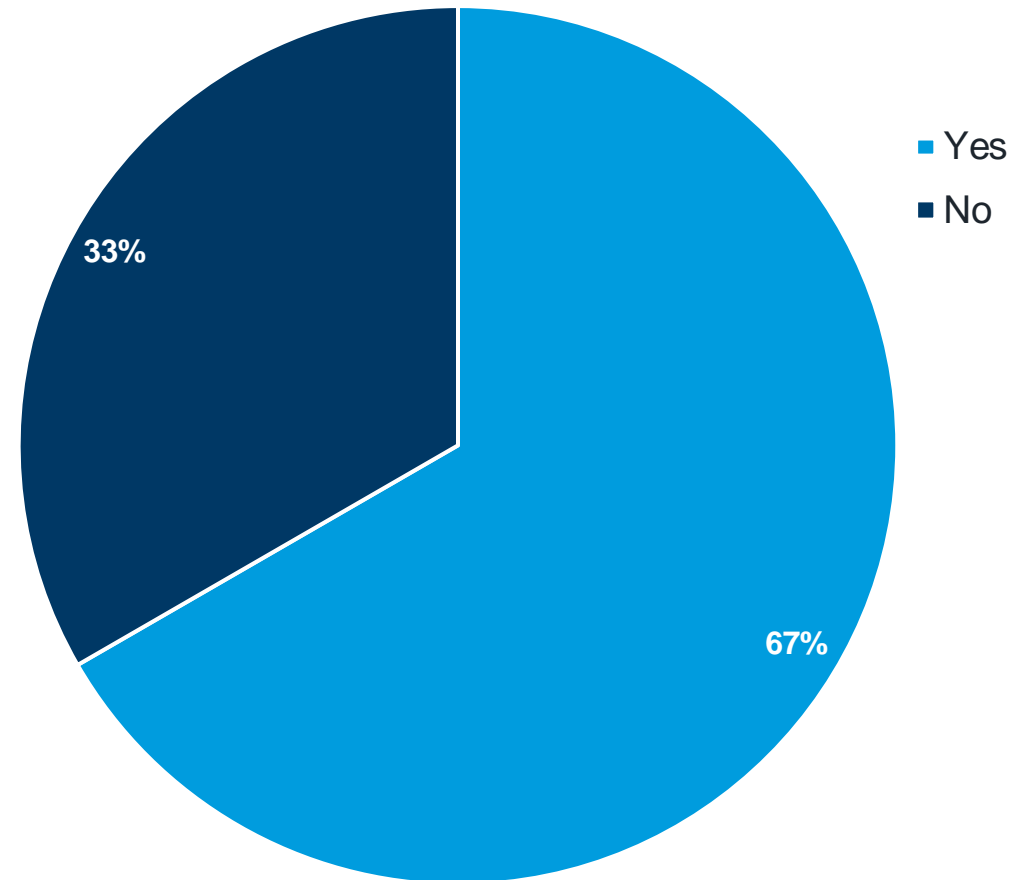
Is there Recourse Beyond the Policy?

There is recourse beyond the policy in two-thirds of the deals reviewed in the past year.



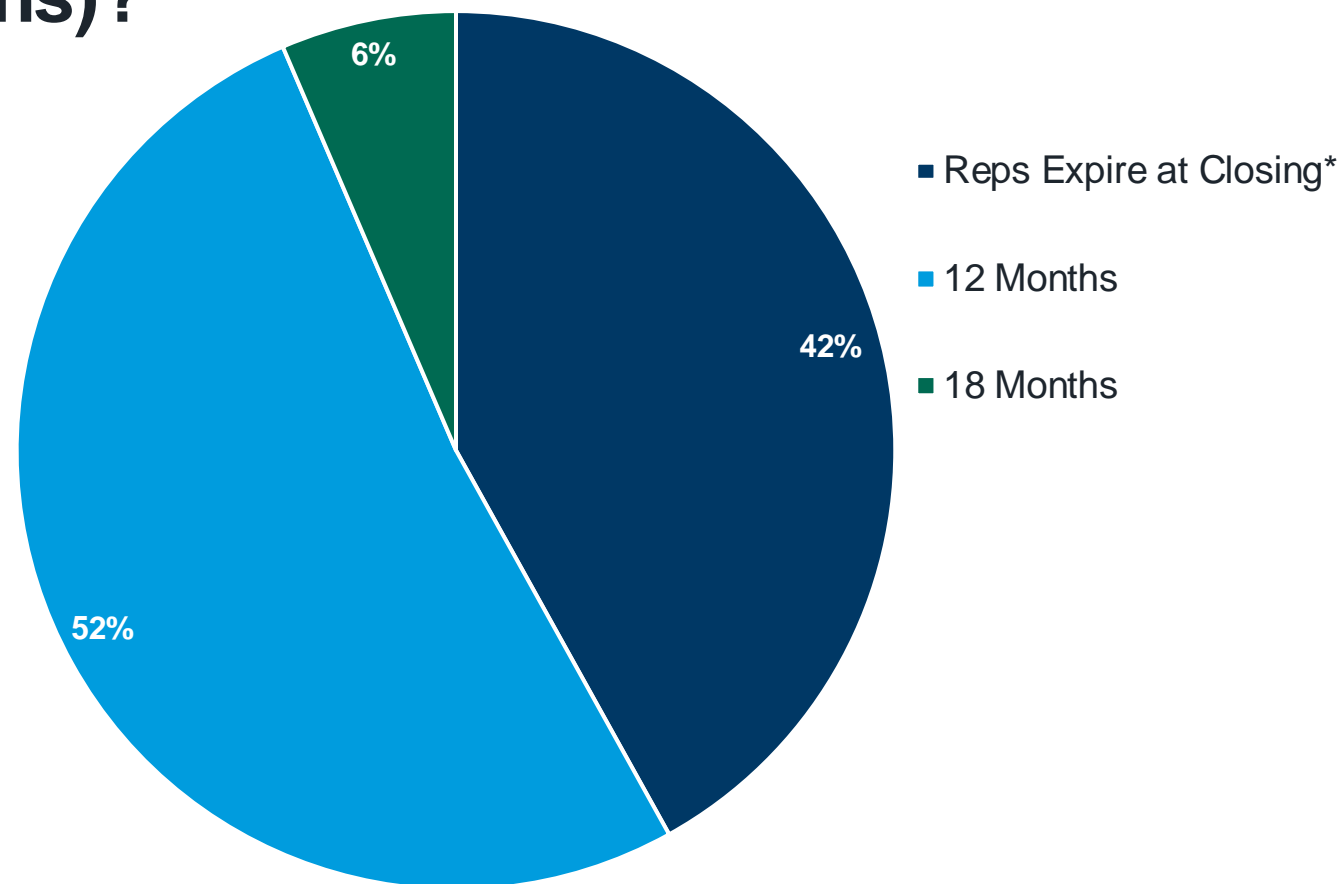
If there is Recourse Beyond the Policy, is there a Cap?

In deals where there is recourse beyond the policy, two-thirds include a cap. In all deals where there is a cap, the cap is 100% of the purchase price. In all deals without a cap, only claims for fraud were uncapped.



What is the Survival Period for General Representations and Warranties (in Months)?

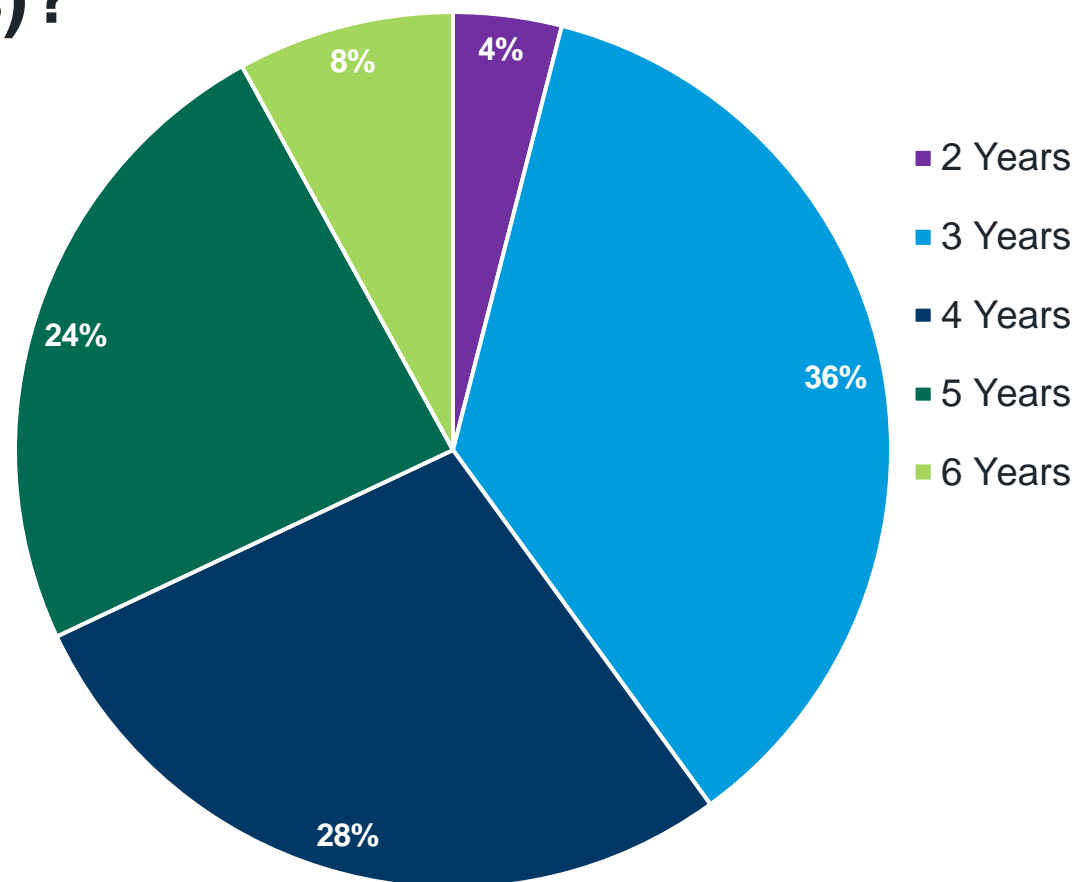
A majority of the deals have a survival period for general reps and warranties of 12 months.



*Reps continue to survive under an RWI policy.

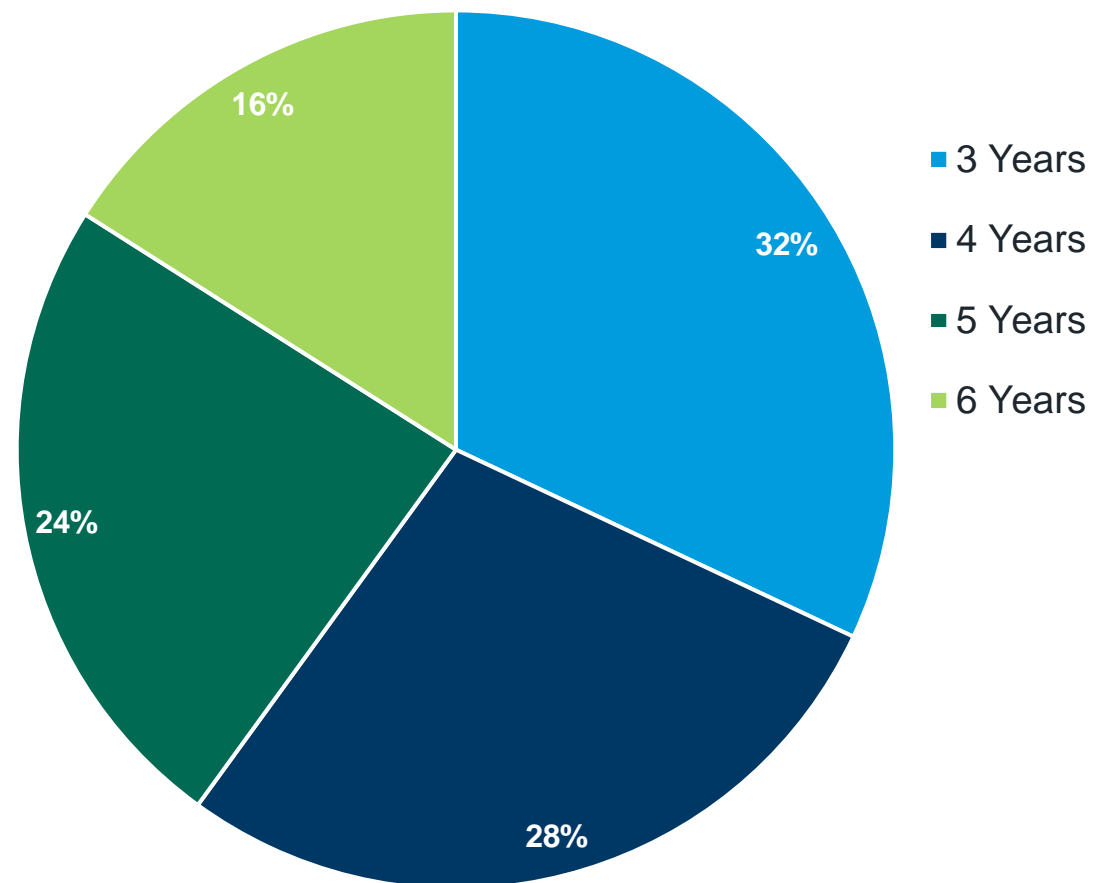
What is the Survival Period for Fundamental Representations and Warranties (in Years)?

The most common survival period for fundamental representations and warranties is three years.



What is the Survival Period for Excluded Obligations (in Years)?

Three years is the most common survival period for excluded obligations (32% of deals).



NAVIGATING

LIQUIDITY

SECONDARIES PULSE CHECK CONFERENCE

Private Capital
Conference Series

Tuesday 8 October 2024
London

The information provided in this slide presentation is not intended to be, and shall not be construed to be, either the provision of legal advice or an offer to provide legal services, nor does it necessarily reflect the opinions of the firm, our lawyers or our clients. No client-lawyer relationship between you and the firm is or may be created by your access to or use of this presentation or any information contained on them. Rather, the content is intended as a general overview of the subject matter covered. Proskauer Rose LLP (Proskauer) is not obligated to provide updates on the information presented herein. Those viewing this presentation are encouraged to seek direct counsel on legal questions. © Proskauer Rose LLP. All Rights Reserved.

Proskauer»

Fund Finance



Cameron Roper
Partner
Proskauer



Stuart Ingledew
Fund Solutions
Investec Bank



Richard Sehayek
Managing Director
Ares Credit Group



Matthieu Teyssier
Senior Managing Director
Ardian



Paul Tannebaum
Partner
Proskauer
Moderator

Proskauer»

NAVIGATING LIQUIDITY
**SECONDARIES
PULSE CHECK
CONFERENCE**

European and US Regulatory Reviews



Rob Sutton
Partner
Proskauer



John Verwey
Partner
Proskauer

Proskauer»

NAVIGATING LIQUIDITY
**SECONDARIES
PULSE CHECK
CONFERENCE**

Will the SEC's Recent Setbacks or a Future Republican Administration Affect the SEC's Agenda?

The SEC's Recent Setbacks; Potential Change in Administration

- Recent Judicial Setbacks
 - Repeal of Private Fund Adviser Rules – Impact on exams/enforcement?
 - Repeal of Chevron Doctrine – Effect on SEC's rule defense?
 - Restricted use of SEC Tribunals – Impact on enforcement?
- Potential Impacts of a Republican Administration
 - Examinations, Enforcement and Rulemaking – Would a Trump administration reduce exams? Lighten enforcement? Limit new rules?
- Could Any of These Developments Shift the SEC's Focus off of Conflicts of Interest in Adviser-Led Secondaries?

Impact of 5th Circuit Repeal of Private Fund Adviser Rules

- PFAR Vacated:
 - In June 2024, the 5th Circuit vacated the Private Fund Adviser Rules.
 - The court ruled that the SEC lacked statutory authority and failed to demonstrate the need for these rules.
- What comes next?
 - All PFAR topics were long targeted by the SEC before PFAR was adopted and are expected to remain a focus after its repeal.
 - *This includes conflicts of interest in adviser-led secondary transactions.*
 - The SEC is likely to revert to its prior fiduciary and disclosure standards (Advisers Act Sec. 206 and Rule 206(4)-8).
- It Is Already Happening:
 - SEC exams continue to focus on PFAR topics.
 - Enforcement actions continue to be brought on similar grounds (e.g., *Galois Capital Management*, 2024, undisclosed preferential redemption rights).
- Form PF requirement to report adviser-led secondary transactions remains in-force...

SEC Focus on Conflicts of Interest in Adviser-Led Secondary Transactions

*“these transactions may present conflicts of interest . . . because **the adviser (or its related person) is on both sides of the transaction** with potentially different economic incentives.”*

*“it is the Commission’s observation that **investors are often given very short timeframes** in which to choose whether to cash out of their investment or participate in an adviser-led secondary transaction. **Investors are not always able to sufficiently diligence** the adviser-led secondary transaction before they must decide to whether to commit to it.”*

*“Requiring quarterly reporting of these complex transactions **will allow the Commission to identify when such events have occurred** and more carefully evaluate whether conflicts of interests have harmed investors.”*

-SEC Adopting Release to Form PF Amendments, at pp. 62-64

Impact of Recent Supreme Court Rulings: *Loper Bright*

- Repeal of *Chevron* Doctrine
 - *Chevron U.S.A. Inc. v. NRDC* (1984): Required court deference to agency interpretations of ambiguous statutes if the interpretation was reasonable.
 - *Loper Bright Enters. v. Raimondo* (2024): Reduces *Chevron* deference, requiring clearer justification for agency interpretations of ambiguous laws.
- Impact on SEC Rulemaking and Enforcement
 - Not likely to have much impact in the foreseeable future.
 - SEC has not been relying on *Chevron* in recent years, anticipating its possible repeal.
 - Example: The SEC did not use *Chevron* to defend PFAR in the 5th Circuit litigation

Impact of Recent Supreme Court Rulings: *Jarkesy*

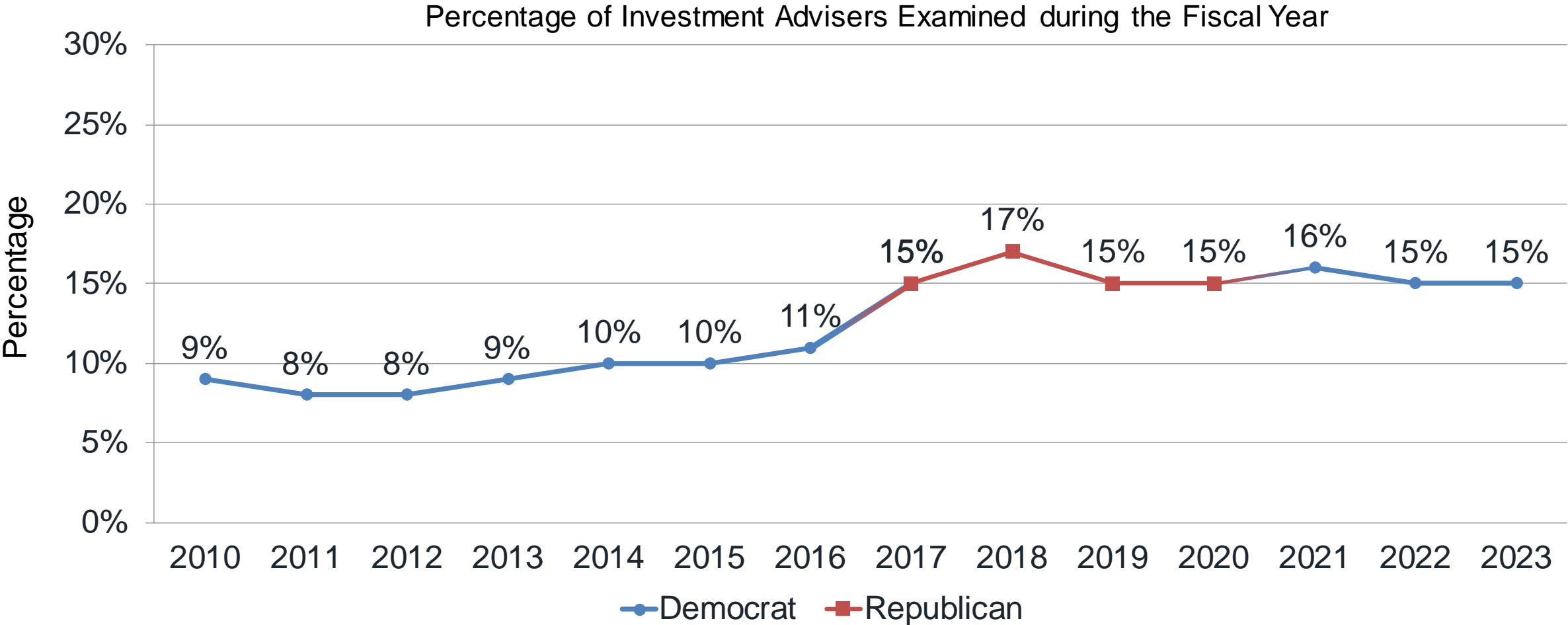
- *Jarkesy* Decision
 - *SEC v. Jarkesy* (2024): Supreme Court held that the SEC cannot use its own administrative tribunals to prosecute enforcement cases seeking civil penalties.
- Impact on SEC Enforcement
 - Not much practical impact expected.
 - SEC has shifted most contested actions to Federal District Courts, anticipating this challenge.
 - Vast majority of all enforcement actions are settled (>90% in most years), with parties motivated to avoid prolonged litigation.
 - Settlements can still be brought before SEC administrative courts.
 - Since *Jarkesy*, settlement dynamics largely unchanged; most cases still likely to settle.

Potential Impact of a Republican Administration on Examinations, Enforcement and Rulemaking

- Examinations
 - SEC exam coverage rate has remained consistent across administrations.
 - In fact, under the last Trump administration, the SEC increased its rate of examinations by 50%.
- Enforcement
 - SEC enforcement results not dependent on party occupying the White House.
 - Sanctions have trended upwards across administrations.
 - Adviser-focused actions as percentage of total has remained fairly consistent across administrations.
- Rulemaking
 - Rulemaking volume and focus, however, is likely to shift under a Republican administration.
 - Trump/Clayton era saw few rule repeals (although some were simplified/improved); new rules primarily focused on retail investors and capital markets, not private fund managers, but some new rules (e.g., the Marketing Rule) still affected private fund managers.

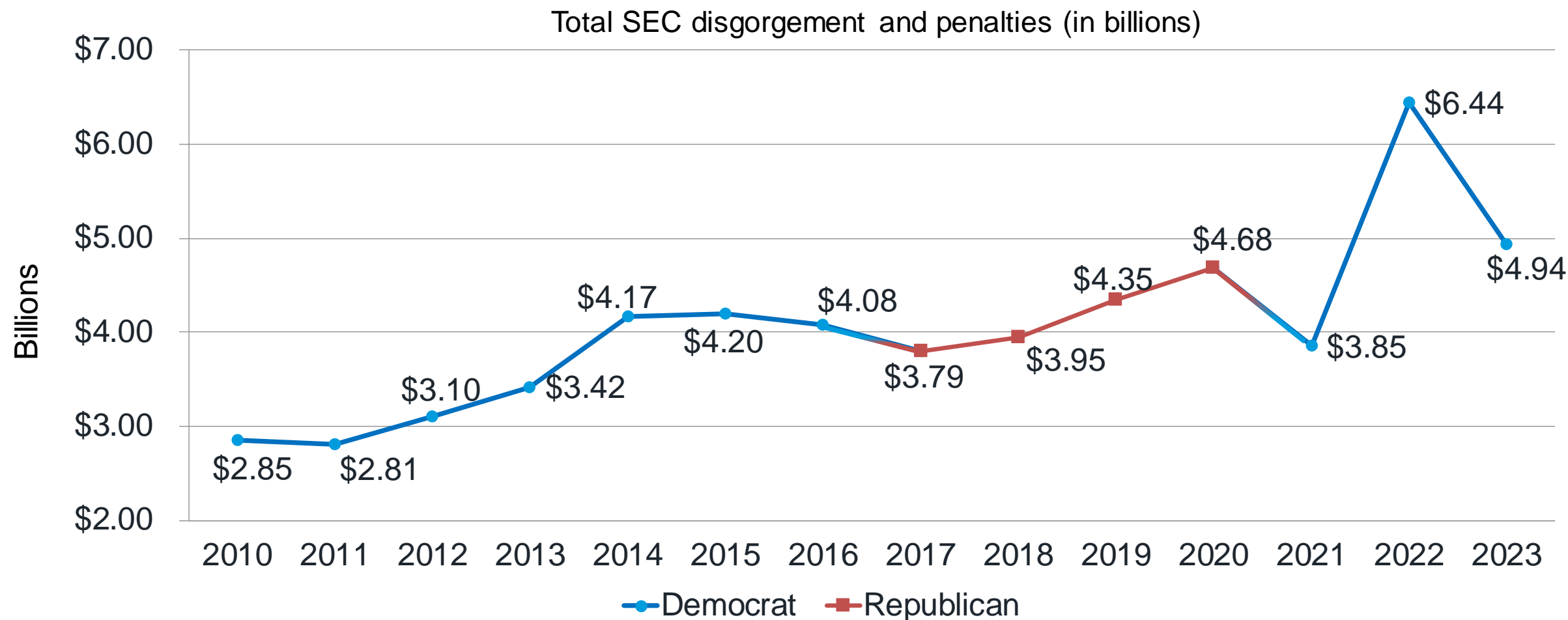
Potential Impact of the Election on SEC Examinations:

Little Historical Variation Across Administrations



* SEC fiscal year ending Sept. 30

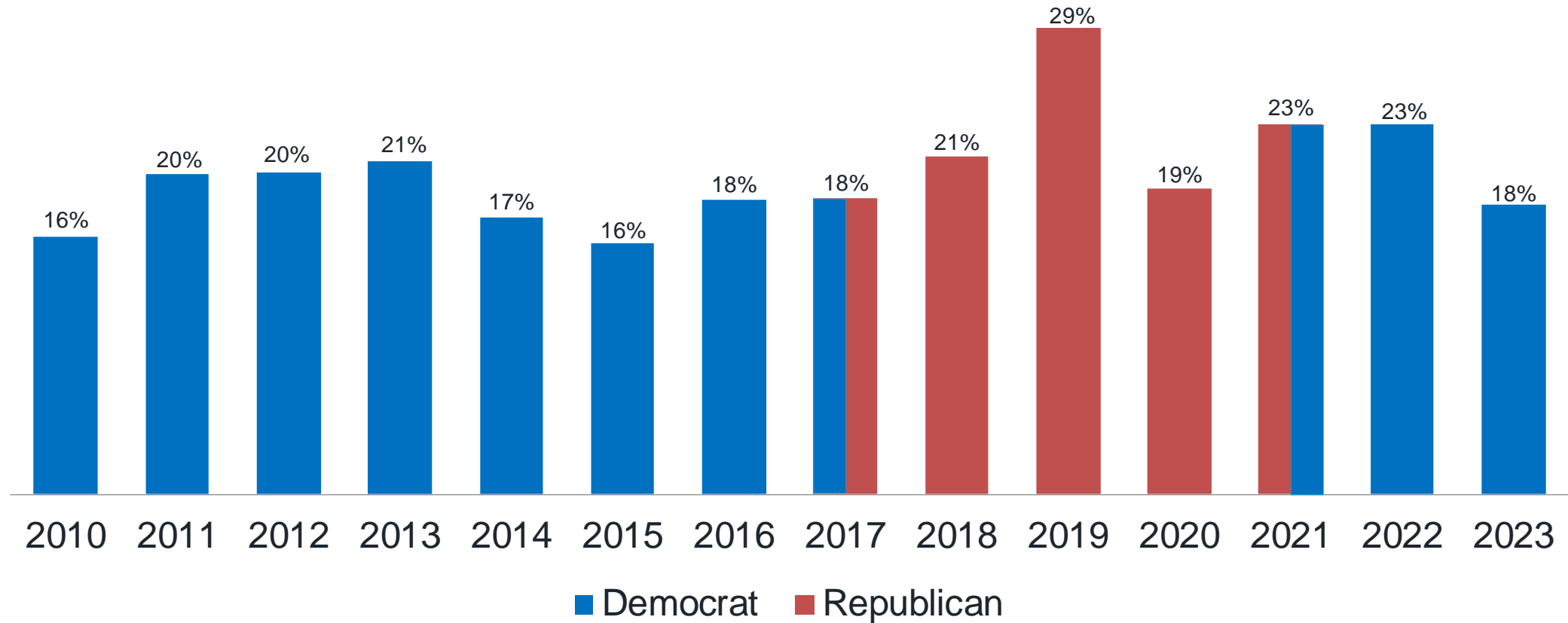
Potential Impact of the Election on SEC Enforcement: *Upward Trend in Disgorgement/Penalties Across Administrations*



* SEC fiscal year ending Sept. 30

Potential Impact of the Election on SEC Enforcement: *Fairly Consistent Focus on Advisers Across Administrations*

Percentage of total actions involving investment advisers / investment companies



* SEC fiscal year ending Sept. 30

GP Led Secondaries and European Regulatory Approvals

Rise and Rise of GP-Led Secondaries

- **GP-led secondaries increasingly more prevalent**, reasons include:
 1. **Optimising portfolio value** – allows for the extension of an asset's holding period.
 2. **Can provide additional capital** – for new and existing deals.
 3. **Refreshes a fund's LP base.**
- **GP-Led Structuring Vehicles / Continuation Funds** – can trigger European regulatory approvals and requirements.
- **Transfer underlying portfolio assets** – can trigger notifications/approvals.
- **Affect GPs and LPs.**

AIFMD – Quick Overview

- AIFMD regulates the **management** and **marketing** of alternative investment funds (AIFs) in EEA/UK.
- What is an AIF? A collective investment undertaking which:
 1. **Raises and pools capital** from **a number of investors** with a view to generating **pooled return**.
 2. Invests that capital in accordance with a **defined investment policy**.
 3. Investors have **no day-to-day control** over the management of the vehicle.
- **AIF Management**
 - If the manager of the AIF (the AIFM) is in the UK/EEA then it will:
 - a) need regulatory authorisation to act as AIFM; and
 - b) need approval to manage the specific AIF.
- **AIF Marketing**
 - If marketing of AIF is in EEA/UK – i.e. there is capital raising at the initiative of the AIFM or its agents then AIFMD **marketing approvals are required**.
 - Does **not** apply if there is a reverse solicitation.
- **AIFMD 2.0 on the horizon**
 - Comes into force from April 2026 – but will not change the fundamentals.

How is AIFMD relevant to Secondaries and GP-Led Secondaries?

- **Typical Secondary transactions would not constitute AIF marketing or the creation of a new AIF** – as it does not amount to the capital raising in that AIF.
- **A new vehicle for a GP-Led Secondary** – this vehicle could constitute an AIF.
- **AIF Management and Marketing approvals may be needed** – if there is a UK/EEA nexus.
- **AIFMD approvals can take time** – and delay transactions.
- **Ongoing AIFMD Requirements Triggered for in-scope AIFs**
 - Disclosure and reporting requirements.
 - Notifications for acquisitions (direct or indirect) of significant holdings in EEA/UK companies.
 - Asset-stripping rules.

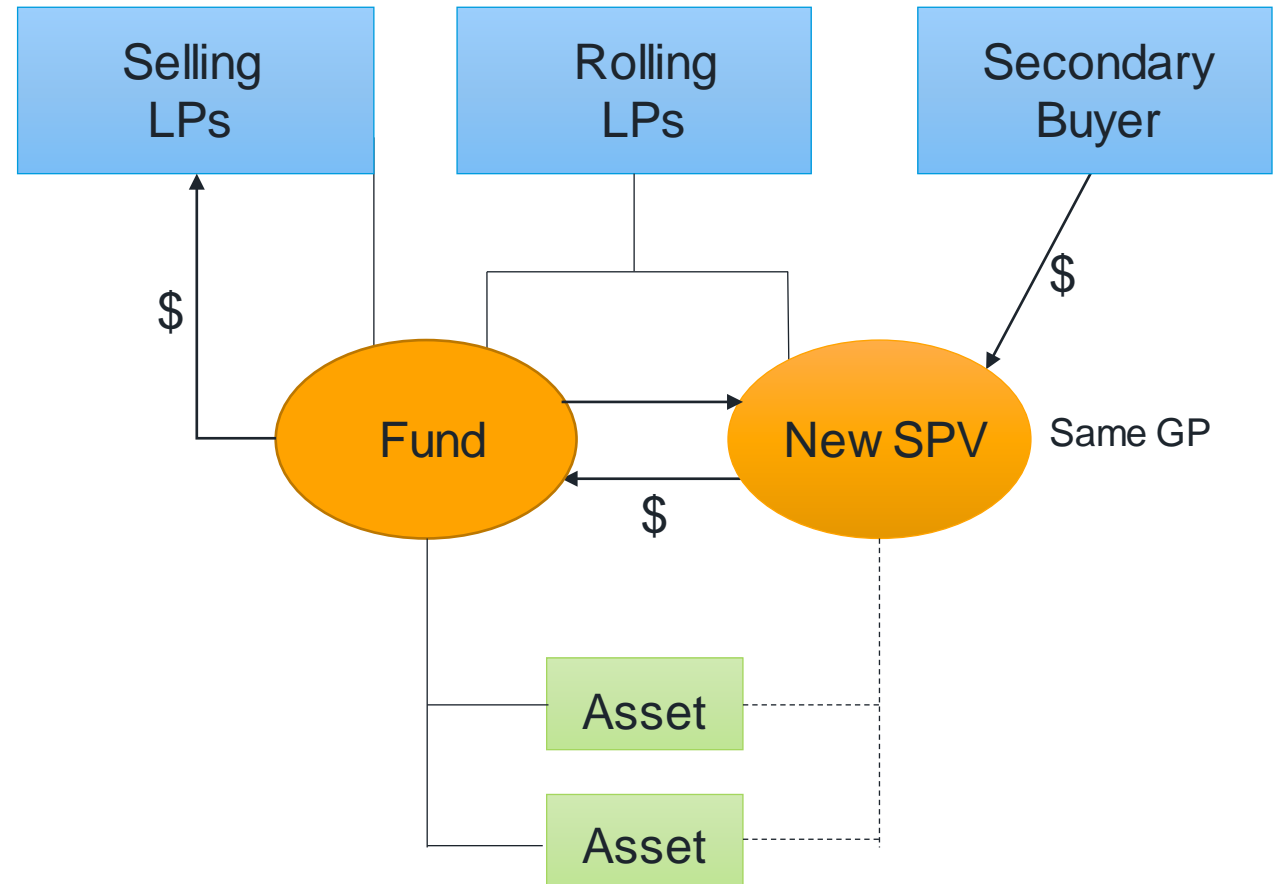
(1) Liquidity offering through an asset sale

Summary

- New SPV established and assets of existing fund transferred to SPV.
- Fund LPs are given the opportunity to roll-over into the SPV. Secondary Buyer(s) also given opportunity to invest in SPV .
- Same GP manages the SPV.

AIFMD Analysis

- New SPV **would be an AIF** due to multiple investors.
- Marketing approval would be required for EEA/UK investors **unless** reverse solicitation can be relied on.



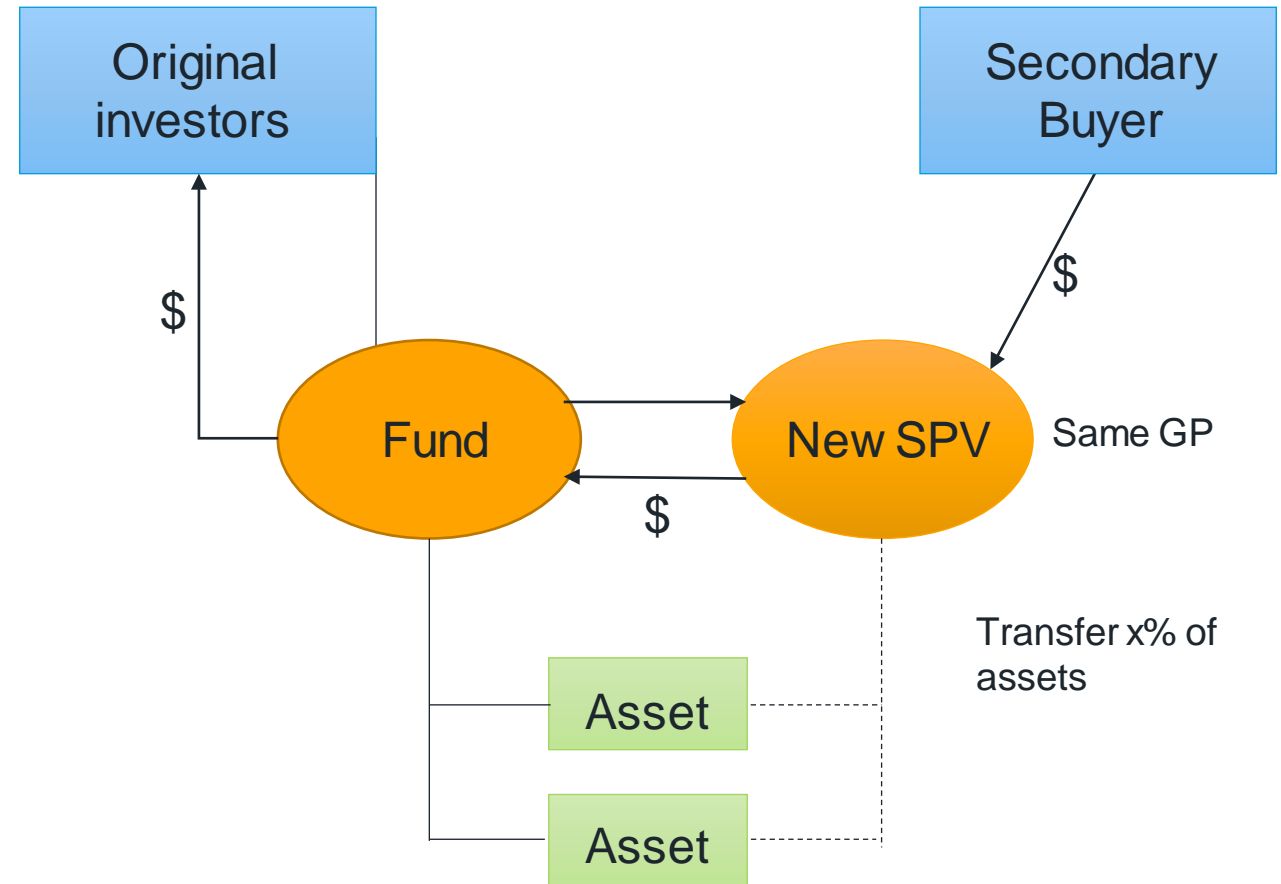
(2) Strip sale with SPV but only one investor

Summary

- GP sells a strip of the underlying assets to a New SPV.
- LPs can be given option to participate.
- But in this example, a Secondary Buyer is the sole investor in the SPV.

AIFMD Analysis

- If **only one** investor in the New SPV then exemption applies and it is **not** an AIF.
- So **no** AIFMD marketing or management approvals are needed.



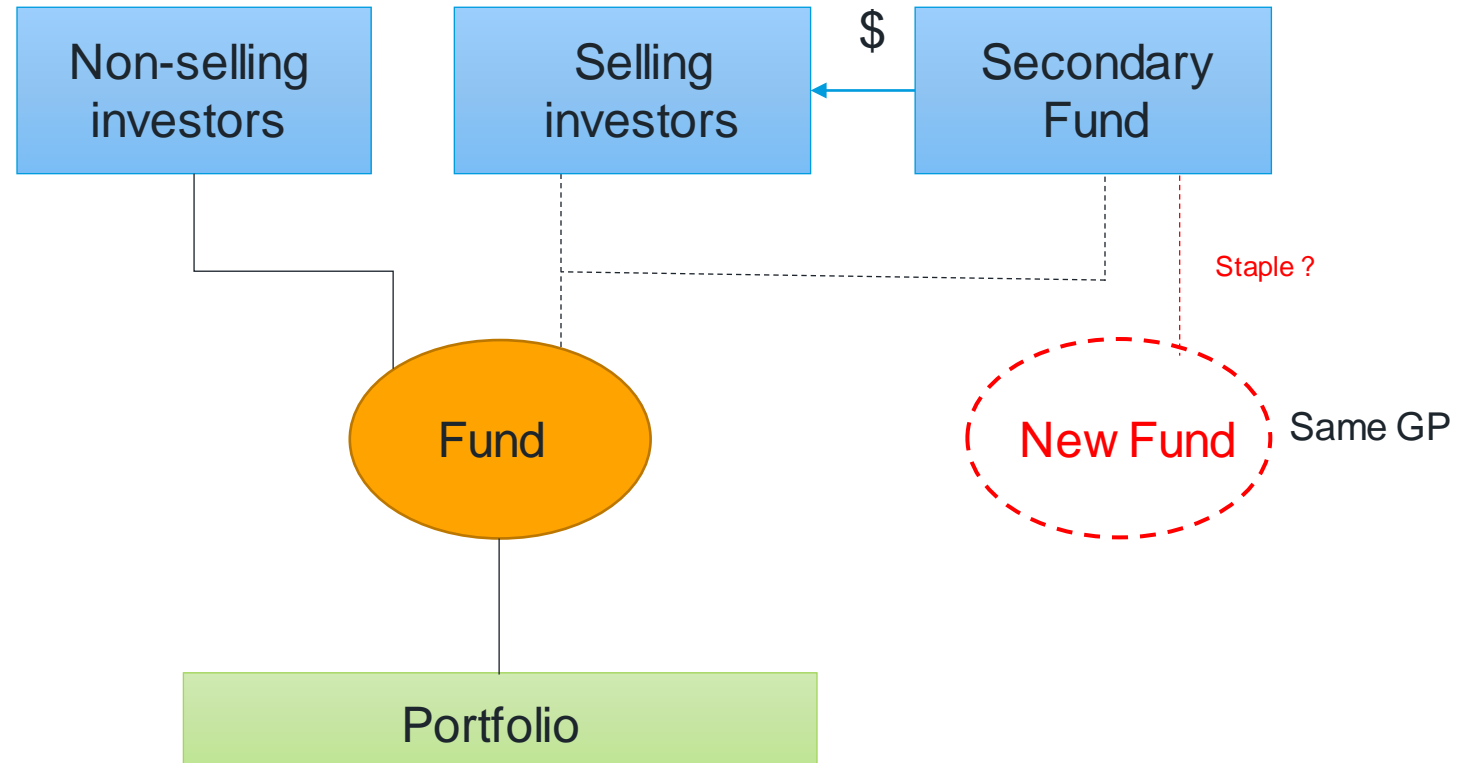
(3) LP Tender with Staple to New Fund

Summary

- Existing LPs given a liquidity option to sell their interest.
- Sale of the Existing Fund interests under the secondary transaction is stapled to a commitment in a New Fund.

AIFMD Analysis

- Transfer of Existing Fund interests would **not** be AIFMD “marketing” as there is **no capital-raising**.
- So **no** AIFMD marketing approval needed for this.
- But offering of New Fund via the staple **would** be AIFMD marketing.



Key Takeaways re AIFMD and Secondaries

- 1. Analysis of new structure/vehicle to determine if caught by AIFMD**
 - e.g. is there a UK/EEA nexus? Who is the manager of the new vehicle?
- 2. Can arrangements be structured to minimise AIFMD requirements?**
 - a) Can vehicles be structured outside of the UK/EEA?
 - b) Can reverse solicitation be relied on for EU/EEA investors?
- 3. If AIFMD approvals are needed:**
 - a) Are they feasible? Sometimes not possible to get a marketing approval.
 - b) If so, allow sufficient time to obtain them, e.g. some EEA marketing approvals can take months to be granted.

Other Regulatory Approvals triggered by Underlying Assets

1. Financial Services Change in Control Approval

- If the underlying fund portfolio companies are regulated financial services firms in UK/EEA.
- Change of indirect ownership in them could trigger need for regulatory approval.

2. Foreign Direct Investment (FDI) Filings and Clearance

- If underlying asset is a sensitive asset, a notification or clearance from the relevant Governmental authority may be needed.
- E.g. under the UK's National Security and Investment Act.

• Key Takeaways for LPs and GPs

- a) Carry out **due diligence** on the underlying asset.
- b) Determine **if regulatory approval is needed** for change in ownership.
- c) Allow **sufficient time** for making the filing and obtaining the regulatory approval.

Final Takeaway: if in doubt, speak with your regulatory lawyer...

European and US Tax Reviews



Mary Kuusisto
Partner
Proskauer



Frazer Money
Partner
Proskauer

Proskauer»

NAVIGATING LIQUIDITY
**SECONDARIES
PULSE CHECK
CONFERENCE**

Buyer Tax Protections in Continuation Funds

~~Market Trends in~~ Buyer Tax Protections ~~For Pre-Pricing Date~~ ~~Portfolio Company Tax Liabilities~~ in Continuation Funds

Buyer Tax Protections

- When buying a company, buyer inherits all historic tax liabilities within portfolio company.
- How does the buyer protect itself against this?

Buyer Tax Protections

	M&A	Traditional Secondary	Continuation Fund
Due Diligence	ü	û	?
Warranties	ü	û	?
Indemnities/Covenant	ü	û	?
Insurance	ü	û	?

US Withholding Tax

US Withholding Tax on Transfers of Partnership Interests

- If a non-US person sells a fund interest (even a non-US fund interest), US withholding tax may be triggered under one of two regimes:
 - ECI – Income Effectively Connected with a US trade or business.
 - Generally applies to funds that hold “unblocked” investments in tax-transparent portfolio companies with US operations.
 - FIRPTA – Foreign Investment in Real Property Act.
 - Generally applies to funds that hold significant US real estate or related assets.

US Withholding Tax on Transfers of Partnership Interests

- ECI Withholding:
 - 10% withholding based on the “amount realized” on the sale.
 - Amount realized generally is purchase price and seller’s share of partnership liabilities.
 - Exceptions – most relevant.
 - Seller certificate regarding no or “de minimis” ECI, based on 3 years of Schedules K-1.
 - Partnership certificate regarding no or “de minimis” ECI.
 - “Secondary” withholding obligation imposed on Fund.
 - Change in market practice: More funds provide certificates if supported by diligence.
 - Continuation Funds: consider certificate requirements based on structuring.

US Withholding Tax on Transfers of Partnership Interests

- FIRPTA Withholding
 - 15% withholding based on the “amount realized” on the sale.
 - Amount realized generally is purchase price and seller’s share of partnership liabilities.
 - Exceptions – most relevant.
 - Fund is not a “50/90” partnership.
 - No “Secondary” withholding obligation imposed on Fund.
 - Market practice: Diligence often sufficient to conclude no withholding required.
 - Be careful of single asset AIVs.

Focus on Continuation Funds



Chris Robinson
Partner
Proskauer



Nik Morandi
Senior Managing Director
Blackstone



Steven Nicholls
Senior Investment
Partner and Head of
GP-led solutions
Hollyport Capital



Daniel Ward
Principal
CPP Investments



Warren Allan
Partner
Proskauer
Moderator

Proskauer»

NAVIGATING LIQUIDITY
**SECONDARIES
PULSE CHECK
CONFERENCE**

Closing Remarks



Nigel van Zyl
Partner
Proskauer

Proskauer»

NAVIGATING LIQUIDITY
**SECONDARIES
PULSE CHECK
CONFERENCE**

NAVIGATING

LIQUIDITY

SECONDARIES PULSE CHECK CONFERENCE

Private Capital
Conference Series

Tuesday 8 October 2024
London

The information provided in this slide presentation is not intended to be, and shall not be construed to be, either the provision of legal advice or an offer to provide legal services, nor does it necessarily reflect the opinions of the firm, our lawyers or our clients. No client-lawyer relationship between you and the firm is or may be created by your access to or use of this presentation or any information contained on them. Rather, the content is intended as a general overview of the subject matter covered. Proskauer Rose LLP (Proskauer) is not obligated to provide updates on the information presented herein. Those viewing this presentation are encouraged to seek direct counsel on legal questions. © Proskauer Rose LLP. All Rights Reserved.

Proskauer»

PRIVATE CAPITAL CONFERENCE SERIES

Save the Date Wednesday 20 November 2024

[Click here to learn more](#)

This half-day conference in our private capital conference series, will cover the latest trends and topical issues facing the secondaries industry, as they relate to both LP transactions and GP-led processes.

8:30 - 9:15 a.m.
Seated Breakfast

9:30 a.m. - 12:00 p.m.
Presentations & Panel Sessions
with Industry Leaders

The Ritz
15 Pl. Vendôme
Paris
75001

Proskauer»

NAVIGATING LIQUIDITY
**SECONDARIES
PULSE CHECK
CONFERENCE**

Today's Featured Speakers



Bruno Bertrand-Delfau
Co-head Secondary Transactions
and Liquidity Solutions & Partner,
Private Funds
Proskauer

Bruno Bertrand-Delfau is co-head of the Secondary Transactions and Liquidity Solutions practice and a partner in the Private Funds Group.

Bruno has 20 years' experience in private equity secondaries, spin-offs of management teams, GP led transactions, fund restructurings and fund or preferred equity financings, and has worked on many of the largest and most complex transactions in the market, both in Europe and in the U.S.

He also advises institutional investors, including fund of funds and pension funds in their primary investments in private equity funds.

Bruno and Proskauer's secondaries team is ranked Band 1 in Chambers UK and Bruno is recognized as a 'Leading Individual' in the Legal 500 UK guide



Charlie Bridgeland
Partner
Lexington Partners

Charlie Bridgeland is a Partner of Lexington Partners based in the London office. He is part of Lexington's European secondaries investment team and is also involved in the firm's EMEA investor relations coverage.

Prior to joining Lexington in 2010, Mr. Bridgeland worked in private equity at 3i as well as in the UK M&A teams of Citigroup and Dresdner Kleinwort Wasserstein. He was educated at the University of Oxford (MA Hons) and the University of Bath (MSc).

Today's Featured Speakers



Sebastien Burdel
Partner
Ares Management

Mr. Burdel is a Partner in the Ares Secondaries Group, where he focuses on private equity and credit secondaries. He also serves as a member of the Ares Secondaries Group's Private Equity and Credit Investment Committees.

Prior to joining Ares in 2022, Mr. Burdel was a Co-Founder and Partner of Spring Bridge Partners. Previously, Mr. Burdel was a Partner at Collier Capital, where he also served on the firm's Global Investment Committee, Strategic Committee and on the Advisory Board of key underlying investments. In addition, Mr. Burdel held several positions in the Private Equity and Mergers and Acquisitions Units at General Electric.

Mr. Burdel holds a B.A. from Audencia in France in Business and an M.B.A. from the University of Pennsylvania Wharton School.



Bertrand Chevalier
Senior Managing Director
Ardian

Bertrand Chevalier joined Ardian in 2006 as a financial controller. Mr. Chevalier became a Corporate Officer, supporting Ardian's then COO, in 2009 before eventually joining the Secondaries & Primaries Team in 2011. He is primarily responsible for coordinating both primary and secondary activities for Ardian Secondaries & Primaries in the European market.

Today's Featured Speakers



Michael Suppappola

Co-head Secondary Transactions and Liquidity Solutions & Partner, Private Funds

Proskauer

Mike Suppappola is co-head of the Secondary Transactions and Liquidity Solutions Group and a partner in the Private Funds Group.

Mike specializes in representing asset managers across the globe in all aspects of their business and operations, with a particular focus on fund formation and the structuring and execution of secondary transactions. Mike also counsels clients on co-investments, portfolio investments and day-to-day operational and regulatory matters.

He advises a broad spectrum of fund sponsors who pursue a variety of strategies and sectors, including secondaries, private credit, distressed and special situations, buyout, structured capital, growth equity, venture capital, real estate and funds-of-funds. After the fundraising period, Mike continues to serve as a trusted adviser throughout the lifespan of a fund, with a focus on general partner and management company internal governance and day-to-day operational issues.



Blake Halperin

Partner, Private Funds

Proskauer

Blake Halperin is a partner in the Private Funds Group. He primarily focuses his practice on representing buyers and sellers, as well as private fund sponsors, in connection with complex secondary transactions, including traditional sales and purchases of fund interests as well as GP-Led transactions, including but not limited to, single asset spin-out arrangements, fund recapitalizations, preferred financings and “stapled” secondary transactions.

In addition, he regularly represents U.S. and non-U.S. institutional investors in their primary investments and co-investment opportunities in private investment funds, including buyout, energy, credit, mezzanine, healthcare, real estate, venture capital, special situation and secondary funds, as well as separate and other managed accounts.

Today's Featured Speakers



Jordan Hurwitz
Partner, Private Funds
Proskauer

Jordan Hurwitz is a partner in Proskauer's Private Funds Group.

Jordan advises clients on primary investments in private equity funds and a broad range of secondary transactions, including the purchase and sale of portfolios of private fund interests, fund restructurings, and GP-led liquidity solutions.

Jordan has been named by Legal Week as a Private Equity Rising Star for 2021.



Stuart Ingledew
Fund Solutions
Investec Bank

Stuart is based in London where he focuses on providing lending solutions to GPs and their funds. Stuart has experience across the origination, structuring, negotiation and execution of capital call facilities, NAV facilities, continuation vehicle facilities and GP facilities.

More recently, Stuart has been focusing on secondary transactions at both a fund level and deal level. Prior to joining Fund Solutions in London, Stuart worked in Investec's offices in Switzerland and South Africa, where he spent time in other lending roles in the bank. Stuart is both a CFA Charterholder and Chartered Accountant.

Today's Featured Speakers



Richard Sehayek
Managing Director
Ares Management Credit Group

Mr. Sehayek is a Managing Director in the Ares Credit Group, where he focuses on alternative credit investments. Prior to joining Ares in 2023, Mr. Sehayek was a Managing Director and Global Head of Origination for Fund Financing at Credit Suisse, where he focused on financing secured by private equity and hedge fund assets.

Previously, he was an Executive Director at KBC Financial Products, where he ran origination and structuring in Europe for fund derivatives. Mr. Sehayek holds an M.Eng. in Chemical Engineering from University College London.



Matthieu Teyssier
Senior Managing Director –
Secondaries & Primaries
Ardian

Matthieu Teyssier joined Ardian in 2007. Prior to joining the Secondaries & Primaries team in 2011 as Analyst, he was Head of Client Servicing within the Investor Relations team at Ardian. He is responsible for coordinating both primary and secondary activities for Ardian Secondaries & Primaries in the European market.

Today's Featured Speakers



Cameron Roper
Partner, Finance
Proskauer

Cameron Roper is a Finance partner and member of the Private Capital Team (working closely with the Private Funds Group).

Cameron specializes in funds finance and general lending and advisory work, acting for both fund managers and financial institutions. He regularly advises on net asset value (NAV) facilities, hybrid facilities and subscription line facilities, as well as general partner commitment, manager, carry and co-investment facilities. His experience covers a wide range of funds, including credit, large buyout and mid-market funds, venture, secondaries, infrastructure, real estate, fund of funds and emerging market funds.



Paul Tannenbaum
Partner, Finance
Proskauer

Paul Tannenbaum is a Finance partner and member of the Private Capital Team (working closely with the Private Funds Group).

Paul has extensive experience acting for lenders, borrowers and financial institutions on both fund financings and acquisition and leveraged finance transactions.

Paul's fund finance experience includes advising GPs and lenders in connection with traditional subscription lines, hybrid and NAV facilities, co-investment facilities, GP support facilities, management fee facilities, asset leverage facilities for credit funds, loans to separate managed accounts and fund of fund financings.

Paul has been recognised by Legal 500 as a Next Generation Partner for Fund Finance and as a key lawyer for Bank Lending.

Today's Featured Speakers



Rob Sutton
Partner, Private Funds
Proskauer

Robert Sutton is a partner of the Private Funds Group and a member of the Corporate Department. He is a seasoned practitioner with over 20 years of experience counseling managers and advisers of private funds on regulatory matters, as well as regulatory issues related to the formation and operation of private equity, credit, real estate, infrastructure, hedge and other private funds.

Rob has a deep knowledge of the market practice of asset managers and in particular, as it relates to Advisers Act-related issues. From some of the largest and most sophisticated firms in the global asset management industry to start-ups and mid-sized firms, Rob's experience includes a wide spectrum of funds and asset classes across their life cycles.



John Verwey
Partner, Private Funds
Proskauer

John Verwey is a partner in the Private Funds Group. John advises on a wide number of regulatory issues at a national UK and European level, including firm authorisations, appointed representative arrangements, change in control, market abuse. He represents a variety of clients that range from small start-up fund managers to established global fund advisers and managers.

A particular area of focus for John is Alternative Investment Fund Managers Directive (AIFMD) and Markets in Financial Instruments Directive II (MiFID II). This includes advising on pre-marketing and marketing strategies for fund managers, advising on the Level One and Lever Two requirements under AIFMD and implementing UK rules and legislation, and advising on the organizational and conduct of business requirements under MiFID II.

Today's Featured Speakers



Mary Kuusisto
Co-head of London Office & Partner,
Private Funds/US Tax
Proskauer

Mary Kuusisto is a partner in the Private Funds Group, a member of the Tax Department, co-head of the London office and a past member of the Firm's Executive Committee.

Mary has almost 30 years of experience in the private equity industry. She advises clients on structuring and operations of private investment funds globally, including secondary transactions, with particular experience in tax-related matters. She has represented numerous private investment funds in their formation and operational activities, including venture capital, buyout, distressed debt, mezzanine finance, natural resource, secondary, and funds of funds, as well as geographic and sector specific funds. Mary also advises investment fund managers and general partners with respect to their internal governance, compensation arrangements and economic structures.

Another significant aspect of Mary's practice involves advising various types of institutional investors on their investments in global private investment funds. Among others, she has advised funds of funds, pension funds, endowments and foundations – both U.S. and non-U.S. – in connection with their alternative investment strategies. Mary also has extensive experience advising both buyers and sellers of secondary fund interests in connection with tax matters.



Frazer Money
Partner, Tax
Proskauer

Frazer Money is a partner in the Tax Department and a member of the Private Funds Group.

Frazer advises businesses on a wide range of tax and structuring matters, with particular experience in advising asset managers on tax and structuring issues relating to their funds, management businesses, remuneration packages and investment transactions as well as GP and LP-led secondaries and GP minority transactions.

He also has a wide range of experience advising on the tax aspects of complex credit transactions and cross-border restructurings.

Prior to joining Proskauer, Frazer was a partner in the Tax Department at another leading US law firm in London.

Today's Featured Speakers



Nik Morandi
Senior Managing Director
Blackstone

Nik Morandi is a Senior Managing Director within Blackstone's Strategic Partners team and leads the private equity investment activities for Strategic Partners in Europe. Nik is based in London.

Prior to joining Blackstone, Nik led the secondaries business in Europe for the Canada Pension Plan Investment Board since joining the firm in 2016, with responsibility for all transaction-related activities. Before joining CPPIB, he was a Partner at Pantheon and a member of the firm's global secondaries investment committee, where he also led the firm's Portfolio Strategy and Research teams. Prior to joining Pantheon in 2007, Nik spent a number of years in the M&A departments of both UBS and Société Générale.

Nik received a BSc in Economics from the LSE and an MPhil in European Politics and Economics from Oxford University.



Steven Nicholls
Senior Investment Partner and
Head of GP-led Solutions
Hollyport Capital

Steve has been a direct private equity investor since 1997. He joined Hollyport in December 2013 and is now a Senior Partner and Head of GP-led solutions.

Having trained as an accountant, Steve worked at SBC Warburg for 7 years before joining 3i in 1997. Steve has extensive geographic experience having led investments across Europe and North America and directly overseen investments in Asia. Having led 3i's UK Private Equity business he became a founding Partner of 3i Growth Capital, chaired the Investment Committee and was responsible for leading 3i's first ever Growth Capital fundraising of €1.2billion.

Steve holds an MBA from Cranfield School of Management.

Today's Featured Speakers



Daniel Ward
Private Equity Funds & Secondaries
CPP Investments

Daniel Ward is a Principal in the Private Equity Funds & Secondaries business at CPP Investments, covering Europe and North America. He is responsible for leading secondaries transactions across a broad range of transaction types including continuation vehicles, GP commitment financings, and LP portfolio purchases. Prior to joining CPP Investments in 2018, Daniel began his career in the Private Capital Advisory team at Evercore, advising GPs and LPs on secondary liquidity transactions.

Daniel received a first class honours degree in Economics from the University of Warwick.



Christopher Robinson
Co-head Secondary Transactions
and Liquidity Solutions & Partner,
Private Funds
Proskauer

Christopher Robinson is co-head of the Secondary Transactions and Liquidity Solutions practice and a partner in the Private Funds Group. Named as a 2024 finalist for 'Dealmaker of the Year' by New York Law Journal, he primarily focuses his practice on representing buyers and sellers, as well as market intermediaries, in connection with complex secondary transactions, including traditional sales and purchases of fund interests, secondary direct transactions, captive fund spin-out arrangements, fund recapitalizations and restructurings and "stapled" secondary transactions.

In addition, he regularly represents sponsors of, and institutional investors in, private investment funds, including buyout, energy, credit, mezzanine, healthcare, real estate, venture capital, special situation and secondary funds, as well as separate and other managed accounts.

Today's Featured Speakers



Warren Allan
Partner, Private Funds
Proskauer

Warren Allan is a partner in the Private Funds Group.

Warren advises European sponsors on raising investment funds, and on a broad range of secondary transactions, including the purchase and sale of portfolios of fund interests and manager-led liquidity solutions. Warren also advises investors making direct and indirect co-investments.



Nigel van Zyl
Partner & Co-head, Private Funds
Proskauer

Nigel van Zyl is a partner and co-head of the Private Funds Group at Proskauer.

Nigel specializes in advising asset managers, institutional investors and investment advisors across the full spectrum of investment fund matters.

Praised for his keen business sense and practical approach, Nigel advises leading international fund managers on all aspects of their fund business, including the formation, raising, maintenance and ongoing operation and compliance of their investment funds. He also advises on internal governance, compliance and organization, carried interest and co-investment arrangements, spinouts, re-organizations and restructurings.

Nigel represents institutional investors, including fund of funds, sovereign wealth funds, and global asset managers, with respect to their investments into private equity and other alternative asset funds.

Nigel also advises buyers and sellers of secondary fund interests and the structures used for these transactions, including synthetic secondary and co-investment structures.



KEY CONTACTS

Please refer to www.proskauer.com for a complete list of contacts:

PRIVATE INVESTMENT FUNDS

Warren Allan

+44.20.7280.2234

wallan@proskauer.com

Monica Arora

+1.212.969.3003

marora@proskauer.com

Howard J. Beber

+1.617.526.9754

hbeber@proskauer.com

Bruno Bertrand-Delfau

+44.20.7280.2126

bbertrand-delfau@proskauer.com

Ryan M. Carpenter

+1.617.526.9607

rcarpenter@proskauer.com

Sarah K. Cherry

+1.617.526.9769

scherry@proskauer.com

Jennifer E. Crystal

+1.212.969.3270

jcrystal@proskauer.com

Niamh A. Curry

+1.212.969.3474

ncurry@proskauer.com

Jennifer M. Dunn

+1.212.969.3355

jdunn@proskauer.com

Chris Elson

+44.20.7280.2048

celson@proskauer.com

Caryn J. Greenspan

+1.212.969.3281

cgreenspan@proskauer.com

Blake Halperin

+1.561.995.4721

bhalperin@proskauer.com

Camille Higonnet

+1.617.526.9738

chigonnet@proskauer.com

Jordan Hurwitz

+44.20.7280.2083

jhurwitz@proskauer.com

Ash Ilkhani

+1.212.969.3301

aikhani@proskauer.com

David T. Jones

+1.617.526.9751

djones@proskauer.com

Joseph E. Kasegian

+1.617.526.9449

jkasegian@proskauer.com

Edward Lee

+44.20.7280.2057

etlee@proskauer.com

Galen R. Lewis

+1.617.526.9405

glewis@proskauer.com

Stephen T. Mears

+1.617.526.9775

smears@proskauer.com

Don B. Melamed

+1.310.284.5621

dmelamed@proskauer.com

Kelli L. Moll

+1.212.969.3520

kmoll@proskauer.com

Nicholas C. Noon

+1.617.526.9490

nnoon@proskauer.com

Peter J. Olds

+44.20.7280.2270

polds@proskauer.com

James Oussedik
+44.20.7280.2211
joussedik@proskauer.com

Robin A. Painter
+1.617.526.9790
rpainter@proskauer.com

Charles (Chip) Parsons
+1.212.969.3254
cparsons@proskauer.com

Marc A. Persily
+1.212.969.3403
mpersily@proskauer.com

Aranpreet Randhawa
+44.20.7280.2235
arandhawa@proskauer.com

Christopher C. Robinson
+1.212.969.3676
crobinson@proskauer.com

Bradley A. Schechter
+1.617.526.9619
bschechter@proskauer.com

Brian S. Schwartz
+1.617.526.9785
bschwartz@proskauer.com

Kerry F. Shriver
+1.617.526.9413
kshriver@proskauer.com

Sean A. Spence
+44.20.7280.2292
sspence@proskauer.com

Michael R. Suppappola
+1.617.526.9821
msuppappola@proskauer.com

Robert H. Sutton
+1.212.969.3480
rsutton@proskauer.com

David W. Tegeler
+1.617.526.9795
dtegeler@proskauer.com

Nigel van Zyl
+44.20.7280.2070
nvanzyl@proskauer.com

John Verwey
+44.20.7280.2033
jverwey@proskauer.com

Christopher M. Wells
+1.212.969.3600
cwells@proskauer.com

Fabio A. Yamada
+55.11.3045.1250
fyamada@proskauer.com

HEDGE FUNDS
Jennifer M. Dunn
+1.212.969.3355
jdunn@proskauer.com

Caryn J. Greenspan
+1.212.969.3281
cgreenspan@proskauer.com

Kelli L. Moll
+1.212.969.3520
kmoll@proskauer.com

James Oussedik
+44.20.7280.2211
joussedik@proskauer.com

Christopher M. Wells
+1.212.969.3600
cwells@proskauer.com

REGISTERED FUNDS
Stuart H. Coleman
+1.212.969.3350
scoleman@proskauer.com

John J. Mahon
+1.202.416.6828
jmahon@proskauer.com

William T. MacGregor
+1.212.969.3555
wmacgregor@proskauer.com

David Stephens
+1.212.969.3357
dstephens@proskauer.com

**SECONDARY TRANSACTIONS AND
LIQUIDITY SOLUTIONS**
Warren Allan
+44.20.7280.2234
wallan@proskauer.com

Liam Arthur

+44.20.7280.2182

larthur@proskauer.com

Howard J. Beber

+1.617.526.9754

hbeber@proskauer.com

Bruno Bertrand-Delfau

+44.20.7280.2126

bbertrand-delfau@proskauer.com

Lauren K. Boglivi

+1.212.969.3082

lboglivi@proskauer.com

Philip Bowden

+44.20.7280.2133

pbowden@proskauer.com

Richard Bull

+44.20.7280.2060

rbull@proskauer.com

Peter Castellon

+44.20.7280.2091

pcastellon@proskauer.com

Adam Creed

+44.20.7280.2020

acreed@proskauer.com

Niamh A. Curry

+1.212.969.3474

ncurry@proskauer.com

Grant Darwin

+1.212.969.3306

gdarwin@proskauer.com

Steven Davis

+44.20.7280.2049

sdavis@proskauer.com

Rob Day

+44.20.7280.2040

rday@proskauer.com

Kunal Dogra

+1.212.969.3941

kdogra@proskauer.com

Michael E. Ellis

+1.212.969.3543

mellis@proskauer.com

Blake Halperin

+1.561.995.4721

bhalperin@proskauer.com

Andrew Houghton

+44.20.7280.2155

ahoughton@proskauer.com

Oliver R. Howley

+44.20.7280.2127

ohowley@proskauer.com

Jordan Hurwitz

+44.20.7280.2083

jhurwitz@proskauer.com

Joseph E. Kasegian

+1.617.526.9449

jkasegian@proskauer.com

Jake Keaveny

+44.20.7280.2265

jkeaveny@proskauer.com

Matthieu Lampel

+33.1.53.05.60.79

mlampel@proskauer.com

Megan Lawrence

+44.20.7280.2188

MLawrence@proskauer.com

James C. Lee

+1.212.969.3036

jclee@proskauer.com

Galen R. Lewis

+1.617.526.9405

glewis@proskauer.com

Stéphanie Martinier

+33.1.53.05.60.27

smartinier@proskauer.com

Vikki McKay

+44.20.7280.2191

vmckay@proskauer.com

Xavier Norlain

+33.1.53.05.60.73

xnorlain@proskauer.com

Warren Newton

+44.20.7280.2236

wnewton@proskauer.com

Christopher C. Robinson
+1.212.969.3676
ccrobinson@proskauer.com

Jeremy Scemama
+33.1.53.05.60.75
jscemama@proskauer.com

Kerry F. Shriver
+1.617.526.9413
kshriver@proskauer.com

Michael R. Suppappola
+1.617.526.9821
msuppappola@proskauer.com

Rebecca Villarreal
+44.20.7280.2030
rvillarreal@proskauer.com

Mary Wilks
+44.20.7280.2030
mwilks@proskauer.com

Andrew Wingfield
+44.20.7280.2021
AWingfield@proskauer.com

Nigel van Zyl
+44.20.7280.2070
nvanzyl@proskauer.com

TAX (FUNDS)
Jean M. Bertrand
+1.212.969.3247
jbertrand@proskauer.com

Ira G. Bogner
+1.212.969.3947
ibogner@proskauer.com

Robert E. Gaut
+44.20.7280.2064
rgaut@proskauer.com

Scott S. Jones
+1.617.526.9772
sjones@proskauer.com

Mary B. Kuusisto
+44.20.7280.2159
mkuusisto@proskauer.com

Arnold P. May
+1.617.526.9757
amay@proskauer.com

David S. Miller
+1.212.969.3006
dmiller@proskauer.com

Richard J. Miller
+44.20.7280.2028
rmiller@proskauer.com

Frazer K. Money
+44.20.7280.2223
fmoney@proskauer.com

Jeremy M. Naylor
+1.617.526.9441
jnaylor@proskauer.com

Amanda H. Nussbaum
+1.212.969.3642
anussbaum@proskauer.com

Janicelynn Asamoto Park
+1.212.969.3152
jpark@proskauer.com

Stephen Pevsner
+44.20.7280.2041
spevsner@proskauer.com

Jamie E. Poindexter
+1.617.526.9773
jpoindexter@proskauer.com

Adam W. Scoll
+1.617.526.9486
ascoll@proskauer.com

Catherine Sear
+44.20.7280.2061
csear@proskauer.com

Stephen Severo
+1.617.526.9640
ssevero@proskauer.com

ERISA (FUNDS)
Ira G. Bogner
+1.212.969.3947
ibogner@proskauer.com

Adam W. Scoll
+1.617.526.9486
ascoll@proskauer.com

EXECUTIVE COMPENSATION**Seth J. Safra**

+1.202.416.5840

ssafra@proskauer.com**FUND FINANCE****Andrew Bettwy**

+1.212.969.3180

abettwy@proskauer.com**Ron D. Franklin**

+1.212.969.3195

rfranklin@proskauer.com**Jinyoung Joo**

+1.212.969.3334

jjoo@proskauer.com**Philip A. Kaminski**

+1.212.969.3511

pkaminski@proskauer.com**Matthew K. Kerfoot**

+1.212.969.3007

mkerfoot@proskauer.com**Eric R. Reimer**

+1.617.526.9800

ereimert@proskauer.com**Cameron A. Roper**

+44.20.7280.2143

croper@proskauer.com**Paul Tannenbaum**

+44.20.7280.2050

ptannenbaum@proskauer.com**REGULATORY/COMPLIANCE****Robert H. Sutton**

+1.212.969.3480

rsutton@proskauer.com**John Verwey**

+44.20.7280.2033

jverwey@proskauer.com**ASSET MANAGEMENT LITIGATION****Michael R. Hackett**

+1.617.526.9723

mhackett@proskauer.com**Dorothy A. Murray**

+44.20.7280.2055

domurray@proskauer.com**Jonathan M. Weiss**

+1.310.284.4524

jweiss@proskauer.com**SEC ENFORCEMENT****Joshua M. Newville**

+1.212.969.3336

jnewville@proskauer.com**Robert W. Pommer**

+1.202.416.6808

rpommer@proskauer.com**GLOBAL CORPORATE INVESTIGATIONS
AND COMPLIANCE****Kevin T. Abikoff**

+1.202.416.5857

kabikoff@proskauer.com

Knowledge Sharing

NAVIGATING LIQUIDITY
**SECONDARIES
PULSE CHECK
CONFERENCE**

Visit [Proskauer.com](https://proskauer.com) for further insights on the latest developments in the industry. Click through some highlights below.

HIGHLIGHTS

[2024 Proskauer Annual Review for Private Investment Funds](#)

[Signs of a 'banner year' ahead](#)

[A Decade of Secondaries: Europe's appeal and the evolution of specialization](#)

[Financing Secondary Fund Acquisitions](#)

[ILPA Guidance on NAV Facilities](#)

[Approaching Secondaries Financing from All Angles: Key Considerations for Debt in LP-Led and GP-Led Secondary Transactions](#)

[A Change in the LP-GP Balance of Power: A Special Keynote Interview](#)

[European Regulatory Timeline 2024](#)

[Regulatory & Compliance Blog](#)

[Pulling in the Same Direction: A Special Keynote Interview](#)

[Mastering GP-Led Processes](#)

Artificial Intelligence

Our Recent Experience

Proskauer's lawyers are experts in AI law, policy and practice.

We regularly advise new entrants and established players in the AI market on their formulation and execution of key strategies, and their management and mitigation of AI-specific risks. Our clients range from well-known model developers and corporate end-users, to training data rightsholders and businesses whose vendors are integrating AI into existing services. We offer technical excellence in the law, as well as practical advice based on a wealth of real experience.

Recent examples of our team's work include advising a:

- [Series of Private Equity Businesses](#) on their assessment, procurement and use of generative AI tools, include Anthropic's Claude, Amazon's Q Developer and Microsoft's Copilot and Azure OpenAI Service
- [Series of Venture Capital Businesses](#) on their assessment, procurement and use of generative AI tools, including Supernormal, Notion and Meta's Llama
- [Series of Venture Capital Businesses](#) on minority investments in AI startups and associated commercial partnerships, including AI-specific diligence
- [Global Delivery Organisation](#) on its automation strategy, including its development of discriminative AI models and deployment of generative AI systems, including OpenAI's API and elements of Slack
- [Leading Tech Organisation](#) on its generative AI deployment, including its enterprise licensing deal with OpenAI, and its use of ChatGPT, Google Gemini and Github Copilot
- [Global Media Business](#) on strategies related to its use of generative AI, including in connection with talent NIL, and the protection of its brand assets from unauthorised use in generative AI
- [Leading E-billing Platform](#) on its AI strategy, including customer communications relating to its training of categorisation models using customer data and its deployment of generative AI tools
- [Global Leader in Market Research](#) on its development of multiple generative AI software products for internal and customer use, and its compliance with the EU's AI Act
- [Listed Tech Unicorn](#) on its lobbying efforts in relation to the EU's AI Act, and subsequent compliance project (including relating to high-risk AI systems)
- [Leading Trading Software Providers](#) on the incorporation of third party AI systems into their customer product stacks, including to create combined discriminative and generative AI products
- [Global AI Research House](#) on the establishment and support of a joint venture for the commercialisation of therapeutic AI tech
- [Transatlantic AI Business](#) on the IP and tech aspects of its relationship with its parent, including licensing relating to the ethical use of AI

"Recommended for [their] niche in robotics and artificial intelligence."

Legal 500 UK

For assistance with any AI project or issue, please contact one of the following team members or your usual Proskauer contact:



[Oliver R. Howley](#)
Partner
ohowley@proskauer.com



[Kelly M. McMullon](#)
Special Counsel
kmcmullon@proskauer.com



[Peter J. Cramer](#)
Associate
pcramer@proskauer.com