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AGENDA

NAVIGATING

LIQUIDITY

SECONDARIES PULSE CHECK CONFERENCE

Private Capital
Conference Series

Wednesday 20 November 2024
Paris

The Ritz
15 Pl. Vendôme
Paris

8:15 a.m.	Registration
8:30 a.m.	Seated Breakfast
9:30 a.m.	Opening Remarks Bruno Bertrand-Delfau, Co-head of Secondaries and Liquidity Solutions Group, Proskauer
9:40 a.m.	Focus on Continuation Funds Panel Marion Cossin, Managing Director, Private Capital Advisory, Lazard Nicolas Lanel, Founder, Flow Advisors Amine Rais, Partner, Private Funds Group, Eurazeo Agnès Rossi, Partner, Proskauer Warren Allan, Partner, Proskauer (<i>Moderator</i>)
10:20 a.m.	Coffee Break
10:50 a.m.	General Market Trends Panel Maria Daguerre, Managing Director, Ardian Jasmine Hunet, Senior Managing Director, Evercore Erwin Roex, Partner, BEX Capital Anish Satija, Principal, Credit Secondaries, Ares Bruno Bertrand-Delfau, Co-head of Secondaries and Liquidity Solutions Group, Proskauer (<i>Moderator</i>)
11:30 a.m.	Closing Remarks Agnès Rossi, Partner, Proskauer
11:40 a.m. – 12:00 p.m.	Coffee and Networking

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.



Marion Cossin
Managing Director
Private Capital Advisory
Lazard

Marion Cossin is a Managing Director at Lazard in the Private Capital Advisory team and heads the secondary advisory team in Paris. Marion has over 10 years of investment banking experience in secondaries. Her experience includes a full range of liquidity solutions transactions in the EMEA region.

Prior to joining Lazard, Marion was part of the TMT M&A team at Credit Suisse in London. Marion graduated from Oxford University, Sciences Po and Columbia University.

Today's Featured Speakers



Nicolas Lanel
Founder
Flow Advisors

Flow Advisors was established in 2018 with an exclusive focus on GP-led secondary transactions.

The firm was founded by Nicolas Lanel on the back of a 25+-year investment banking career in London and New York, the last 15 years of which were closely associated with the rapidly expanding secondary industry.

Prior to establishing Flow Advisors, Nicolas had co-founded and co-led specialist franchises at UBS and Evercore, both of which achieved global leadership positions in the secondary space under his tenure.



Amine Rais
Partner
Private Funds Group
Eurazeo

Amine is Partner within the Private Funds Group at Eurazeo. He worked 15 years in the secondary private equity industry at Eurazeo and Paul Capital. Amine also worked for two years in Mergers and Acquisitions at Rothschild & Cie. Amine graduated from the ESSEC Business School with majors in Private Equity and management and from the ENSAM Paristech engineering school in France. He is a CFA charterholder.

Today's Featured Speakers



Agnès Rossi
Partner
Proskauer

Agnès Rossi is a partner in the Private Funds Group and a member of the firm's Private Capital Industry group.

With nearly 20 years of experience, she is a leading expert in international fund structures and regulatory matters, including AIFM and ELTIF approvals. Throughout her career, Agnès has worked extensively on private investment funds across France, London, and Luxembourg.

She advises both European and global asset managers on the structuring, establishment, and operation of private investment funds, spanning a wide range of strategies such as infrastructure, energy, buyouts, venture capital, debt, and real estate. Agnès also specializes in GP-led fund restructurings and liquidity solutions transactions.



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.

Today's Featured Speakers



Maria Daguere
Managing Director
Ardian

Maria Daguere joined Ardian in 2021, as an MD in the secondaries and primaries team. Before joining Ardian, spent eleven years working for the Private Equity department within GIC. Started her career in M&A and leveraged finance. Graduated from ESSEC and the University of Berkeley.



Jasmine Hunet
Senior Managing Director
Evercore

Jasmine Hunet is a Senior Managing Director in the European Private Capital Advisory team at Evercore.

Prior to joining Evercore, Ms. Hunet was a member of the Private Funds Group at UBS and advised on the secondary market of private equity and infrastructure for over 13 years. She has extensive experience advising general partners on strategic transactions, including continuation/acquisition funds, fund recapitalisations, tenders, restructurings and team spinoffs. She also has long-standing experience advising limited partners on strategic secondary transactions, having led some of the largest or more complex LP portfolio sales in Europe.

Ms. Hunet graduated with Dean's honours from ESCP Europe, with a "Grande Ecole" Master in Management and Finance. She is fluent in English and French and has a good knowledge of Spanish.

Today's Featured Speakers



Erwin Roex
Partner
BEX Capital

BEXCapital is a specialist private equity secondaries firm based in Nice, France. At BEXCapital, Erwin is a member of the investment committee and responsible for transaction execution. He joined BEXCapital in 2016, initially as a non-executive Chairman, transitioning to an executive role as Managing Partner later that same year.

Prior to joining BEXCapital Erwin was the Chairman of MP Venture, an Italian mid-market private equity firm based in Florence. From 2003 to 2014 he was a partner at Collier Capital in London, where he managed transactions in secondary private equity markets in Europe and Latin America. He sat on the firm's investment, credit and ESG committees. Between 1995 to 2002 he was Managing Director at Alpinvest in London and Amsterdam, where he was responsible for buy-out investments and founded both the mezzanine and private equity secondary businesses.

He embarked on his career in private equity having worked in banking at Westdeutsche Landesbank, the Chase Manhattan Bank and Banco Exterior de España.



Anish Satija
Principal, Credit Secondaries
Ares

Mr. Satija is a Principal in the Ares Secondaries Group, where he focuses on credit secondaries. Prior to his current role, Mr. Satija was a Principal in the Ares Credit Group, where he focused on European direct lending. Prior to joining Ares in 2015, Mr. Satija was a Vice President at Morgan Stanley, where he focused on financing for both corporate and financial sponsors in the European leveraged loan and high-yield capital markets. Previously, Mr. Satija was an Associate at Citigroup, where he focused on European leveraged finance. He holds a B.Sc. from the University of Bristol in Economics.

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Knowledge Sharing

NAVIGATING LIQUIDITY
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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](#)



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LIQUIDITY

SECONDARIES PULSE CHECK CONFERENCE

Private Capital
Conference Series

Wednesday
20 November 2024
Paris

Proskauer»



Data Insights: Trends in the Terms of Secondaries Transactions

November 2024

Proskauer»

NAVIGATING LIQUIDITY
**SECONDARIES
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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.

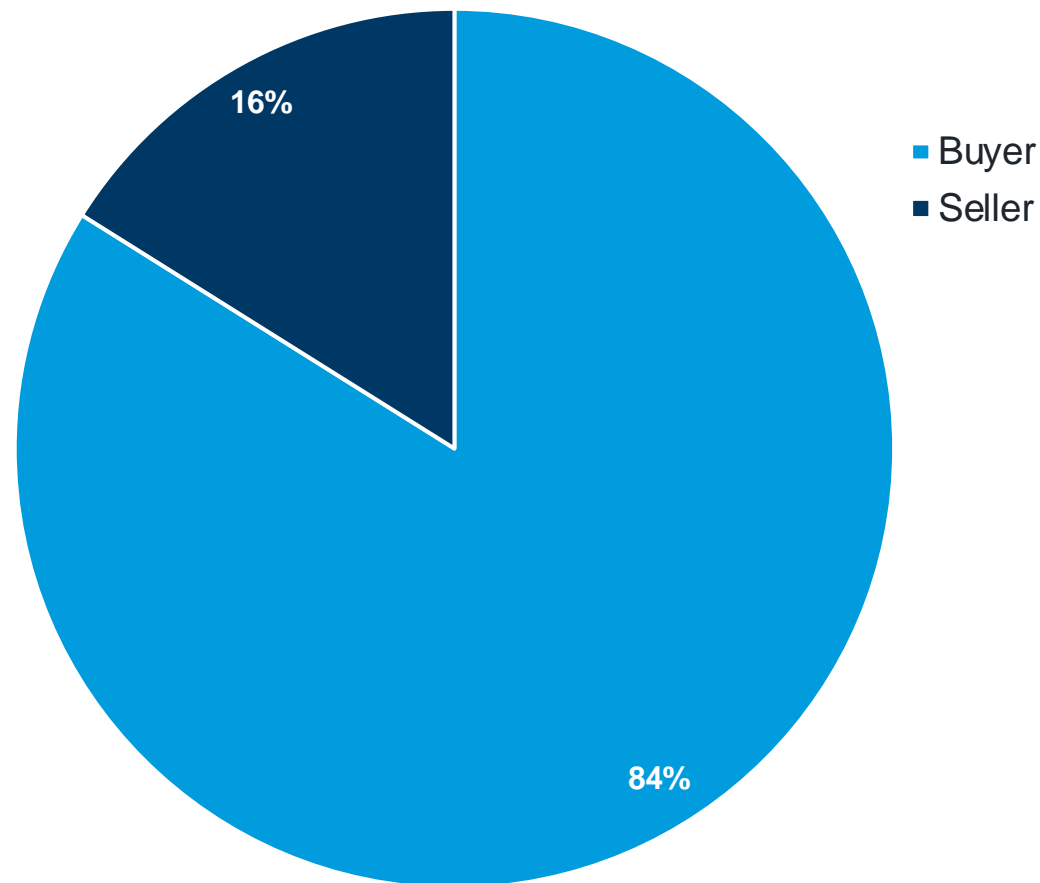
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Section 1	Data Insights: Traditional LP Secondaries Transactions
Section 2	Data Insights: GP-Led Secondaries Transactions

Data Insights: Traditional LP Secondaries Transactions

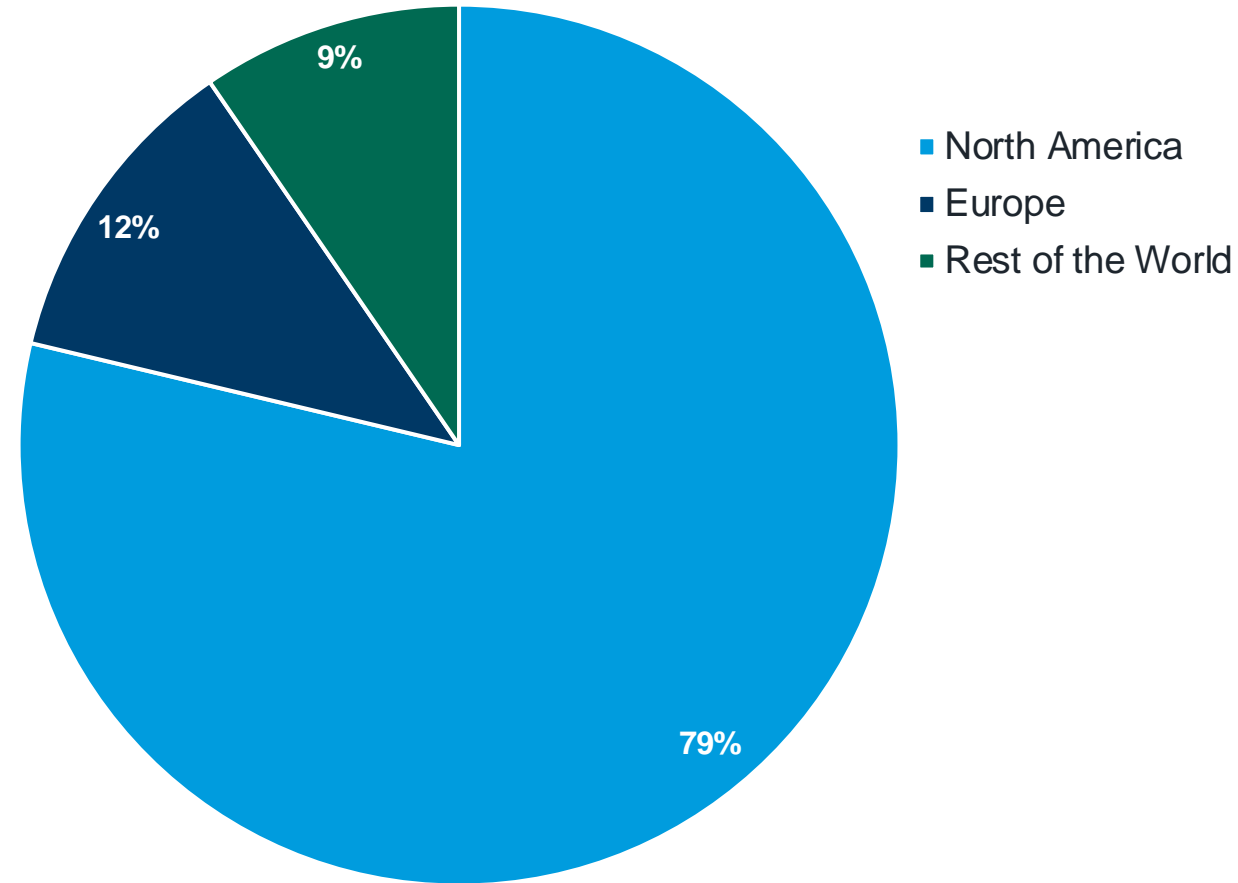
Party Represented

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.



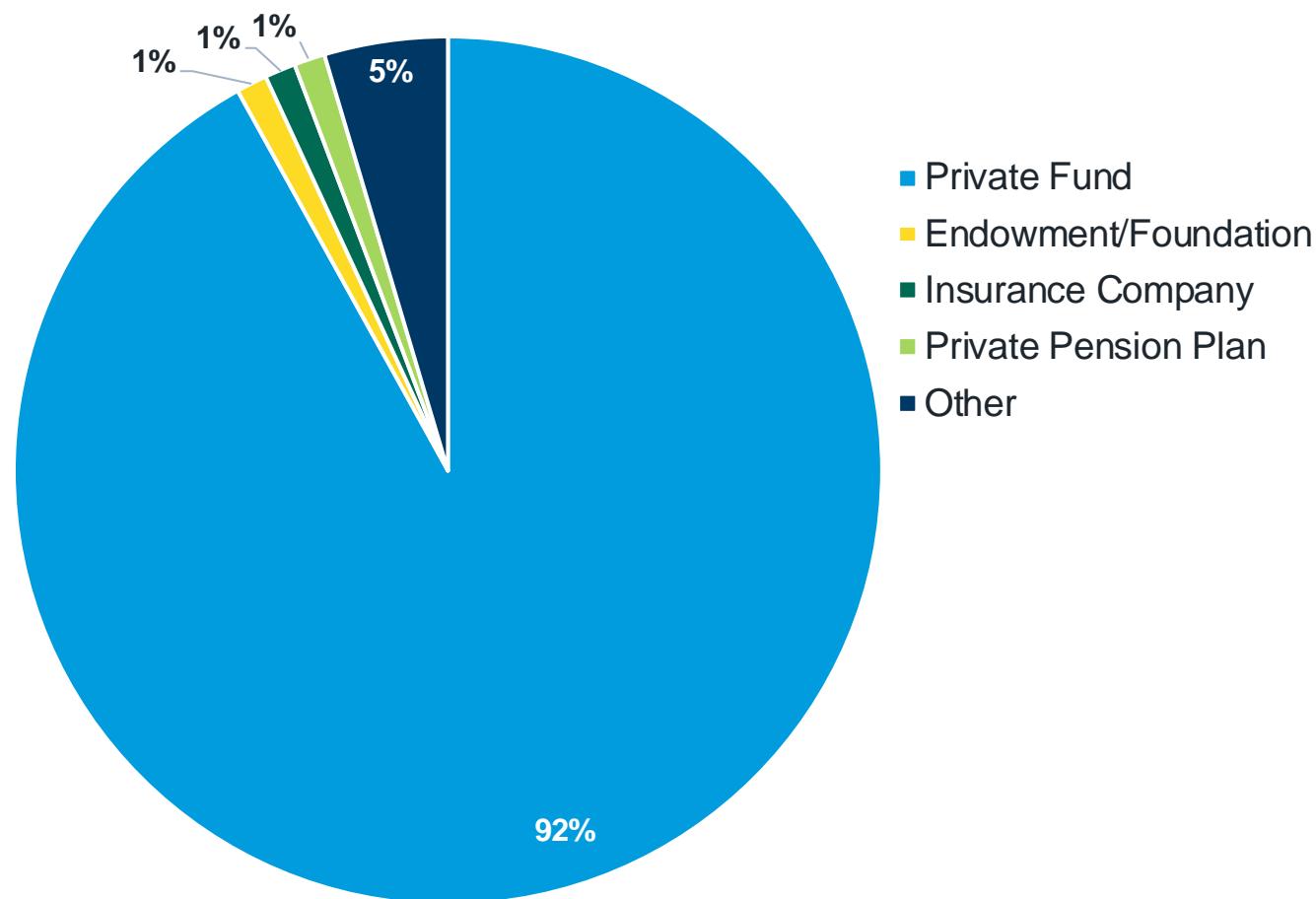
Buyer Legal Jurisdiction

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



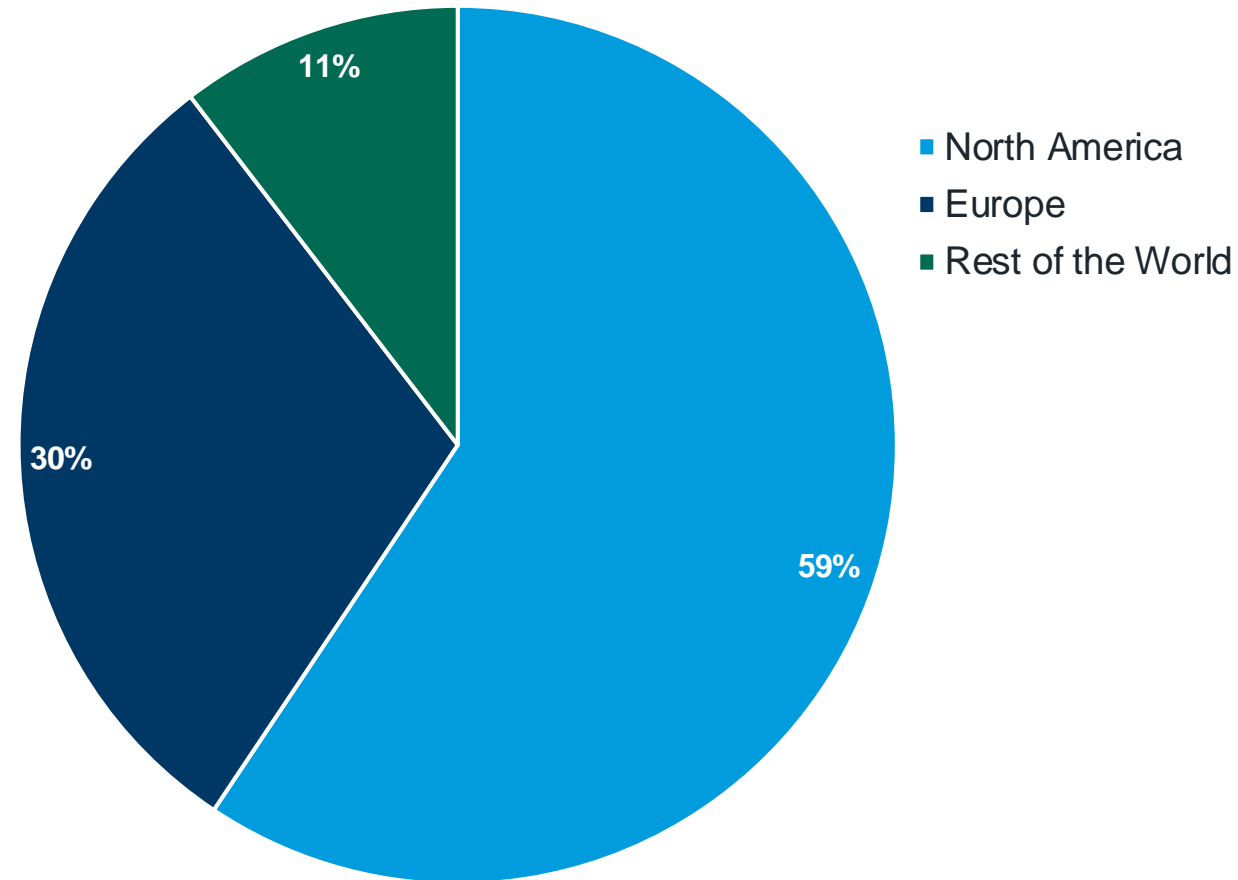
Buyer Type

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



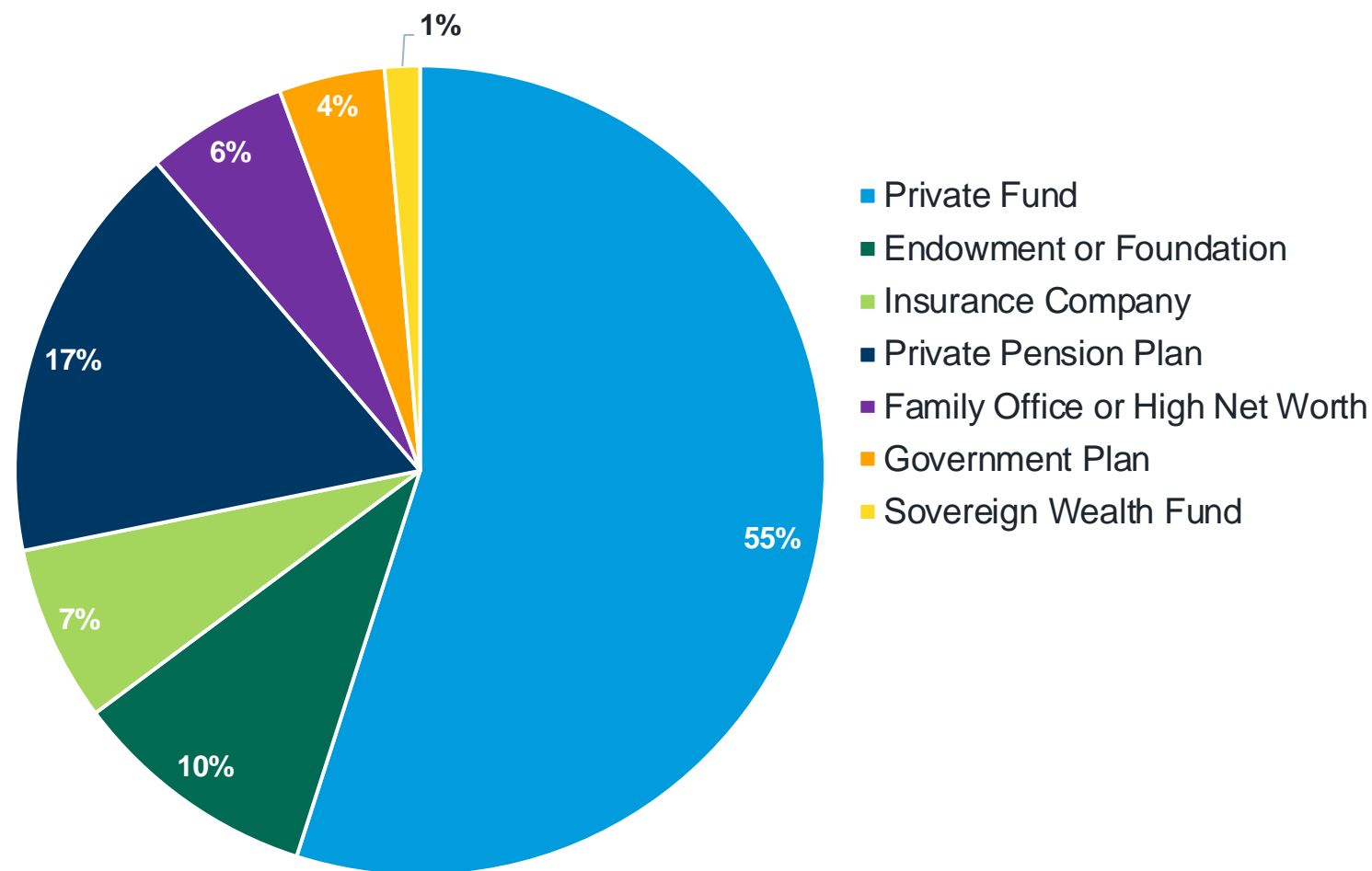
Seller Legal Jurisdiction

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.



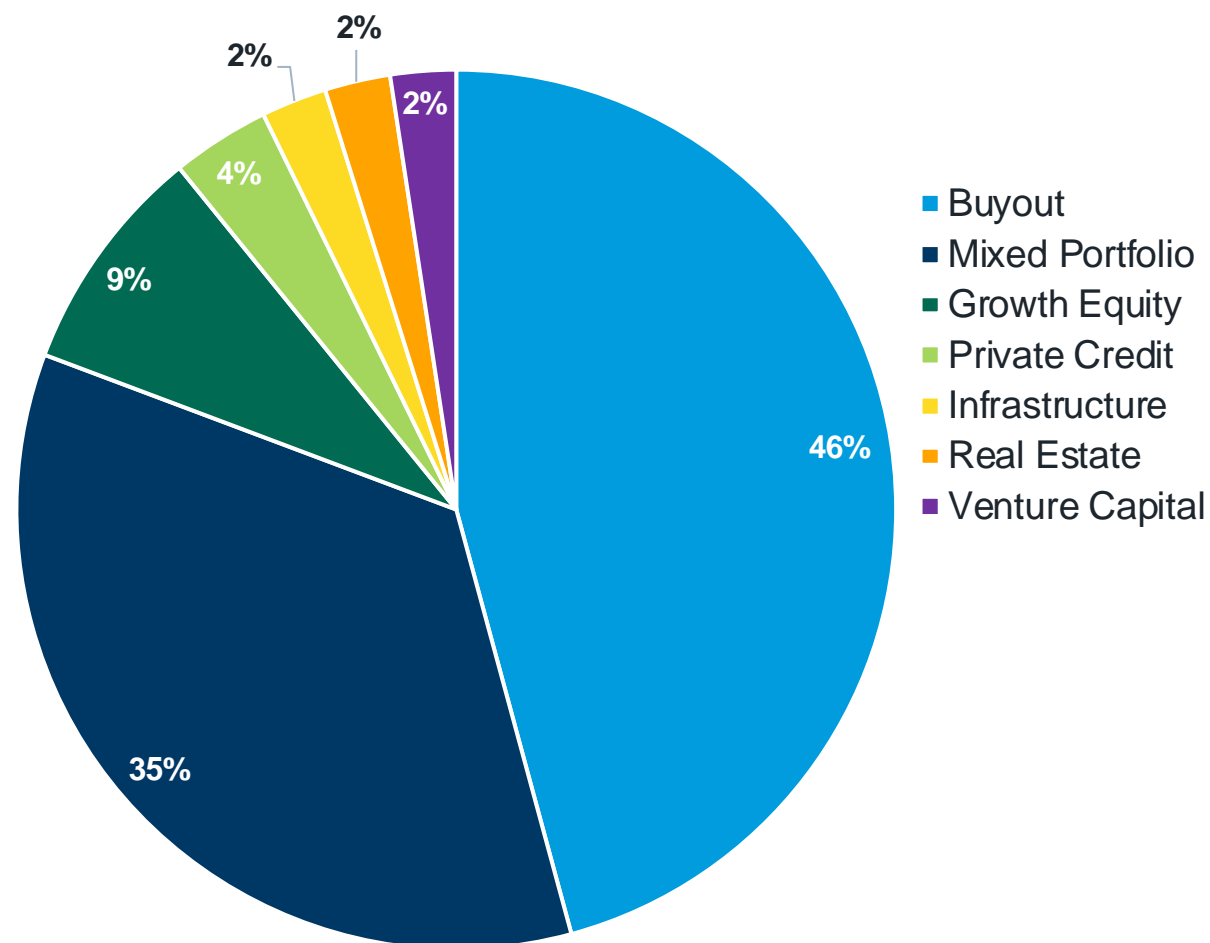
Seller Type

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.



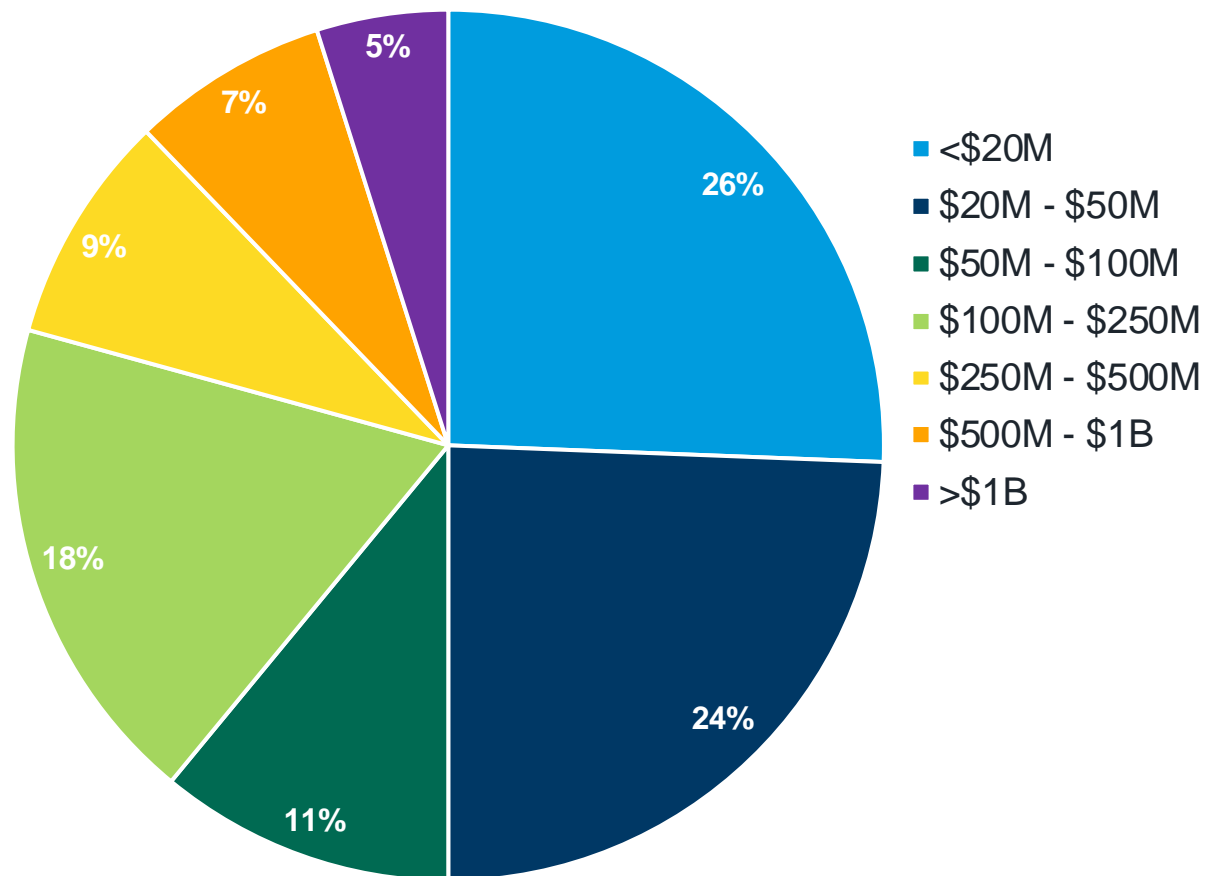
Primary Asset Class of Interests

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.



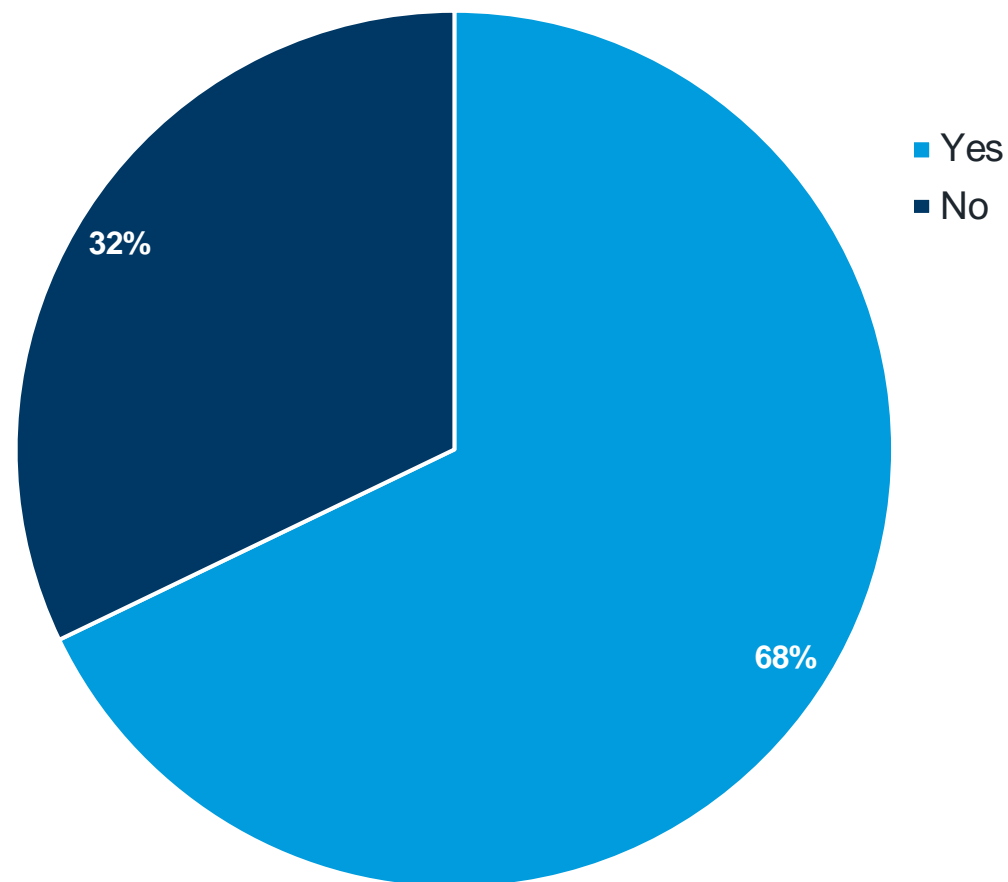
Size of Deal

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

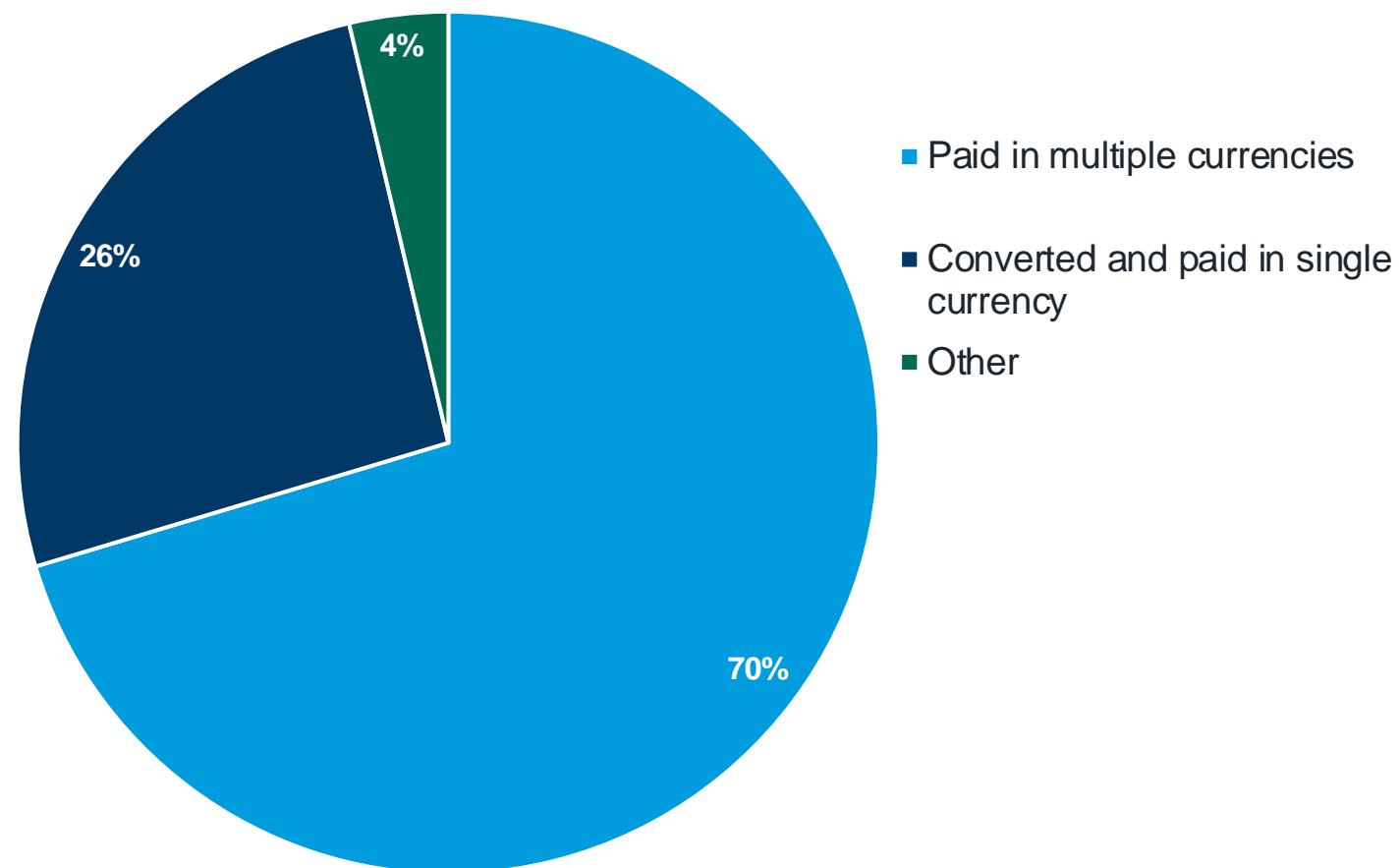


Multiple Currencies?

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.

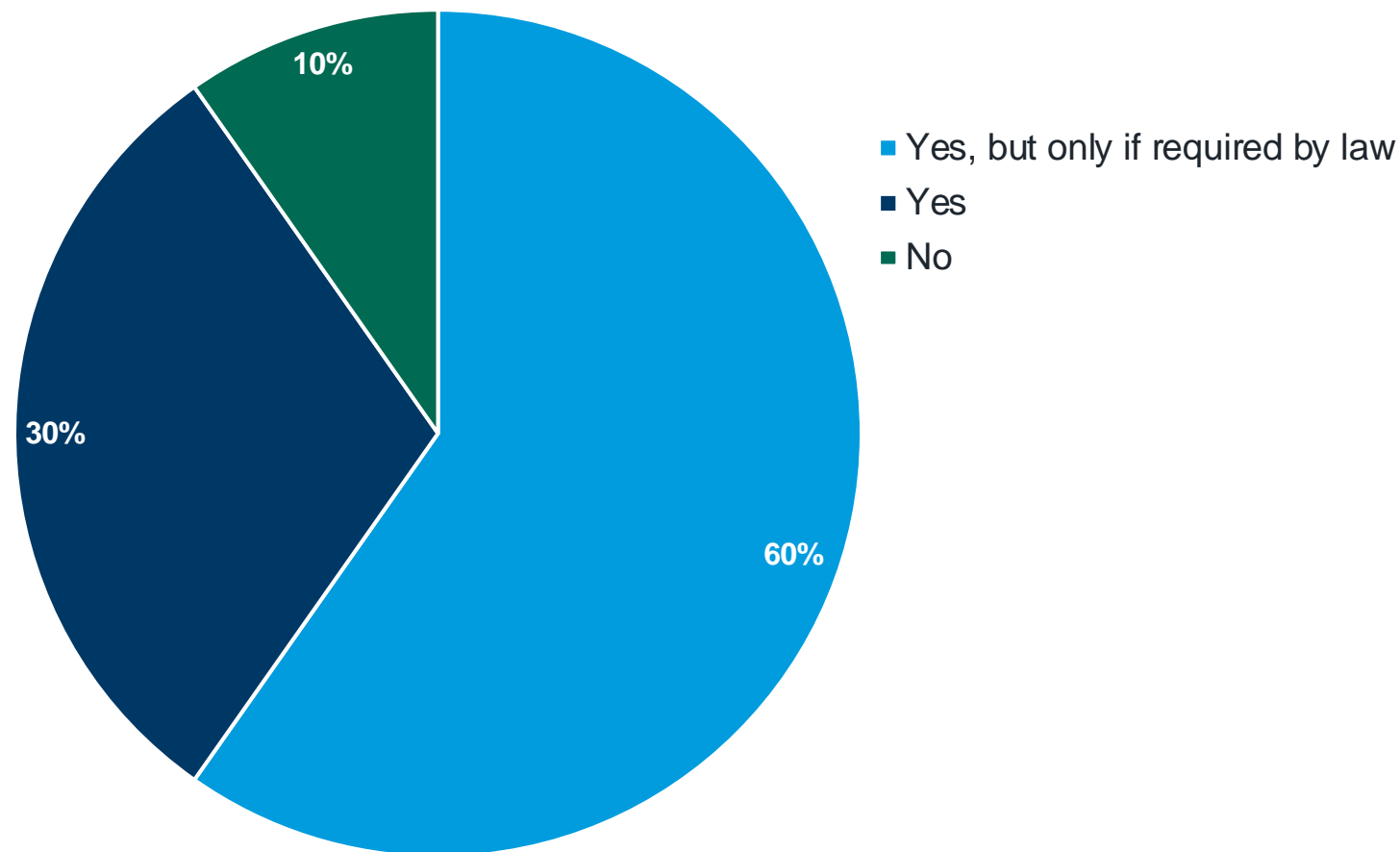


If Multiple Currencies, Purchase Price Paid in Multiple Currencies or Converted?



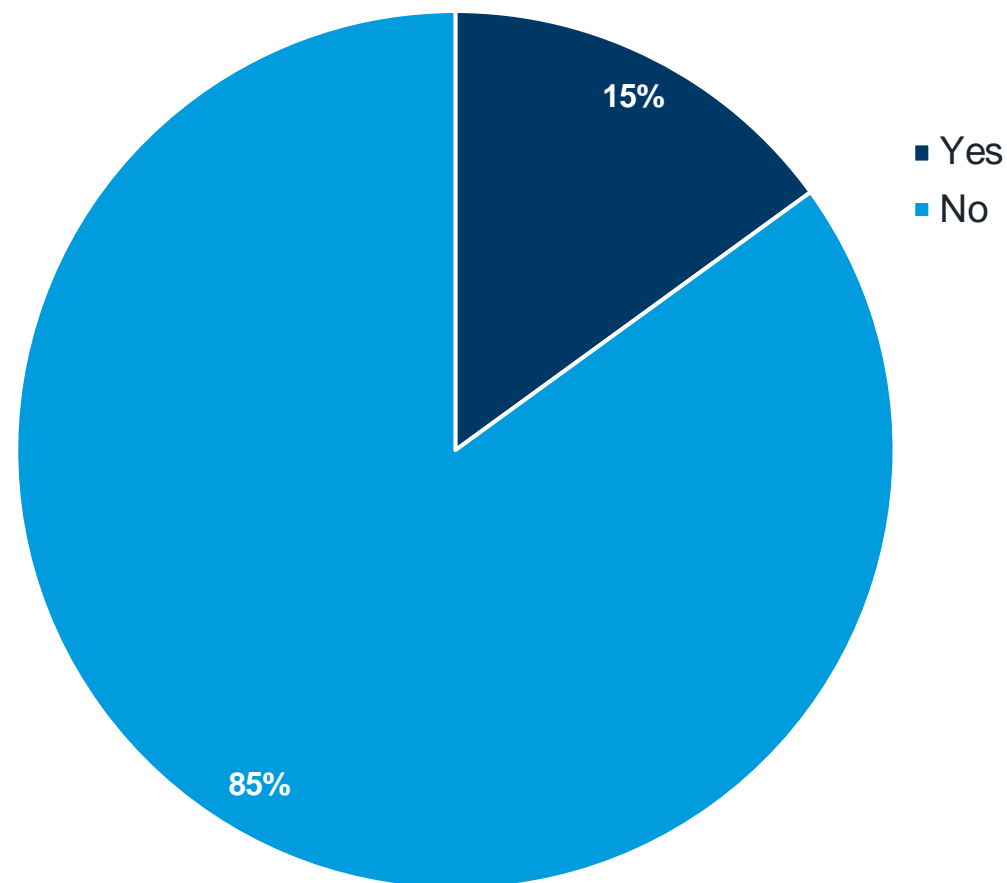
Purchase Price Withholding

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.



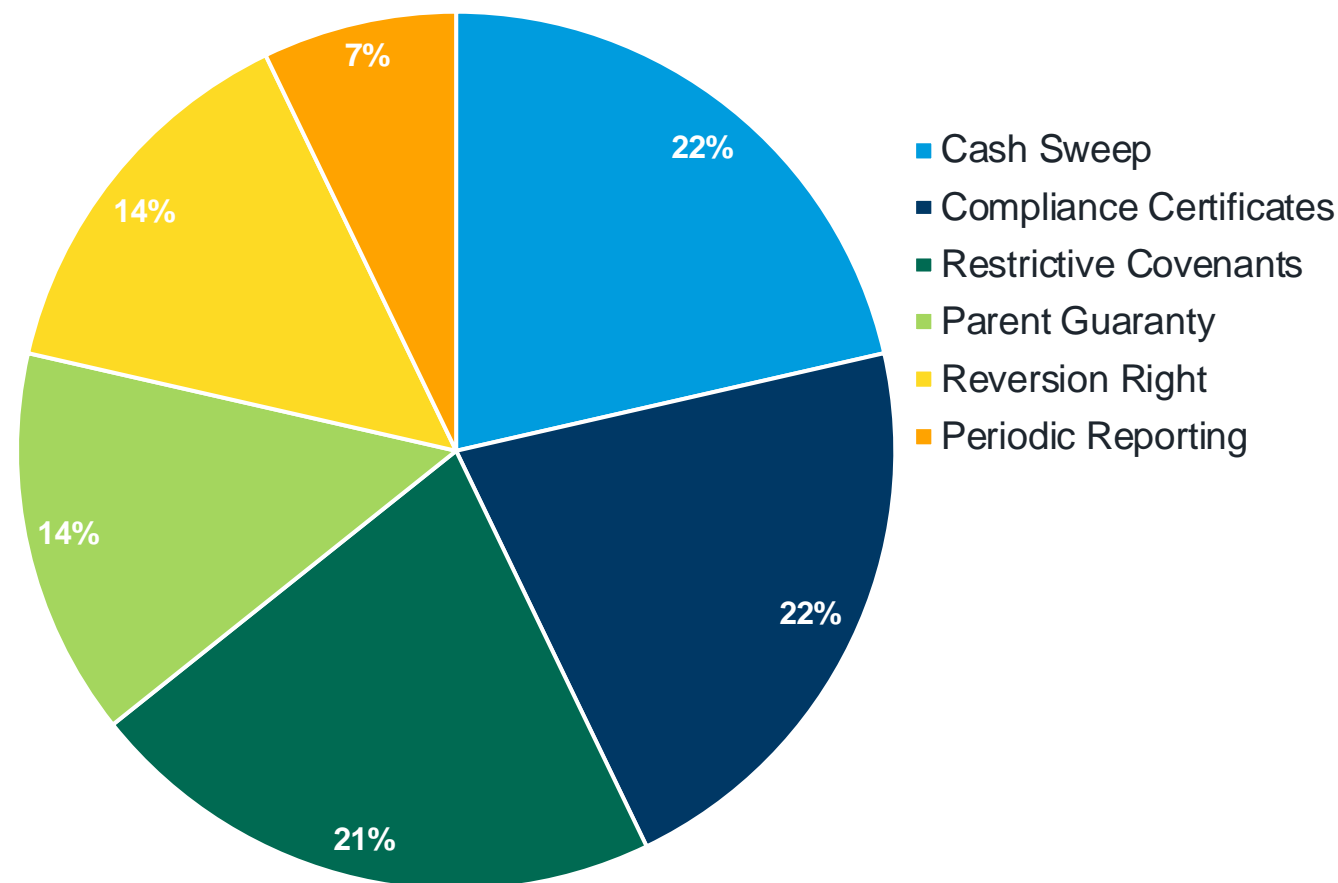
Purchase Price Deferrals

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.



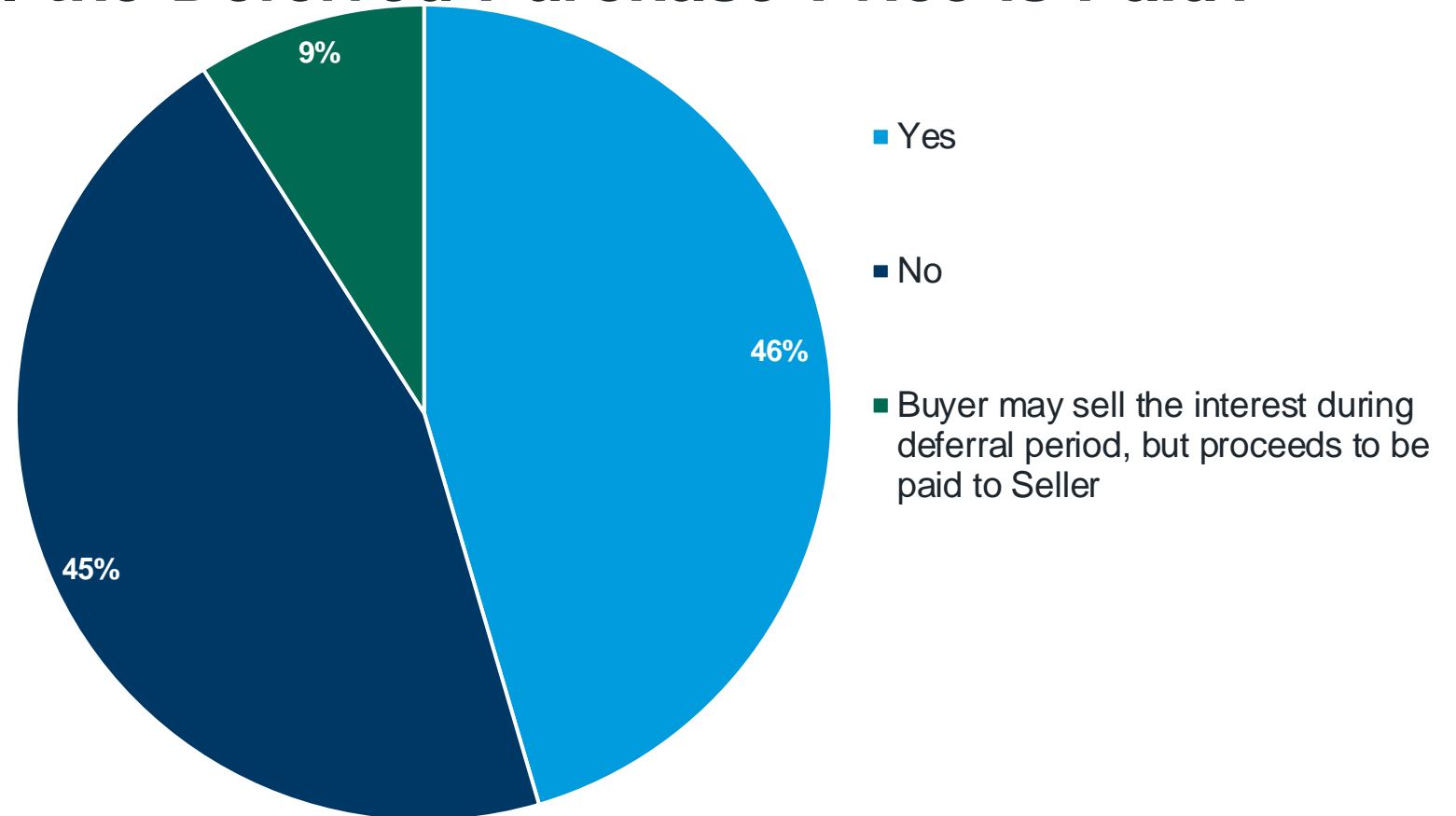
If Deferred Purchase Price, Payment Assurances?

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.



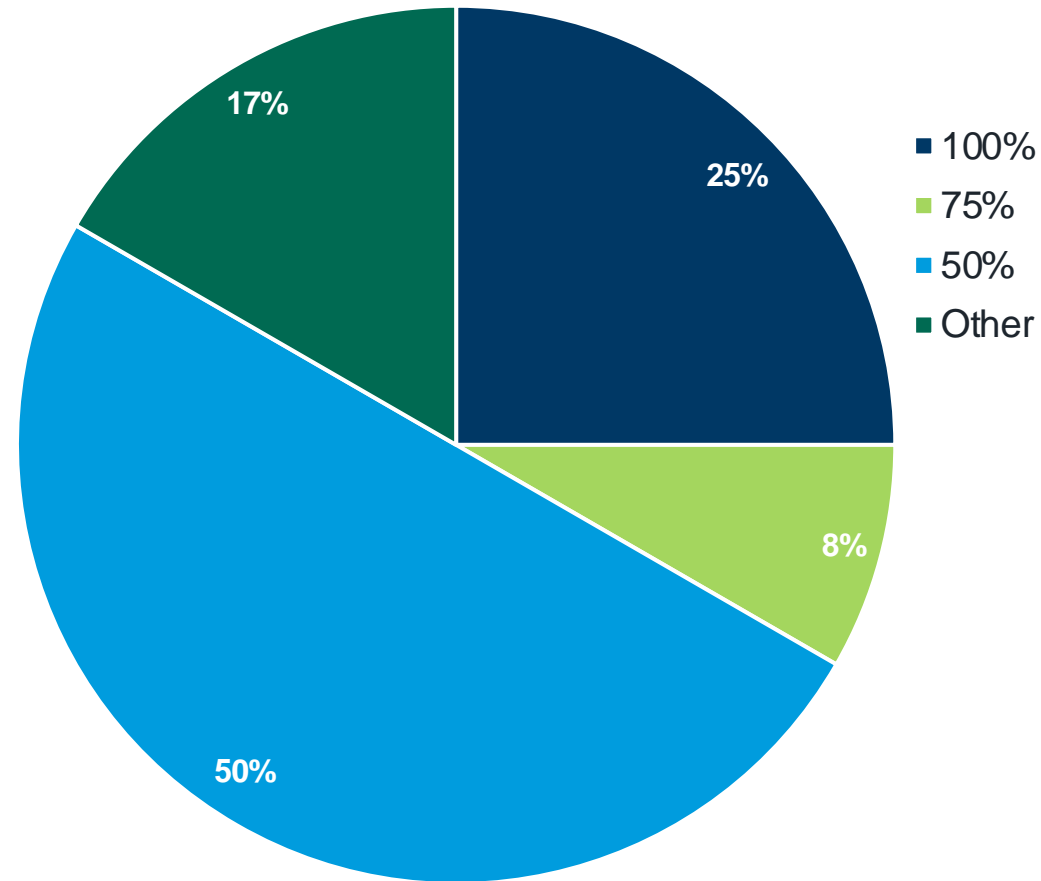
If Deferred Purchase Price, Are there Restrictions on Sales/Transfers until the Deferred Purchase Price is Paid?

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



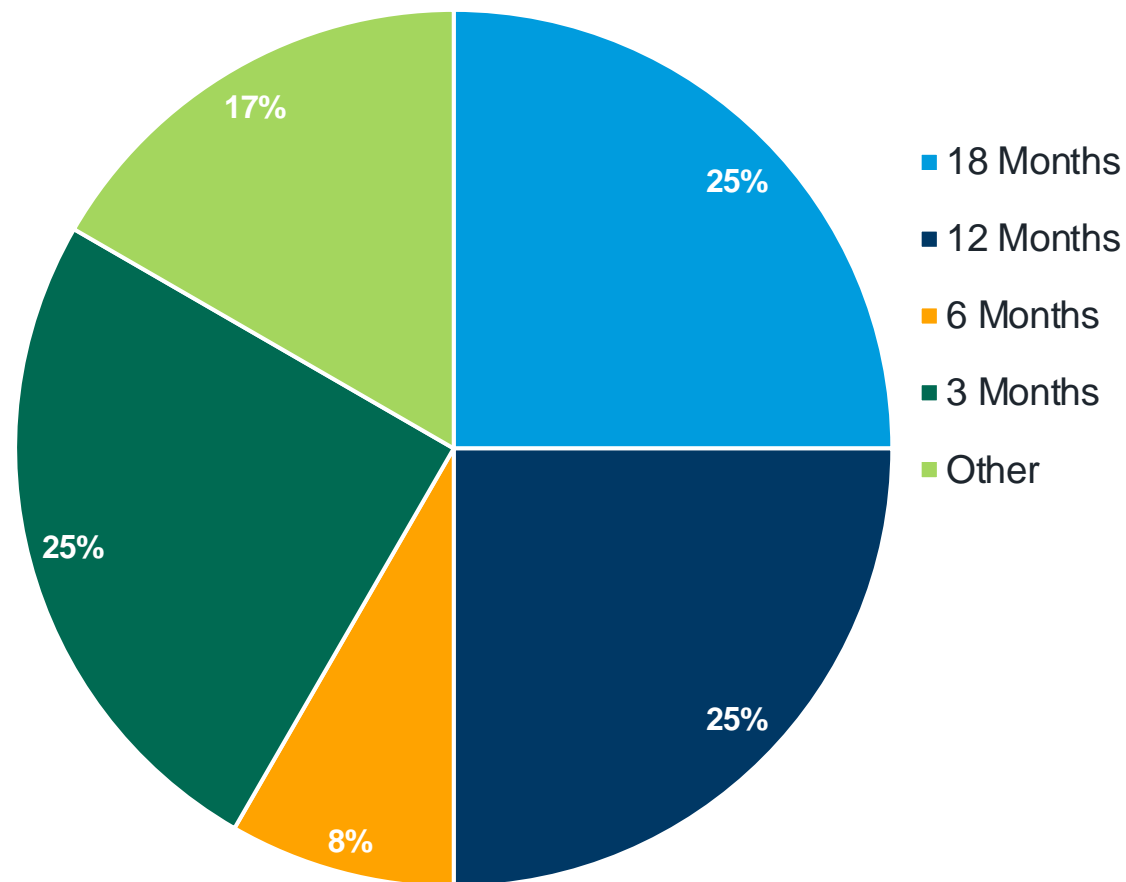
If Deferred Purchase Price, Percentage Deferred?

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.



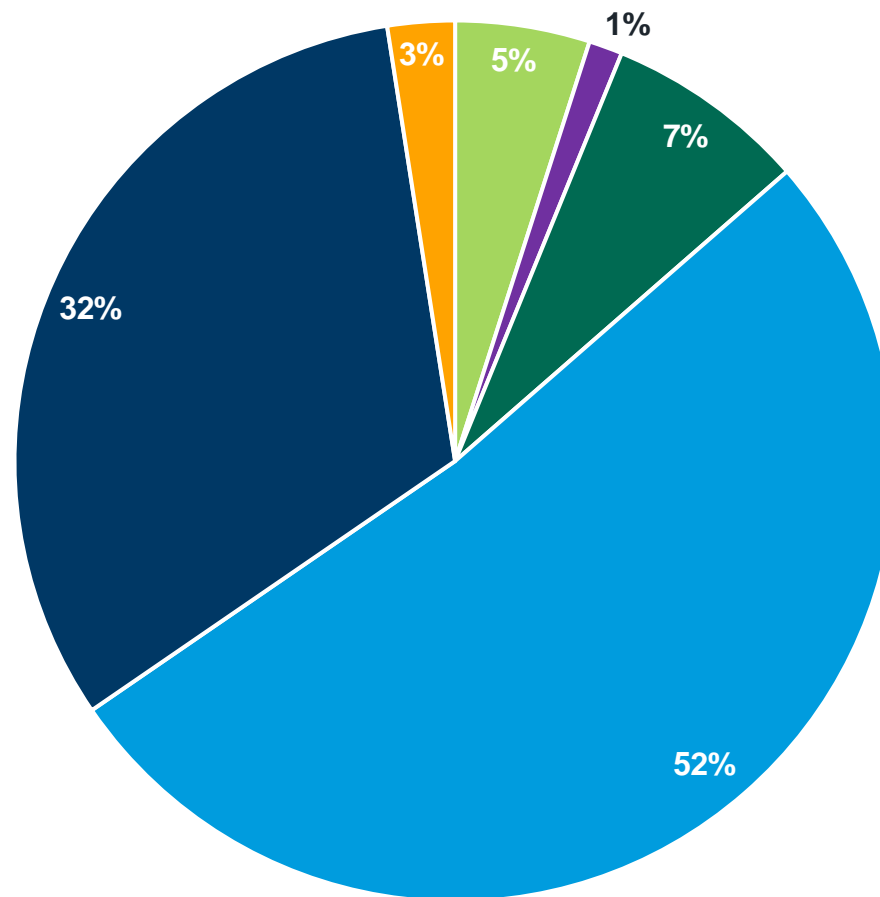
If Deferred Purchase Price, Length of Deferral?

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

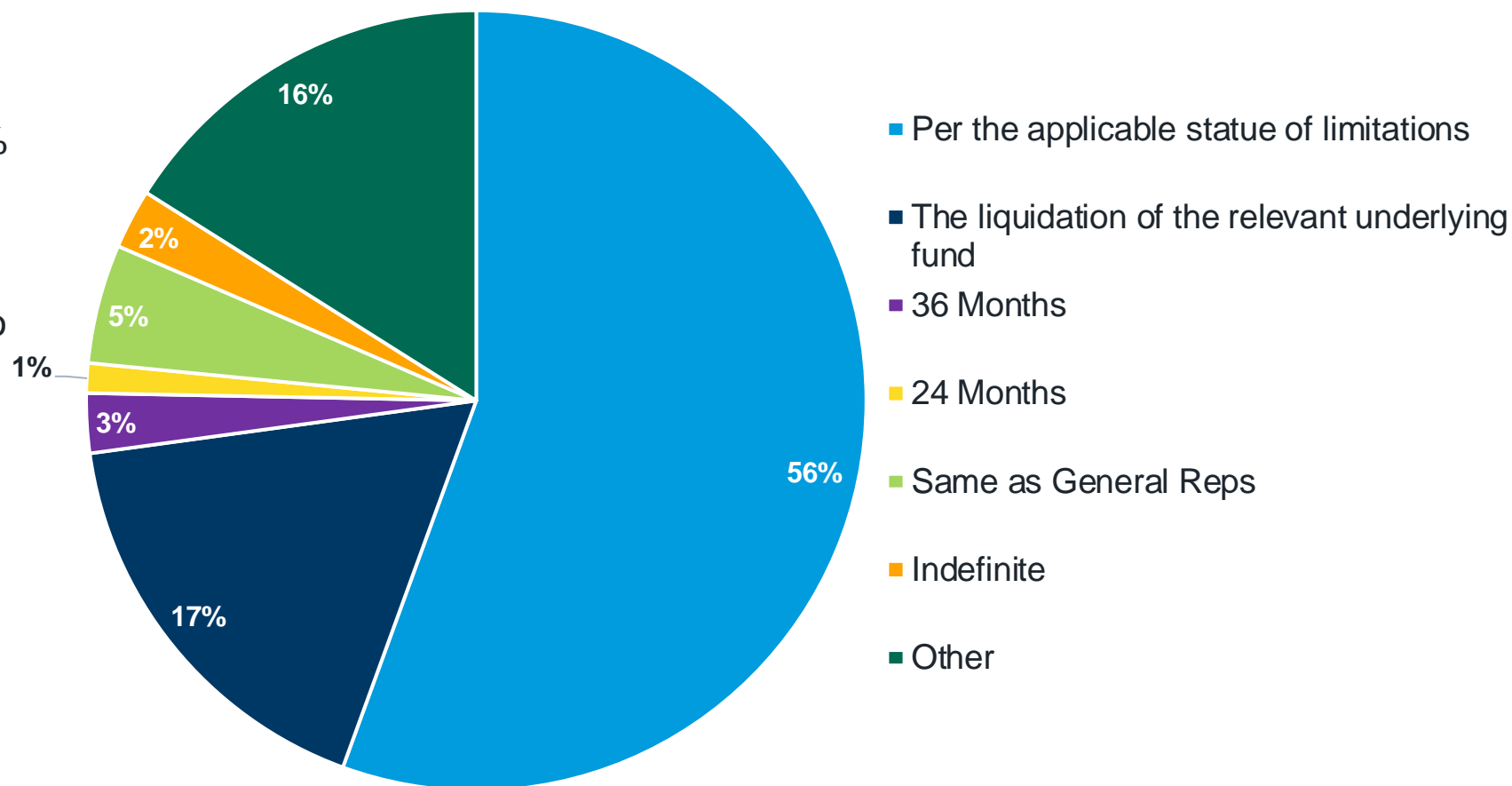
Regarding claims for breach of the general warranties, an 18-month survival period from the closing date was seen in 52% of deals and a 12-month survival period was seen in 32% of deals. Such percentages remain relatively consistent with data from our prior surveys.



- 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

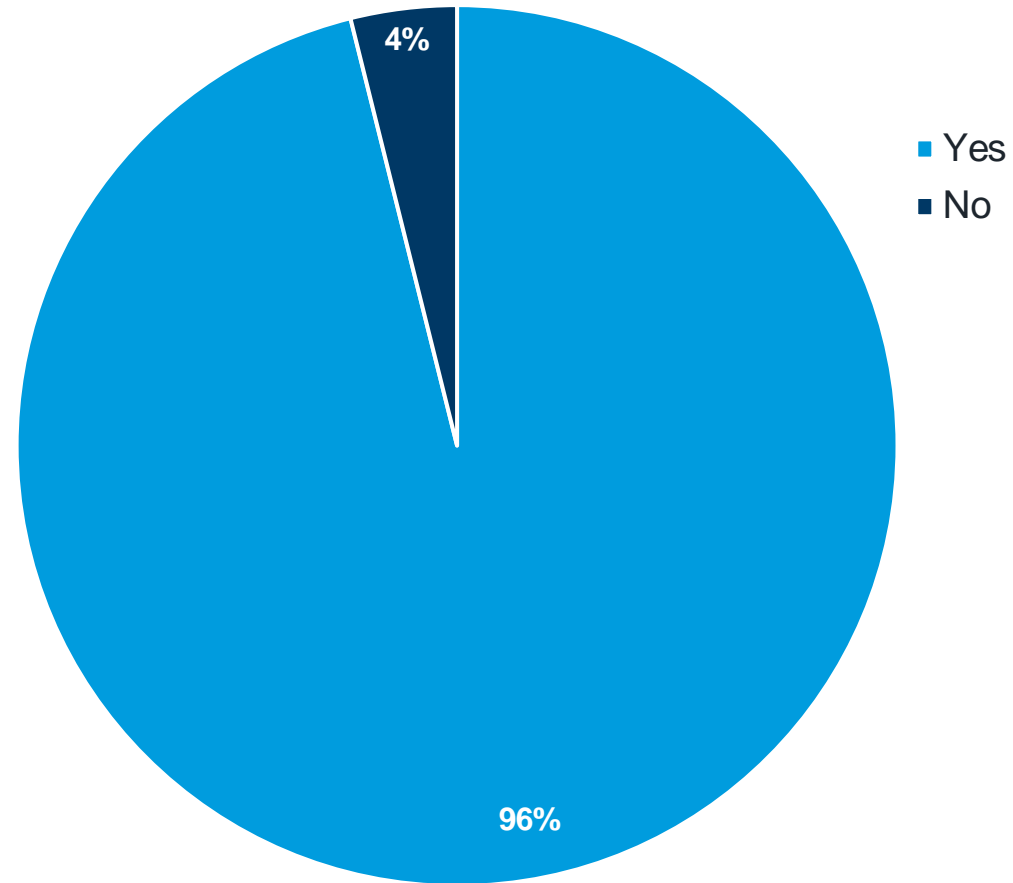
Survival Period for Fundamental Reps

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.



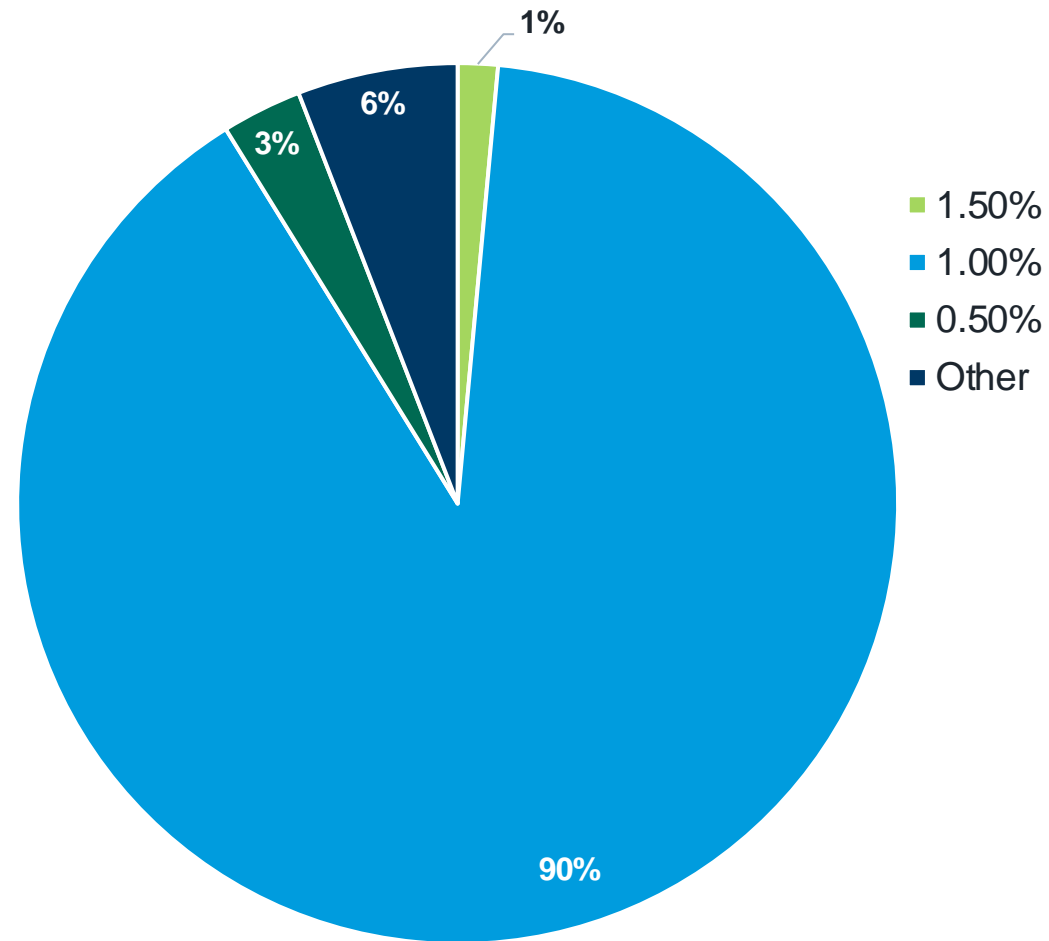
Indemnity?

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



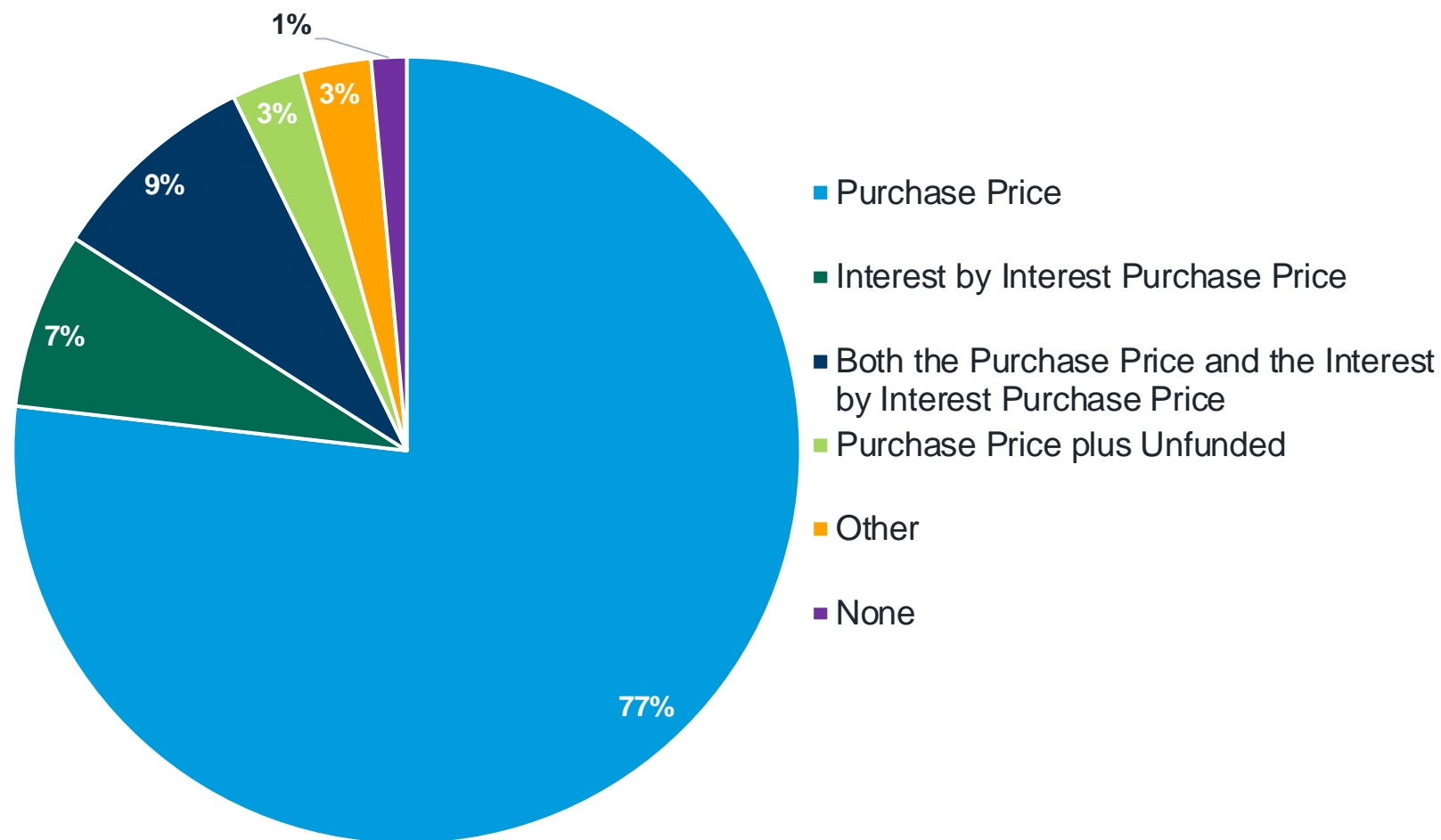
Indemnity Threshold

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.

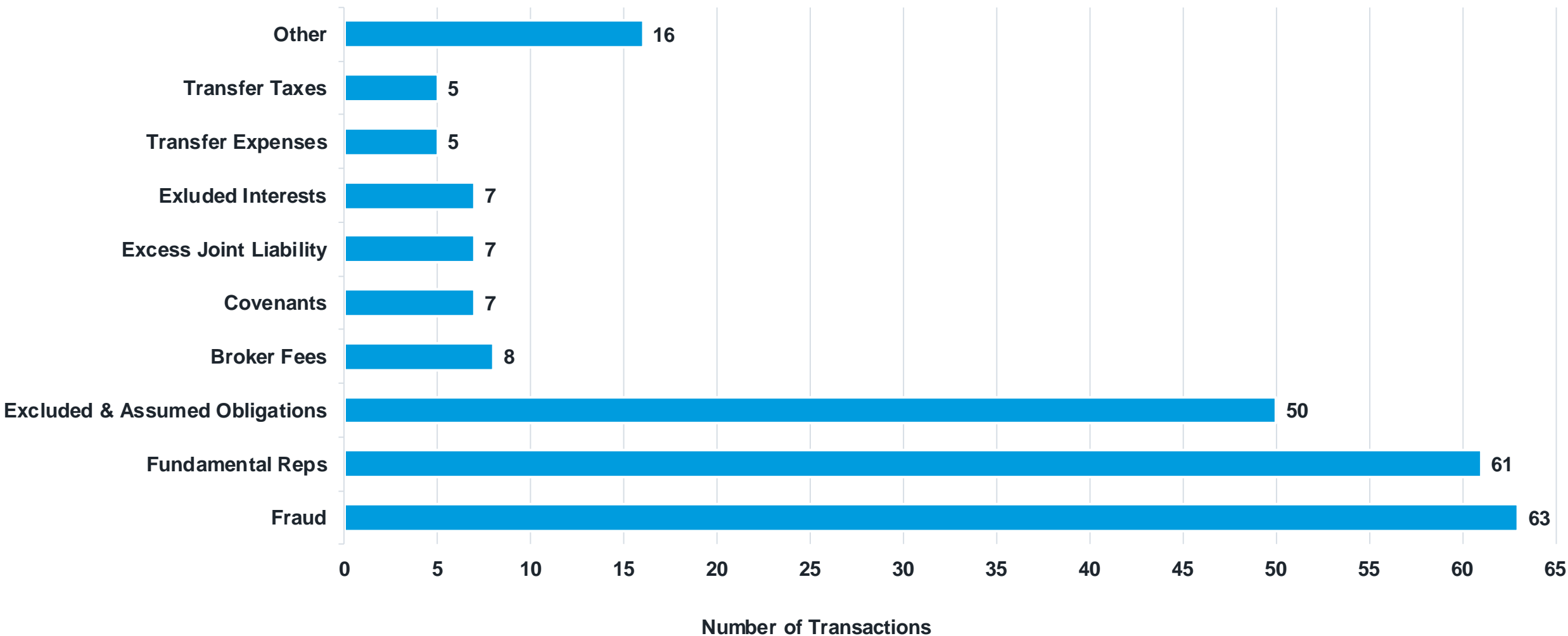


Indemnity Cap

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

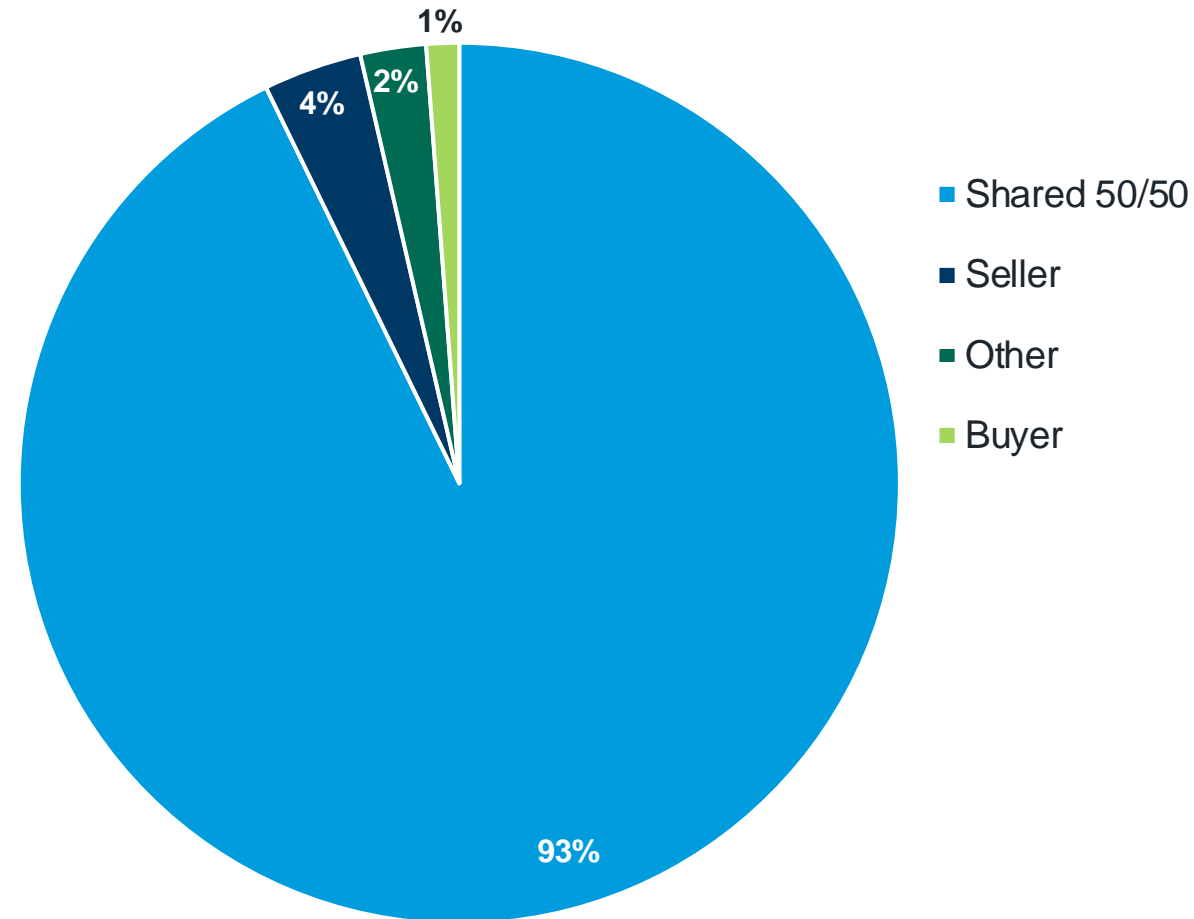


Excluded Obligations

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%

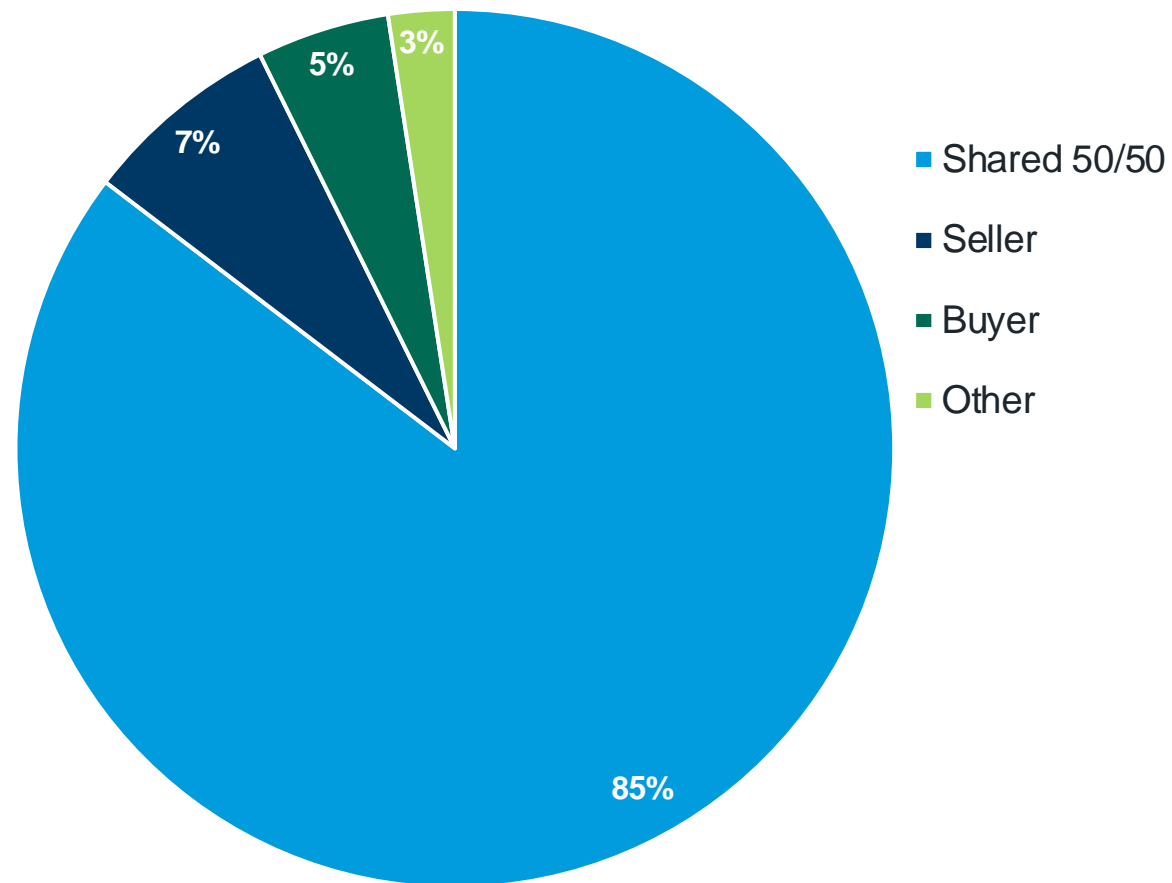
Transfer Expenses Borne by Which Party?

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?

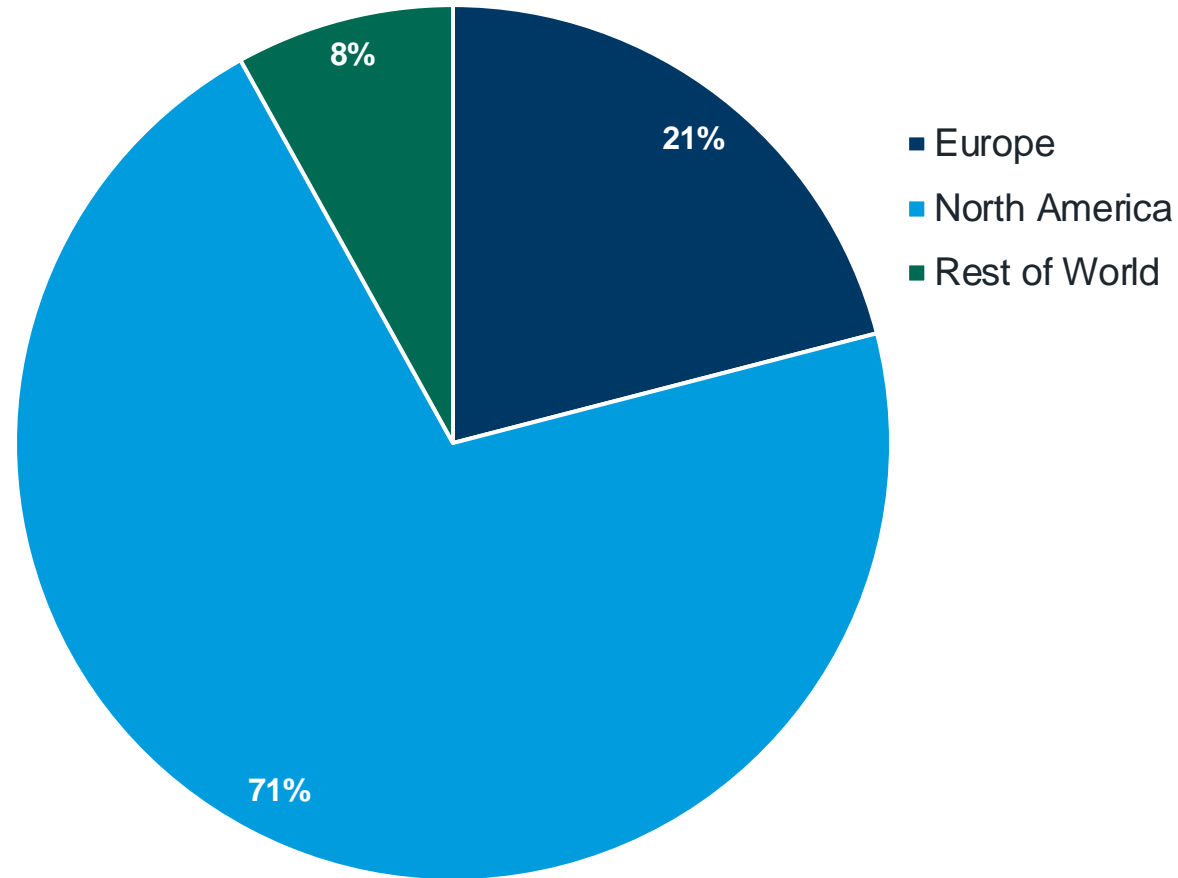
Transfer taxes, if any, are also most commonly shared equally between buyer and seller.



Data Insights: GP-Led Secondaries Transactions

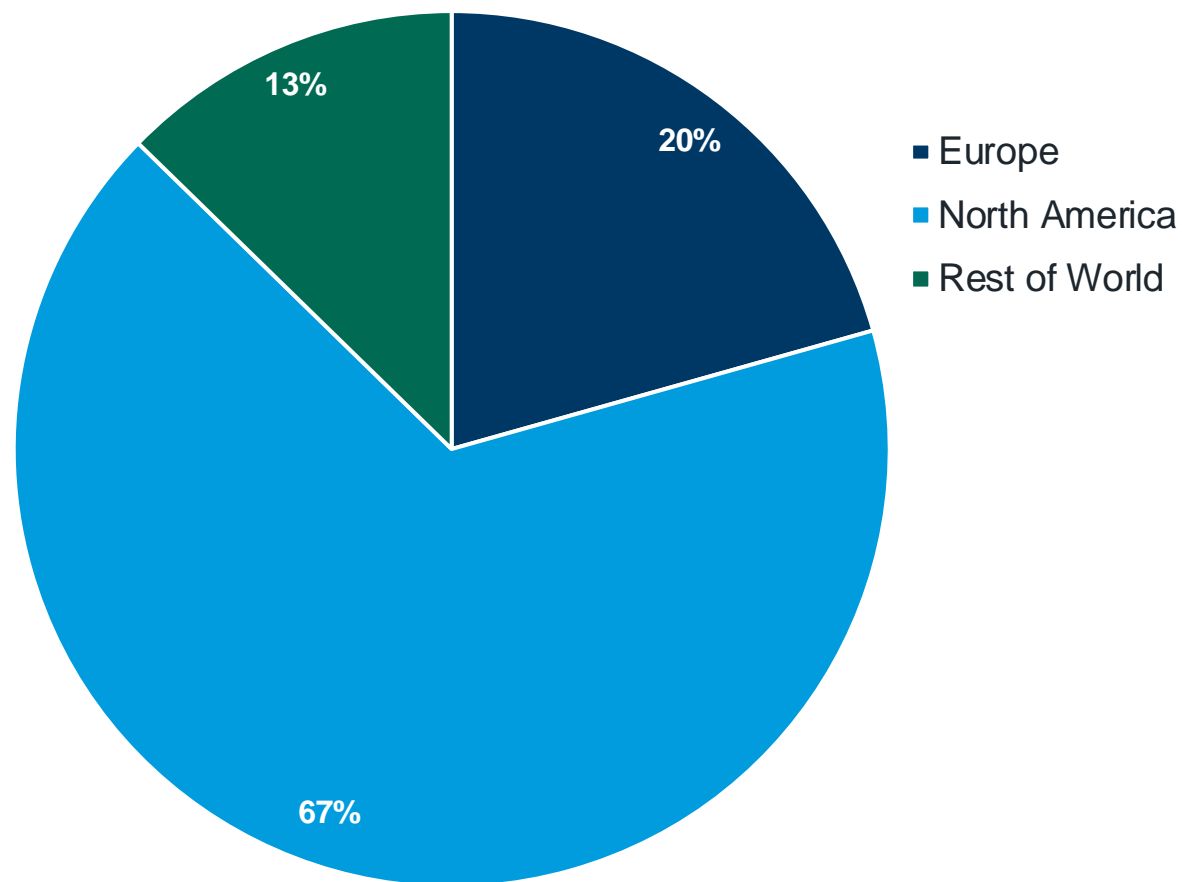
Sponsor Geography

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.



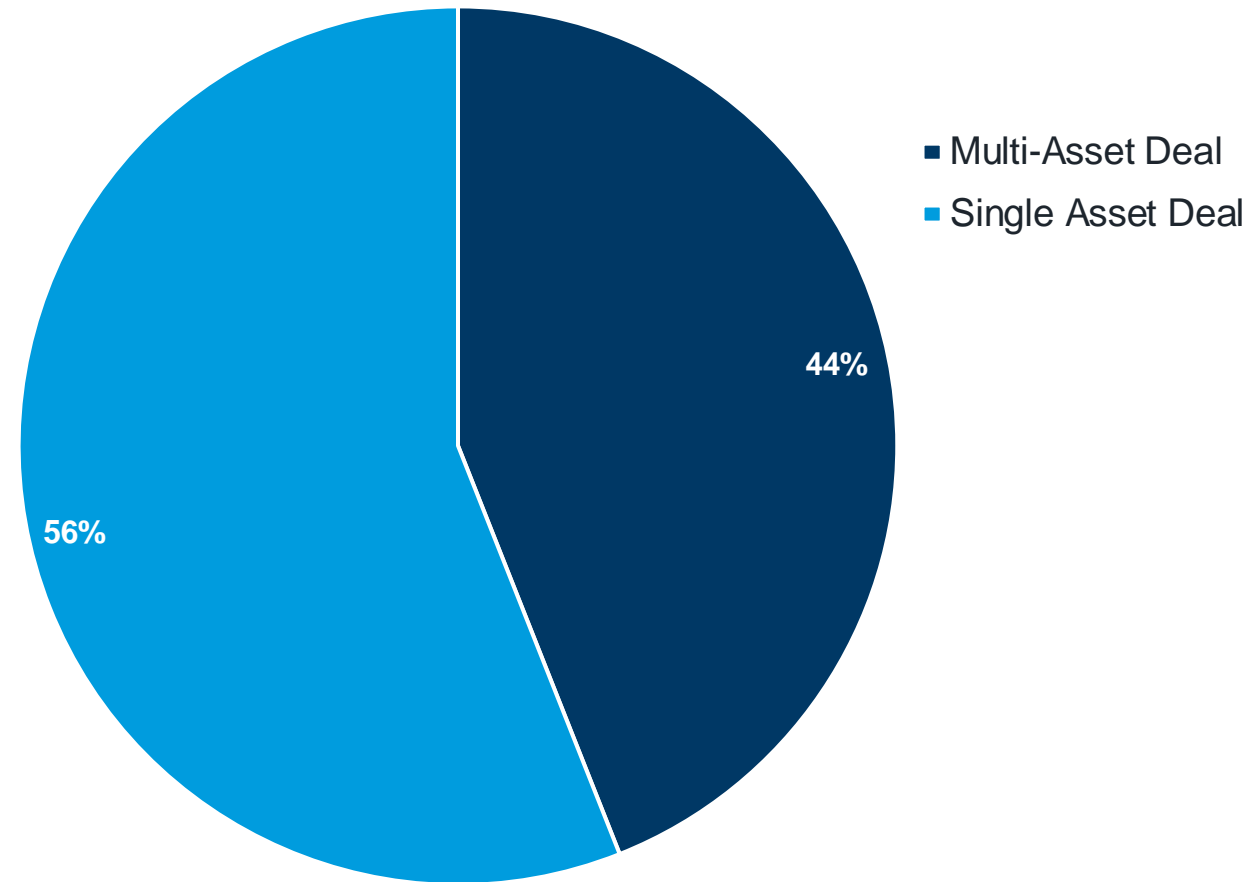
Portfolio Geography

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.



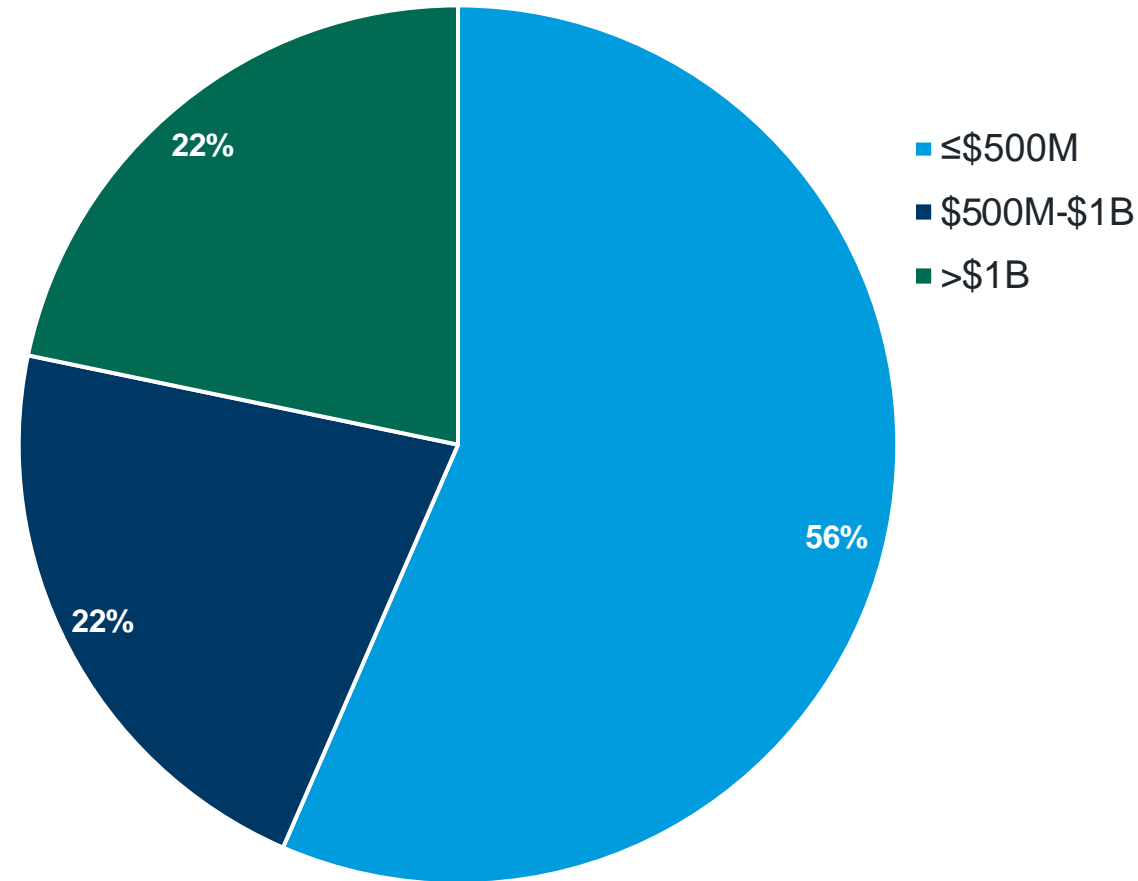
Single Asset Deal or Multi-Asset Deal?

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.

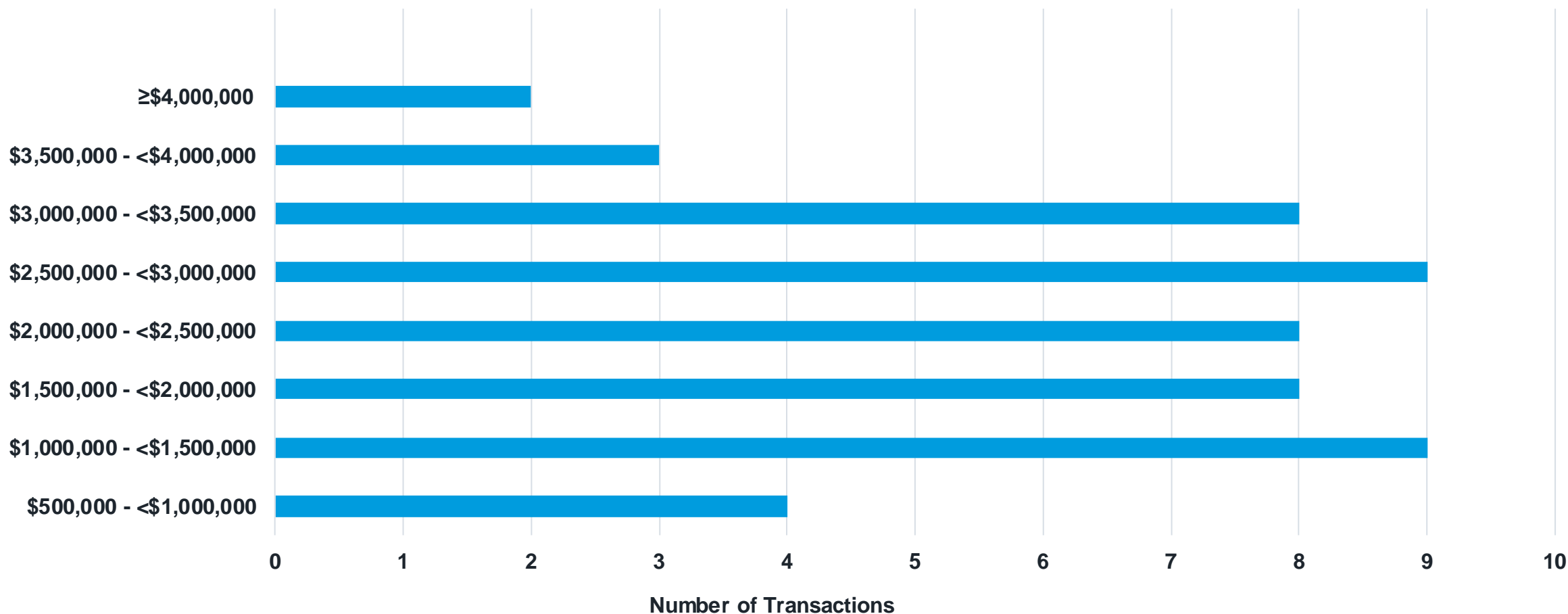


Size of Deal

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.



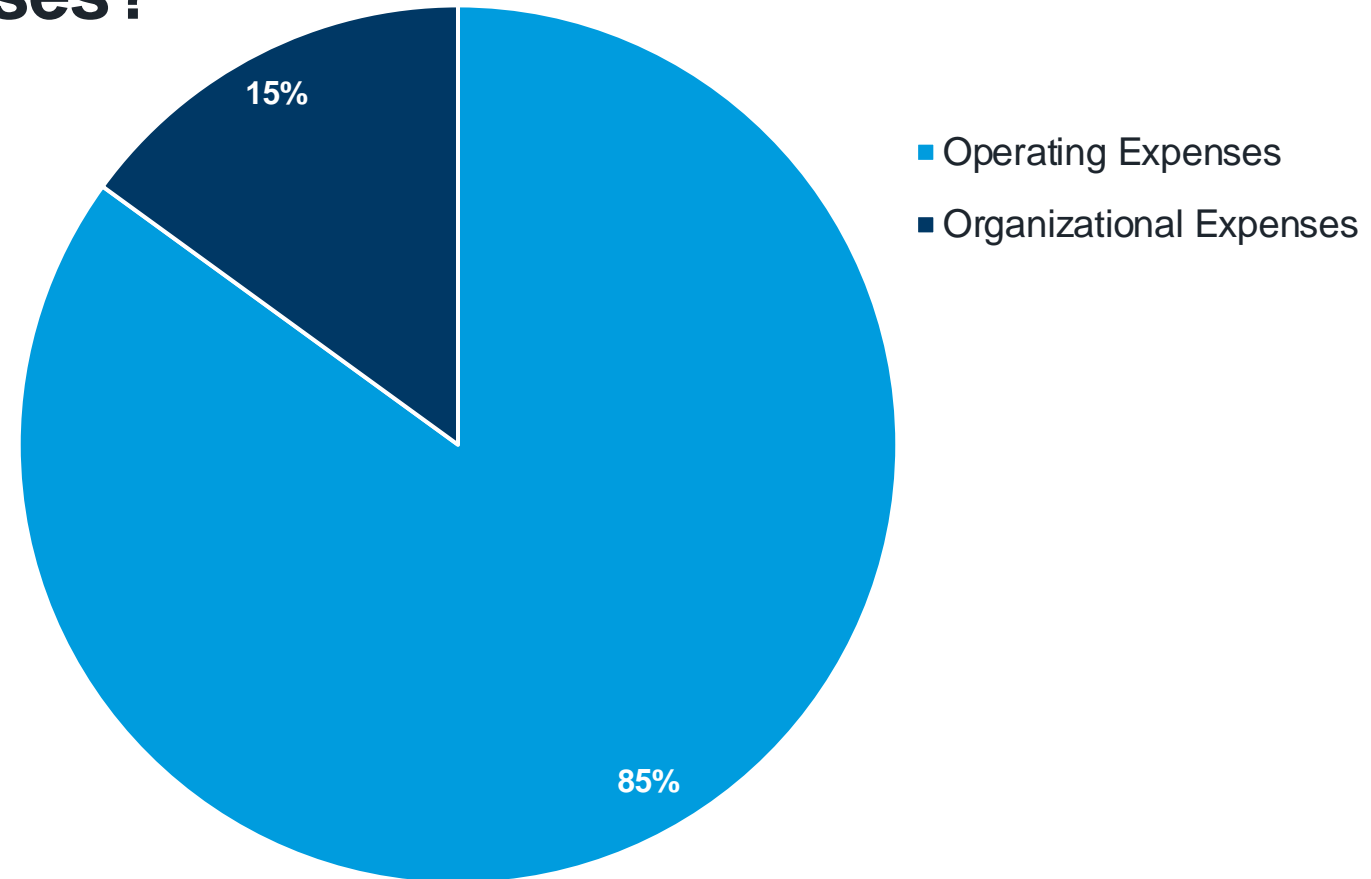
Organizational Expense Cap



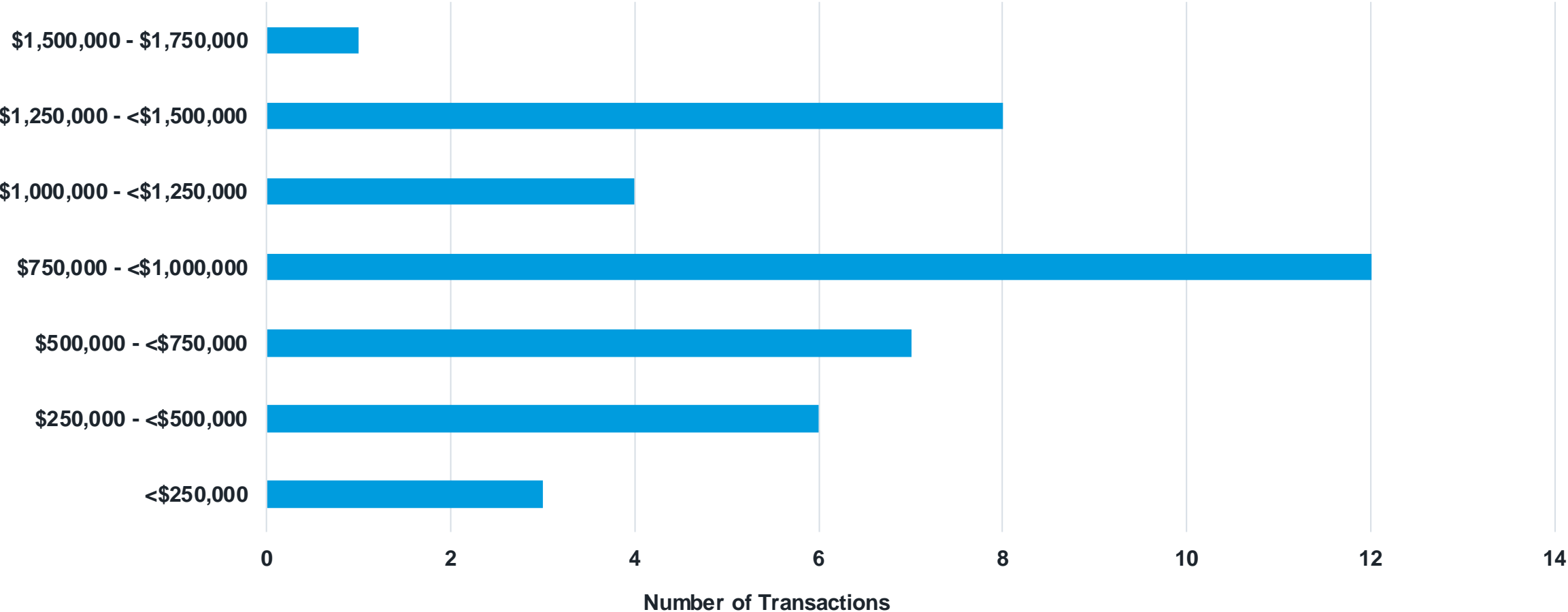
Recent transactions have seen increases in organizational expense caps for GP-led transactions. Half of the funds have an organizational expense cap of at least \$2 million.

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.

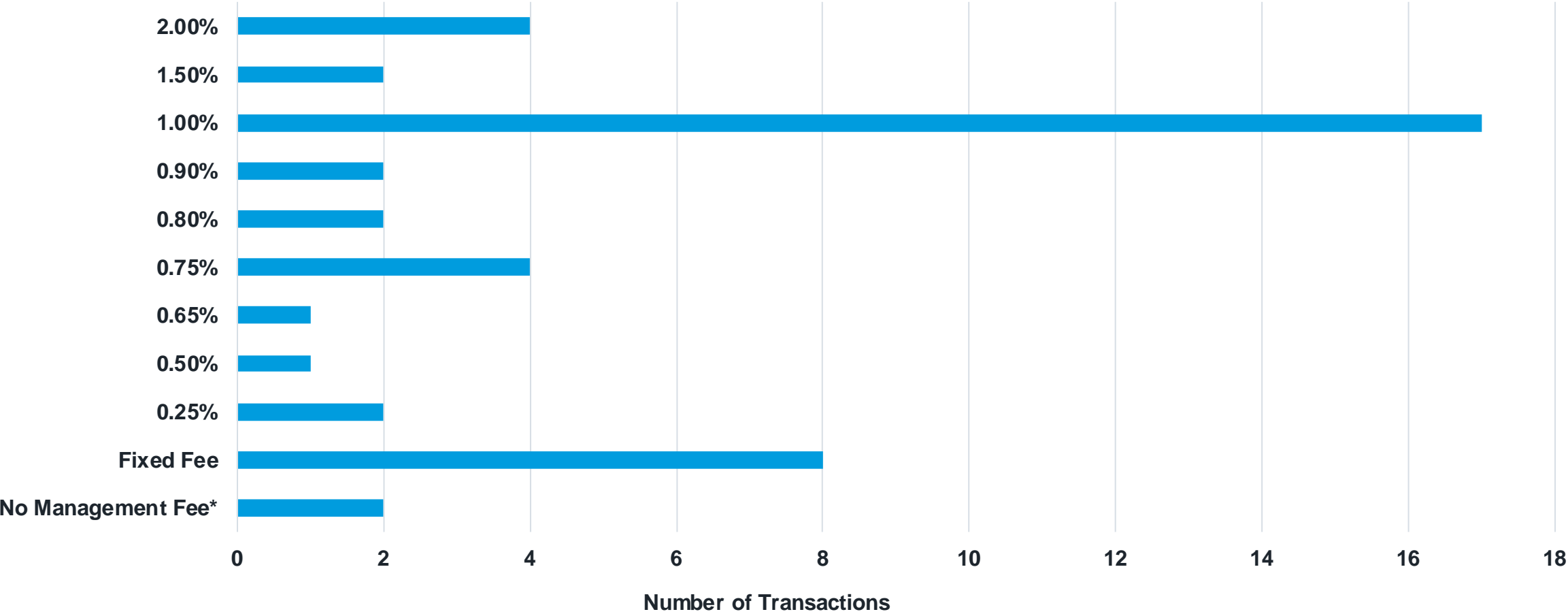


Lead Investor Expense Cap



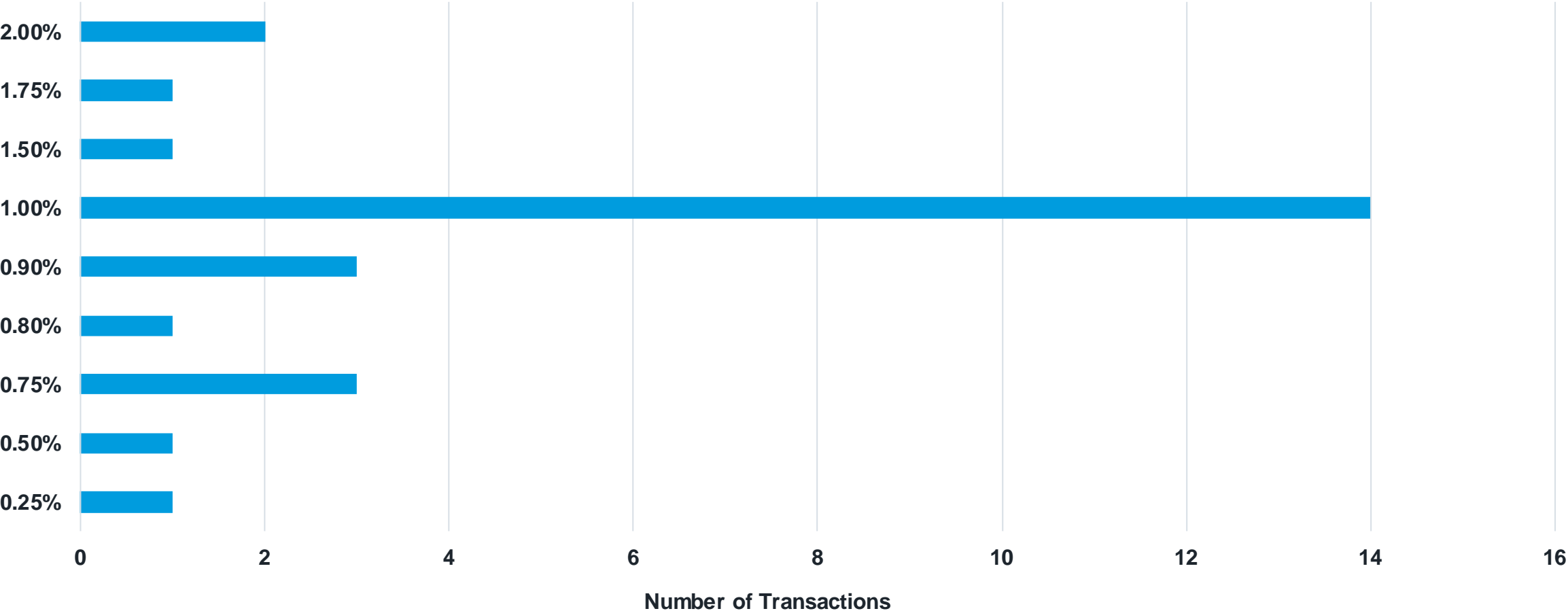
Lead investor expense caps are often marked at or around half of a continuation fund’s organizational expense cap, so as organizational expense caps have increased, lead investor expense caps have unsurprisingly been on the rise as well.

Management Fees For New Investors



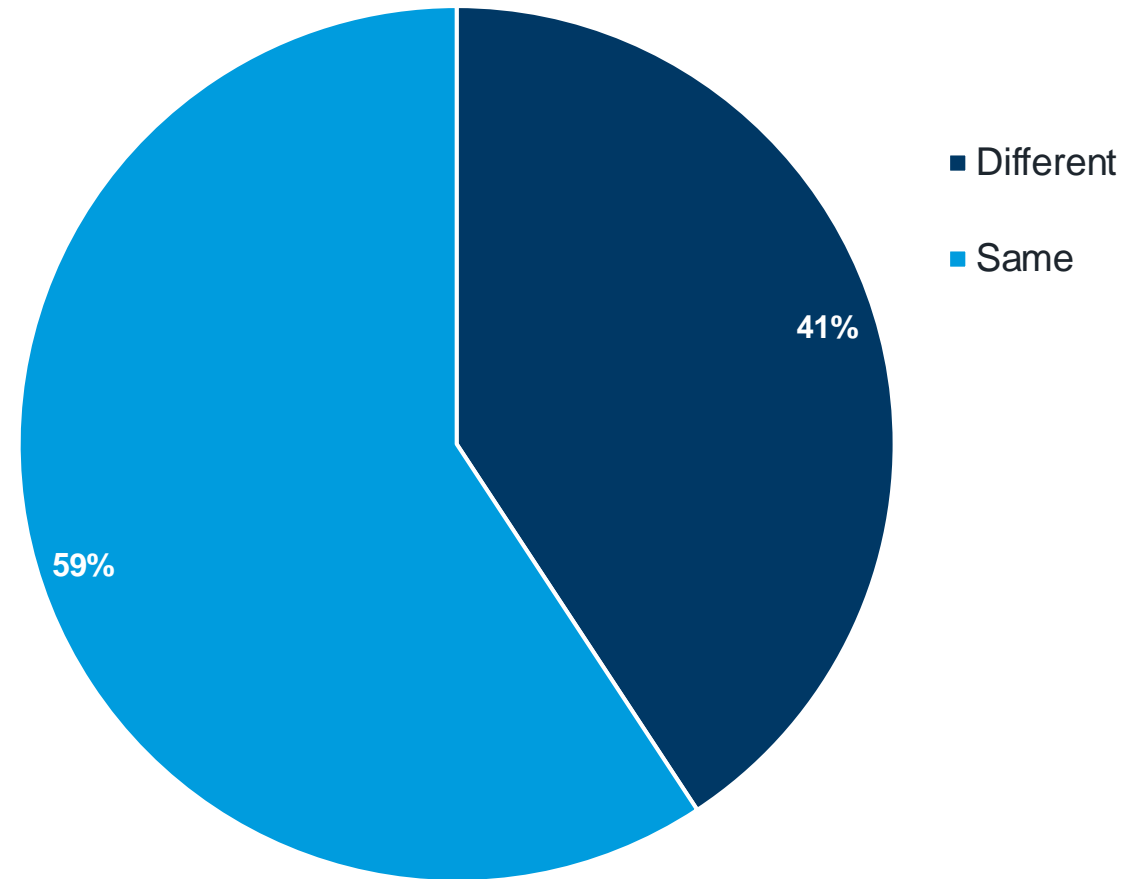
*No management fee, but manager receives monitoring fees from the portfolio.

Management Fees for Rolling Investors



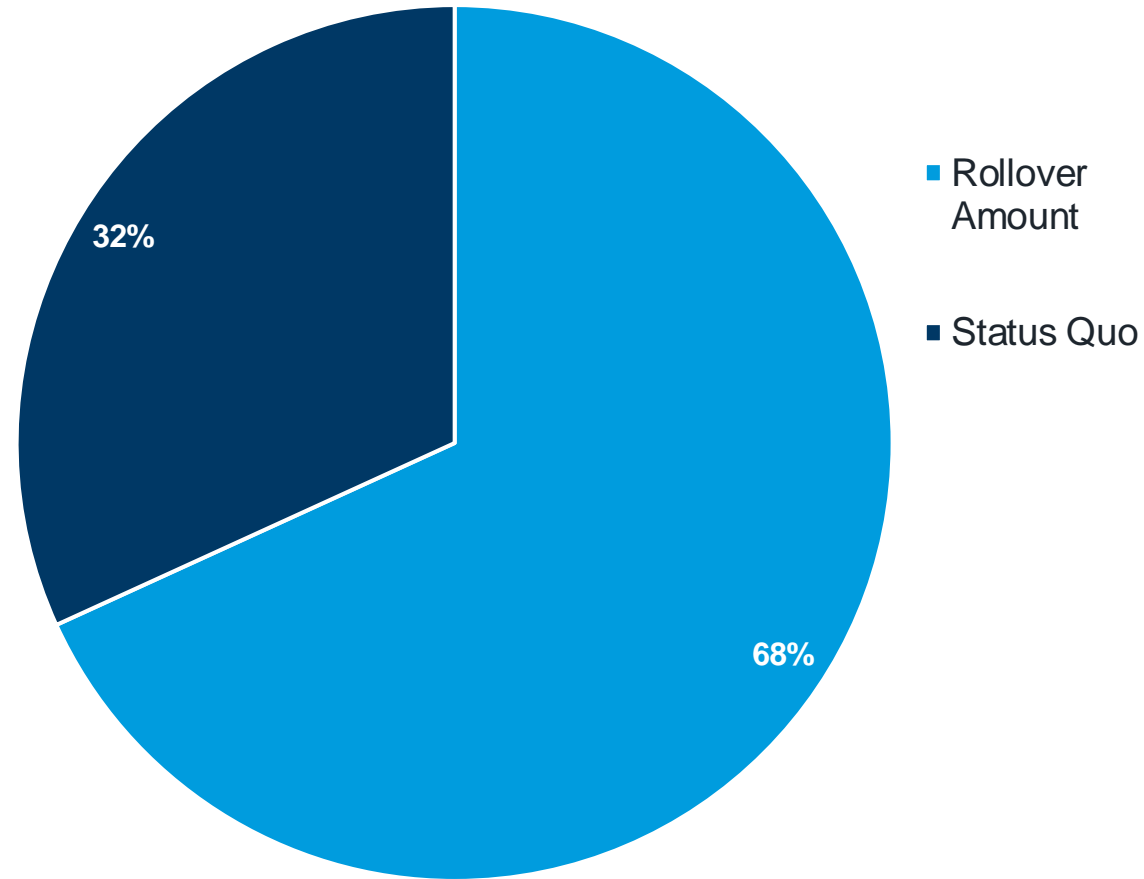
Are Management Fee Rates the Same for Rolling Investors and New Investors?

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



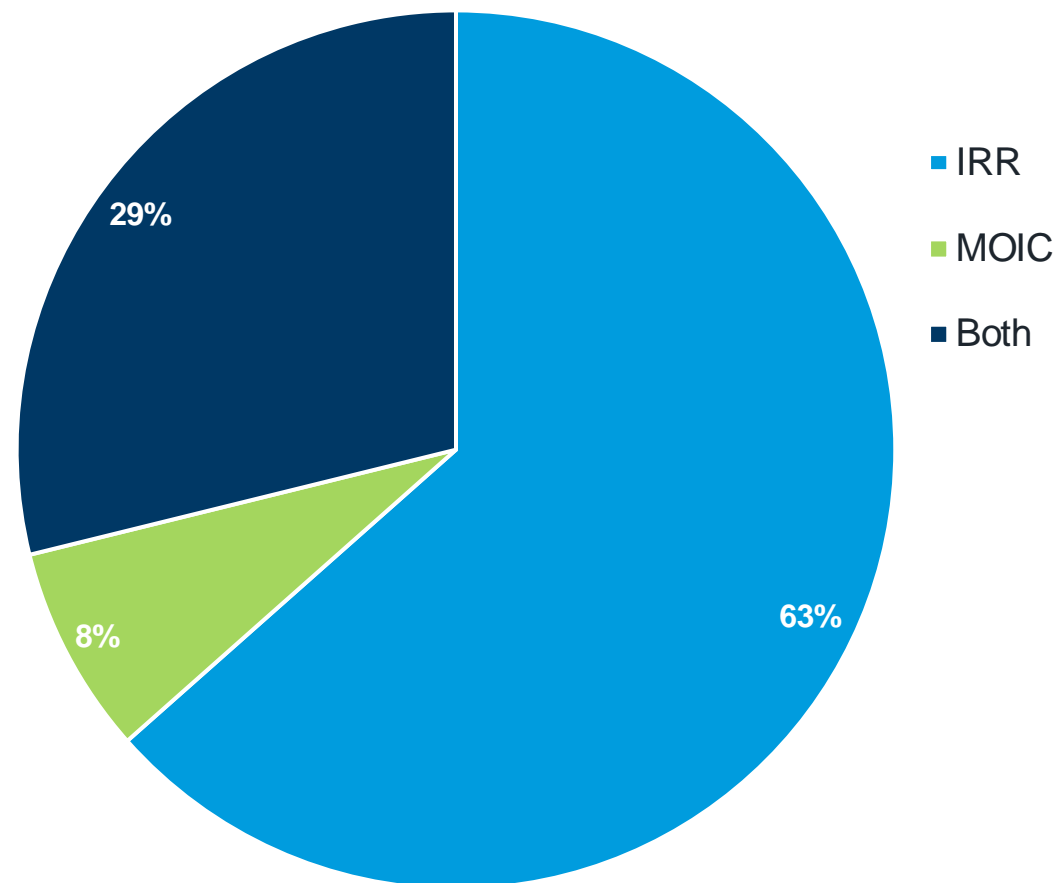
What is the Management Fee Based upon for Rolling Investors?

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



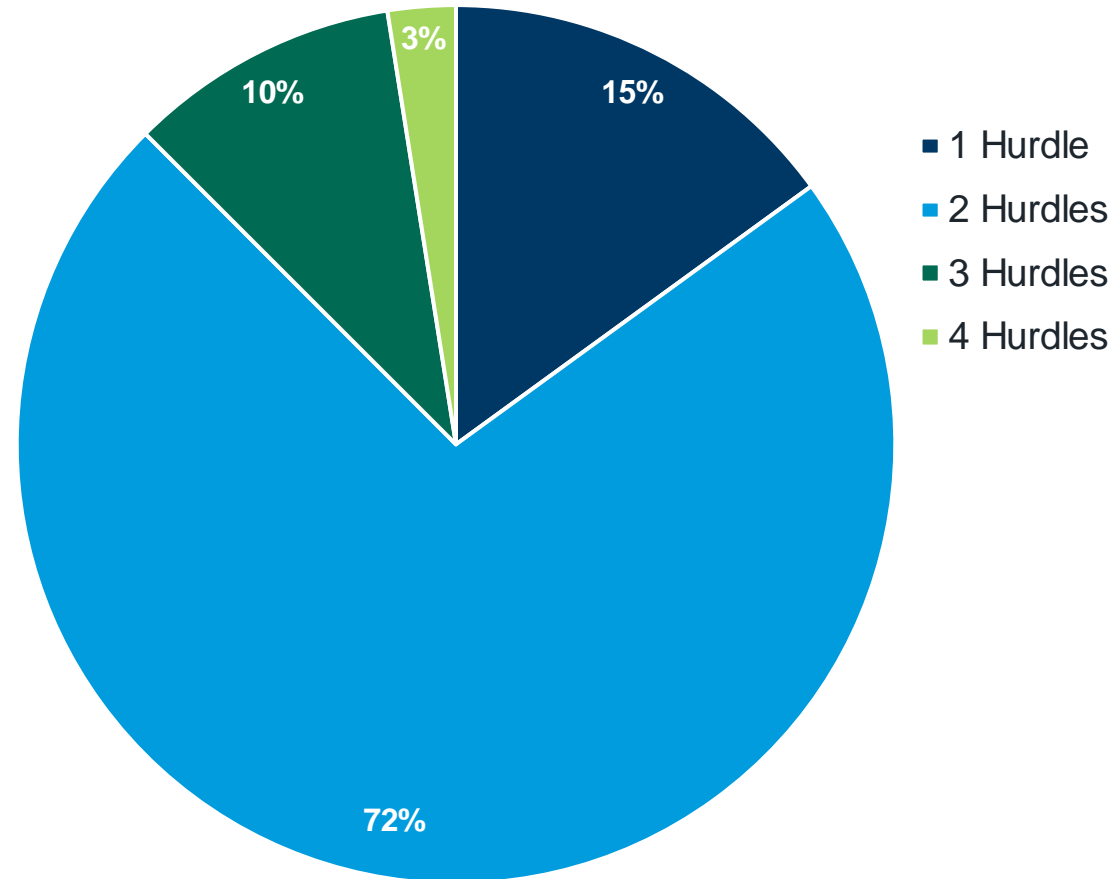
Is there an IRR or MOIC Hurdle Before the GP Receives Carried Interest?

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



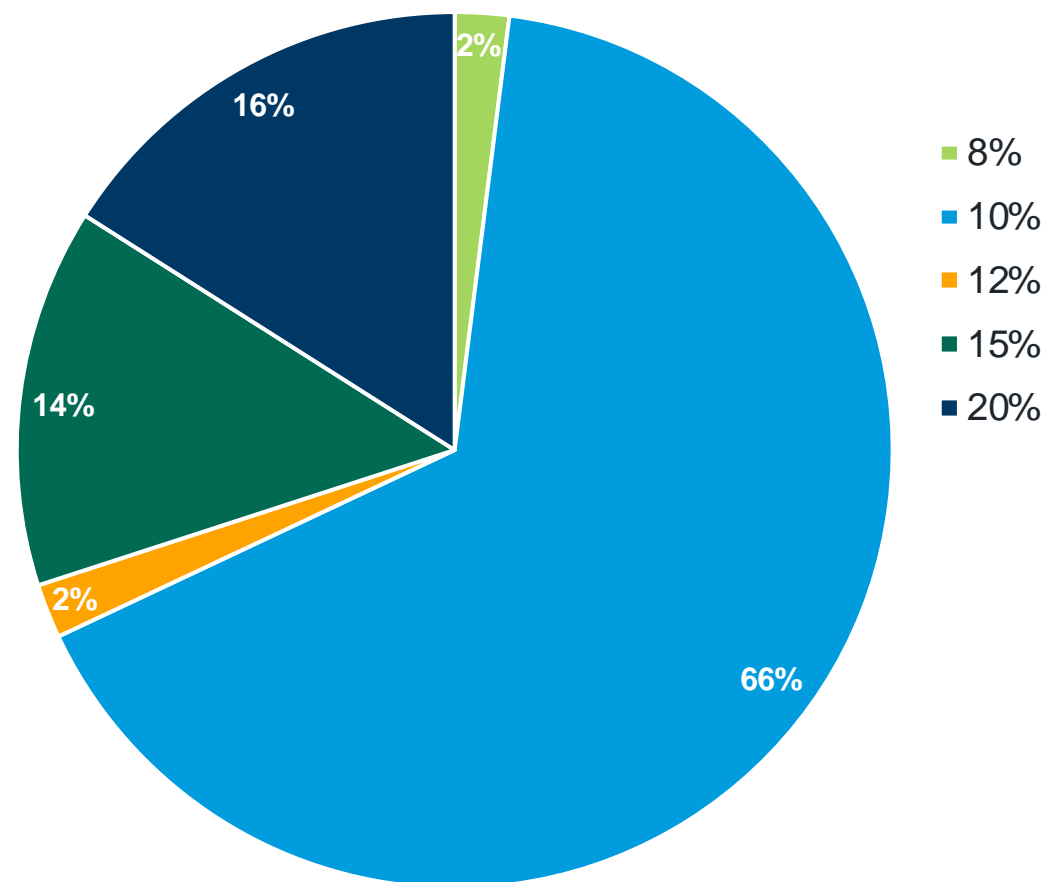
If there is a Carry Ratchet, How Many Performance Hurdles?

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



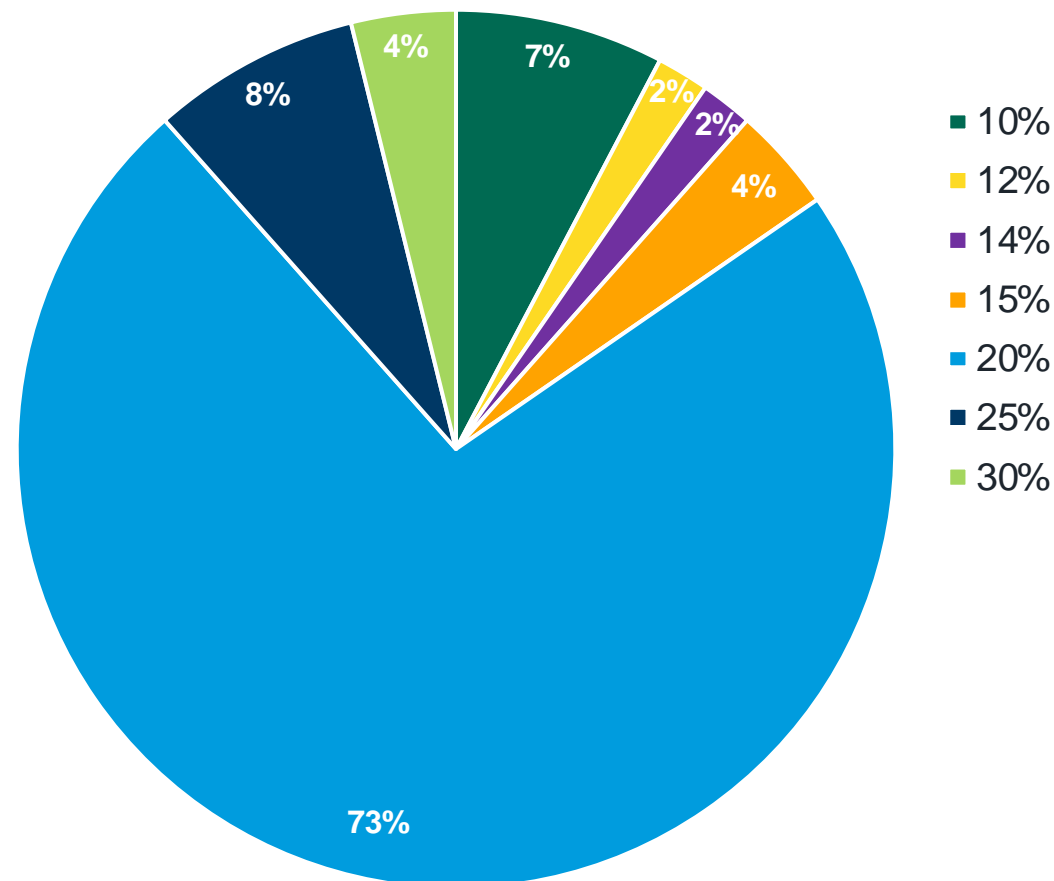
If there is a Carry Ratchet, What is the Lowest Attainable Carry Percentage?

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



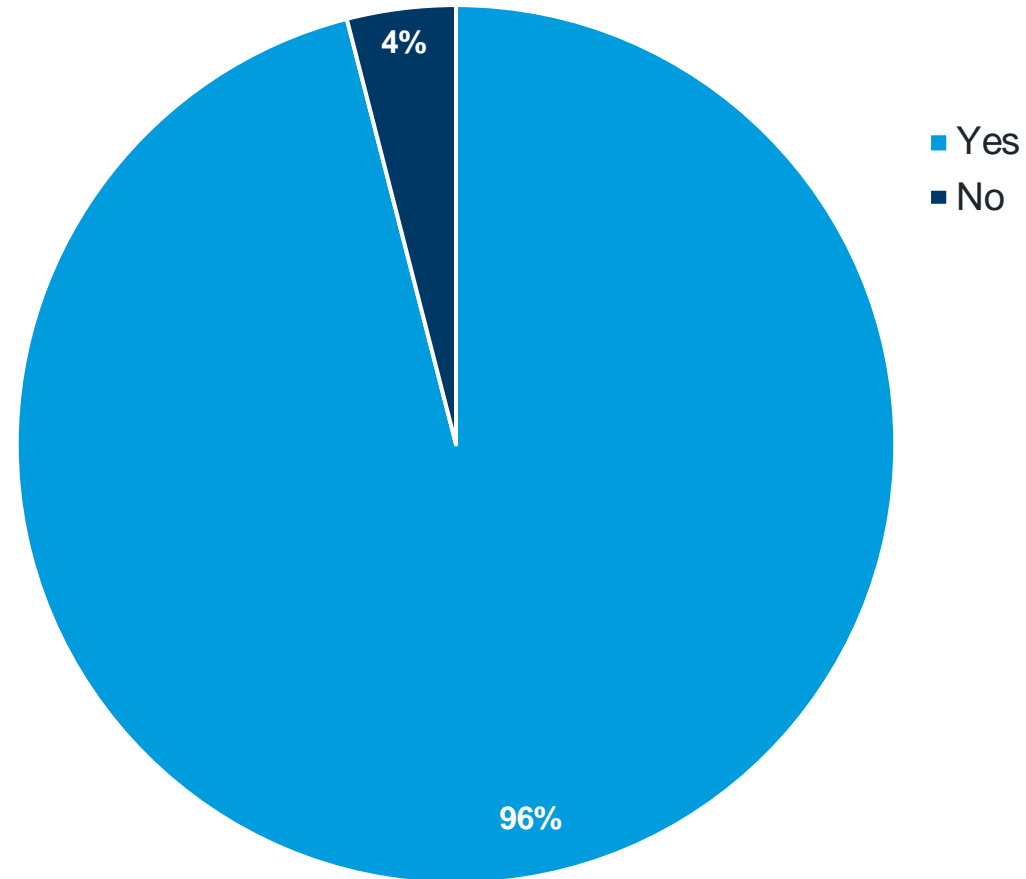
If there is a Carry Ratchet, What is the Highest Attainable Carry Percentage once All Hurdles Are Satisfied?

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



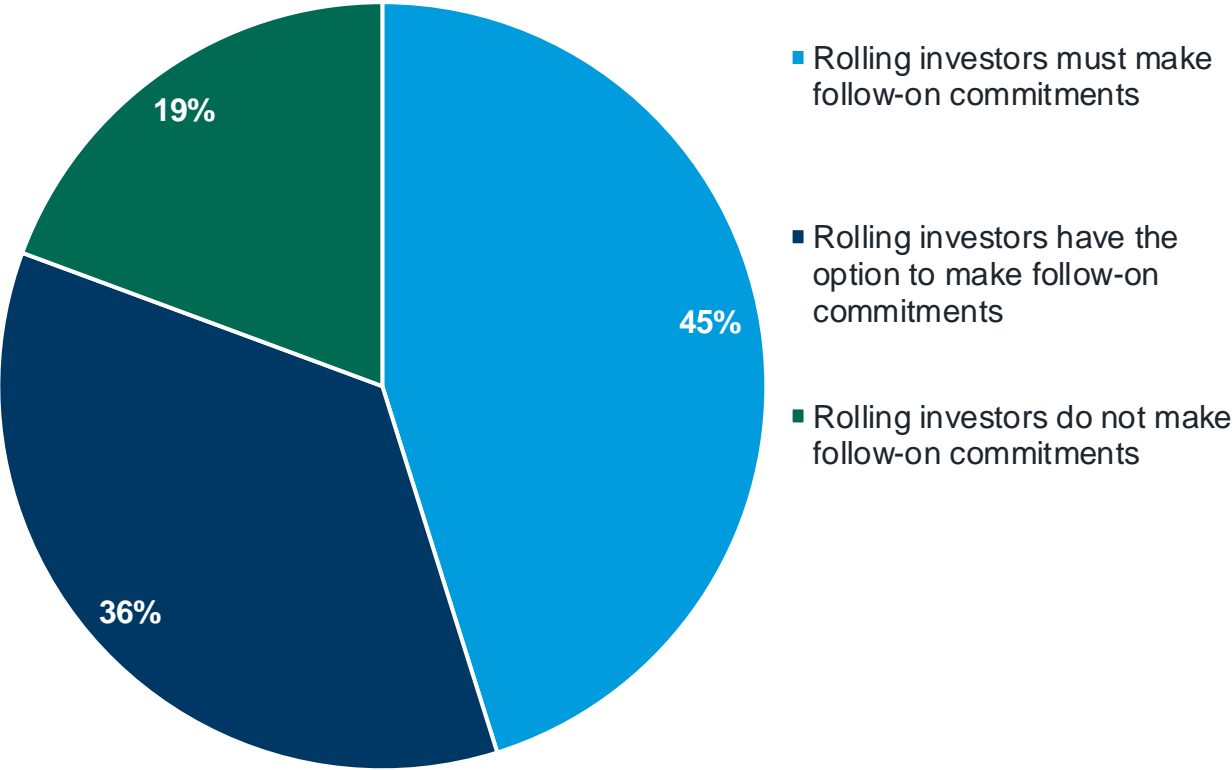
Is there a Catch-Up?

Nearly all deals include a GP catch-up.

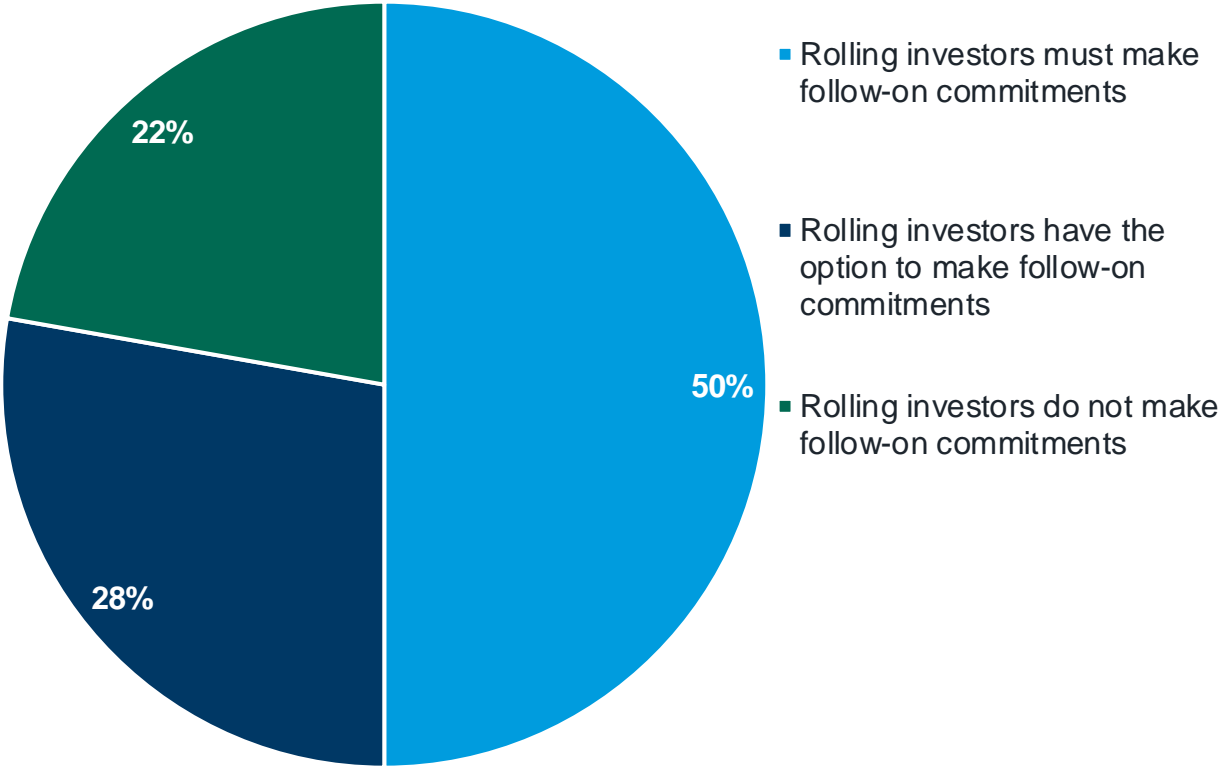


Rolling Investors and Follow-On Commitments

Single Asset Deals

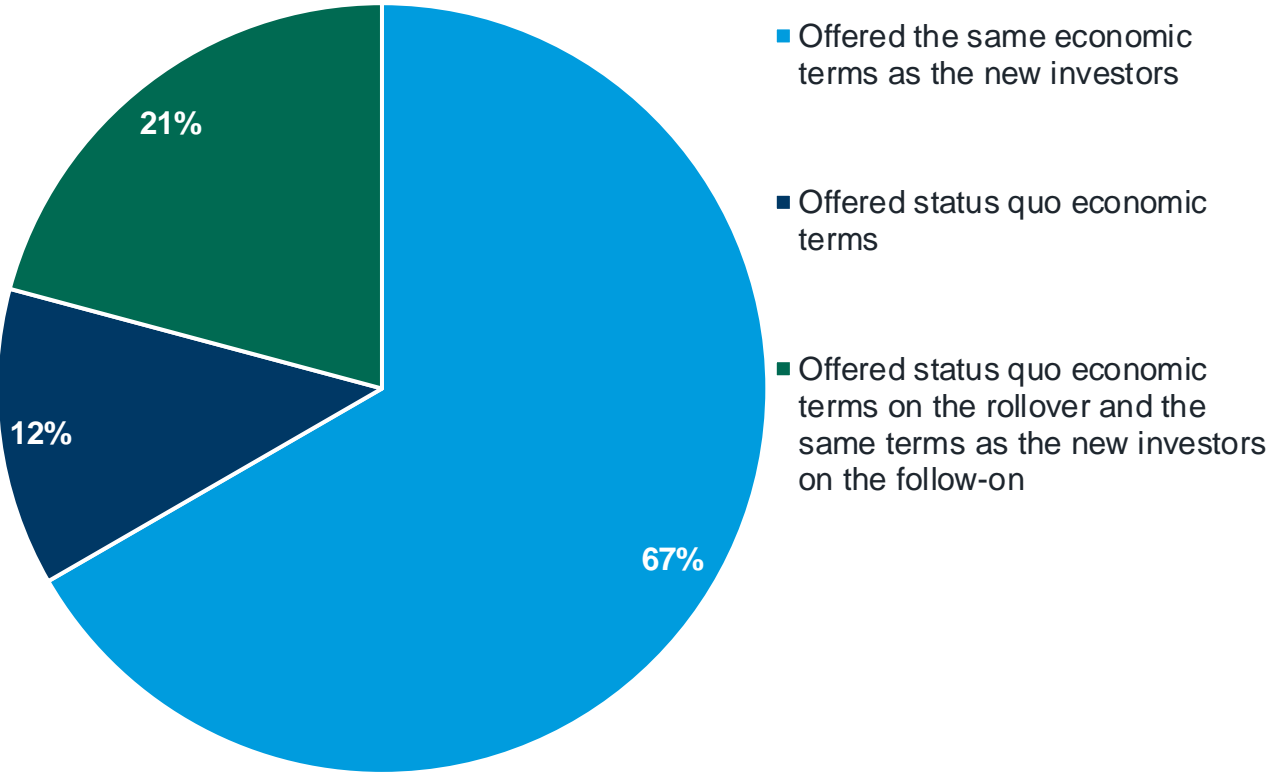


Multi-Asset Deals

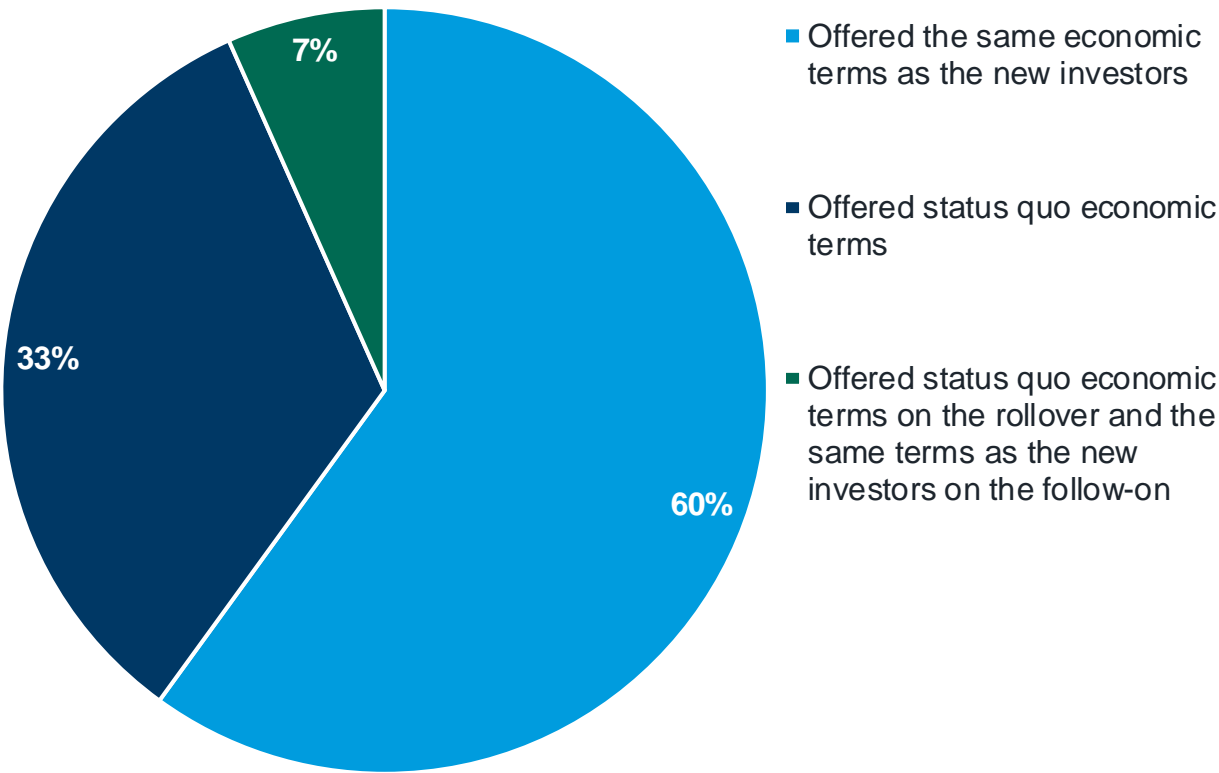


Offerings to Rolling Investors

Single Asset Deals

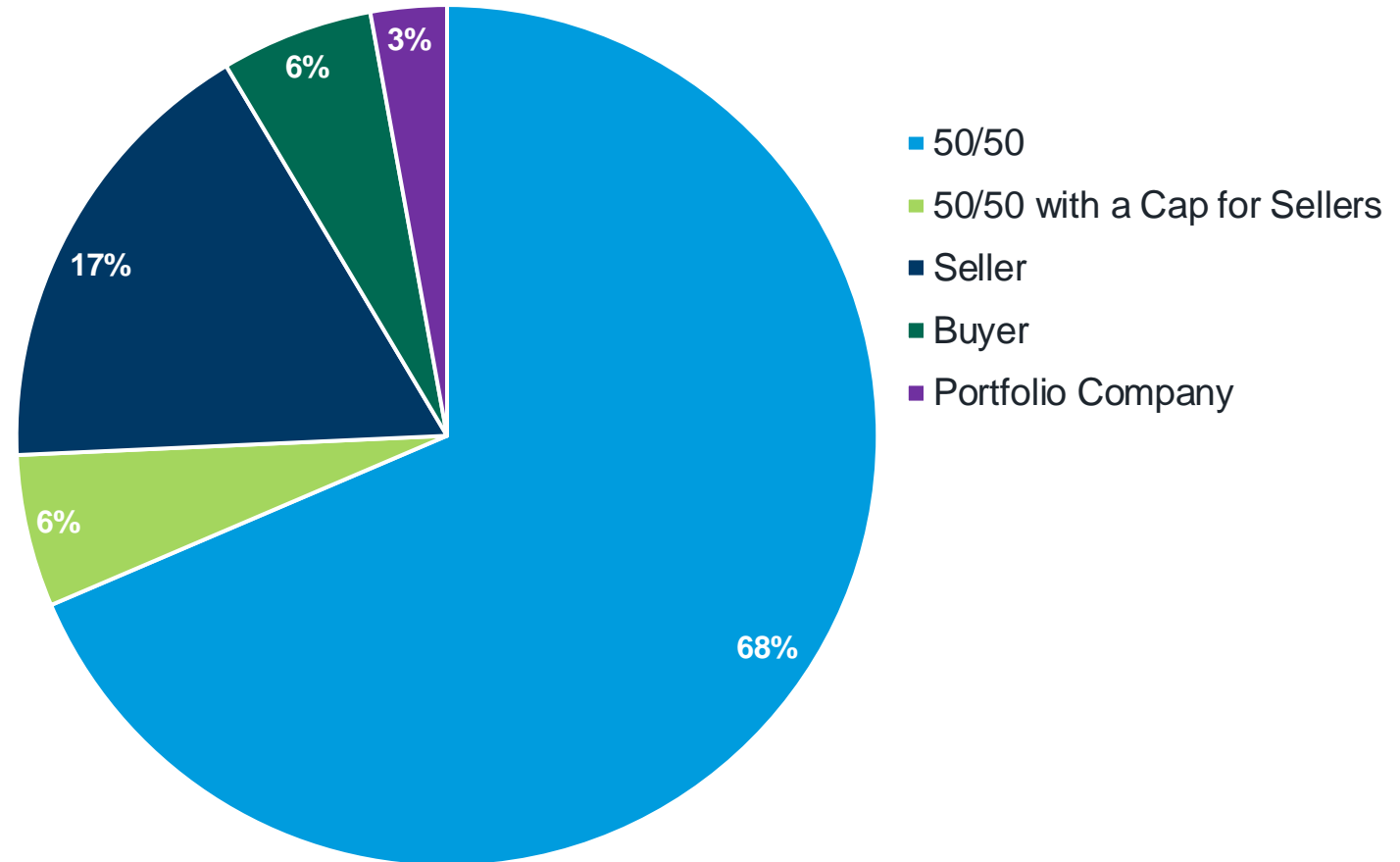


Multi-Asset Deals



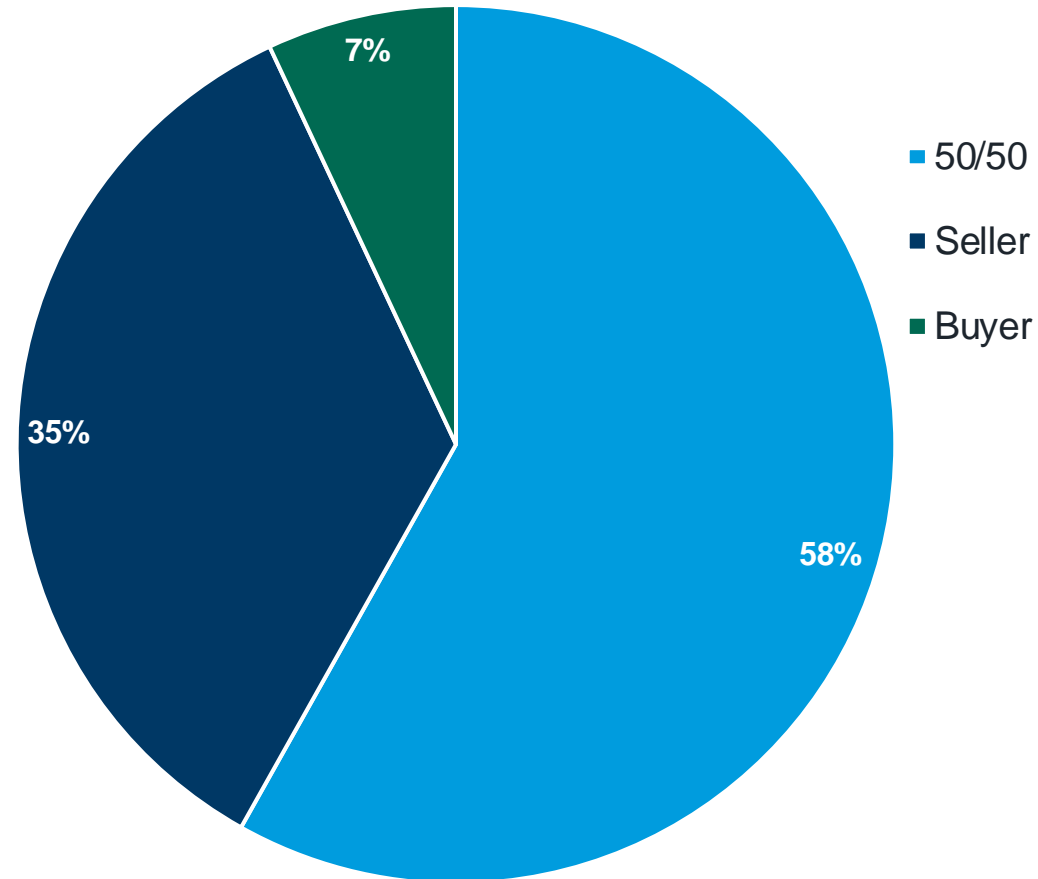
Who Pays for the RWI Policy?

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



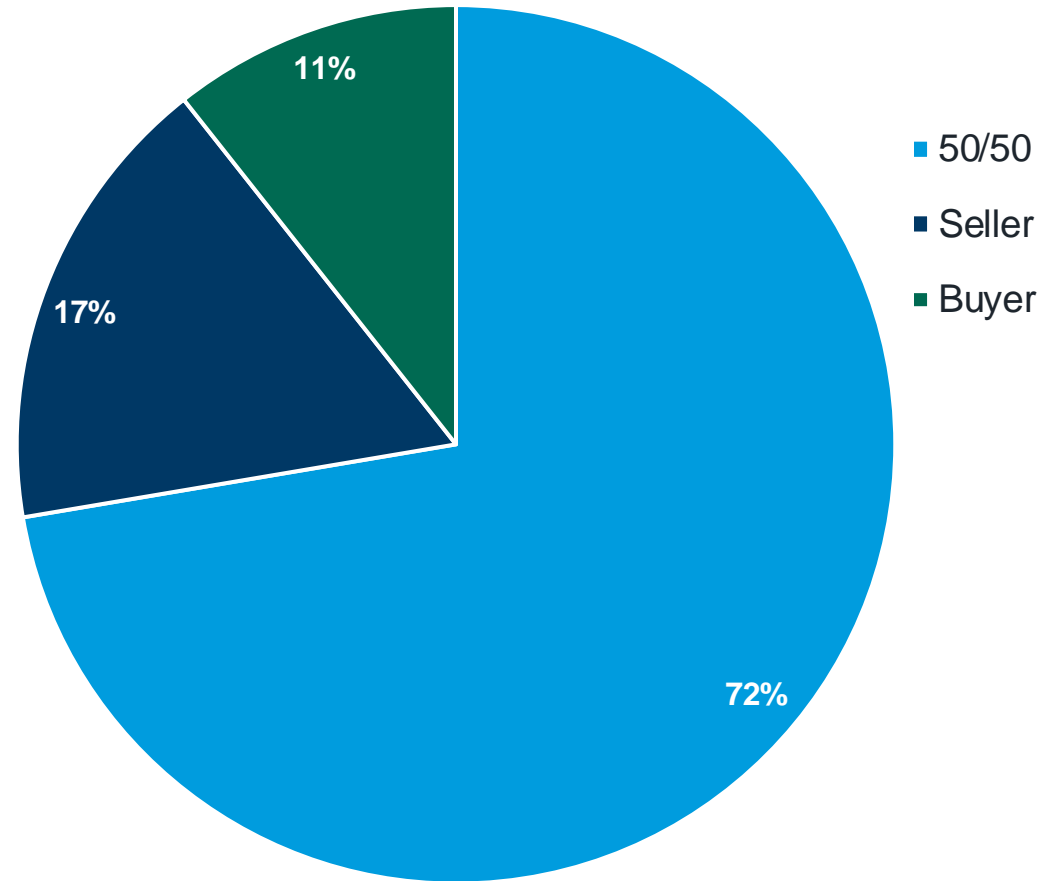
Who Bears the Expense for Negotiating the Transaction Agreement?

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



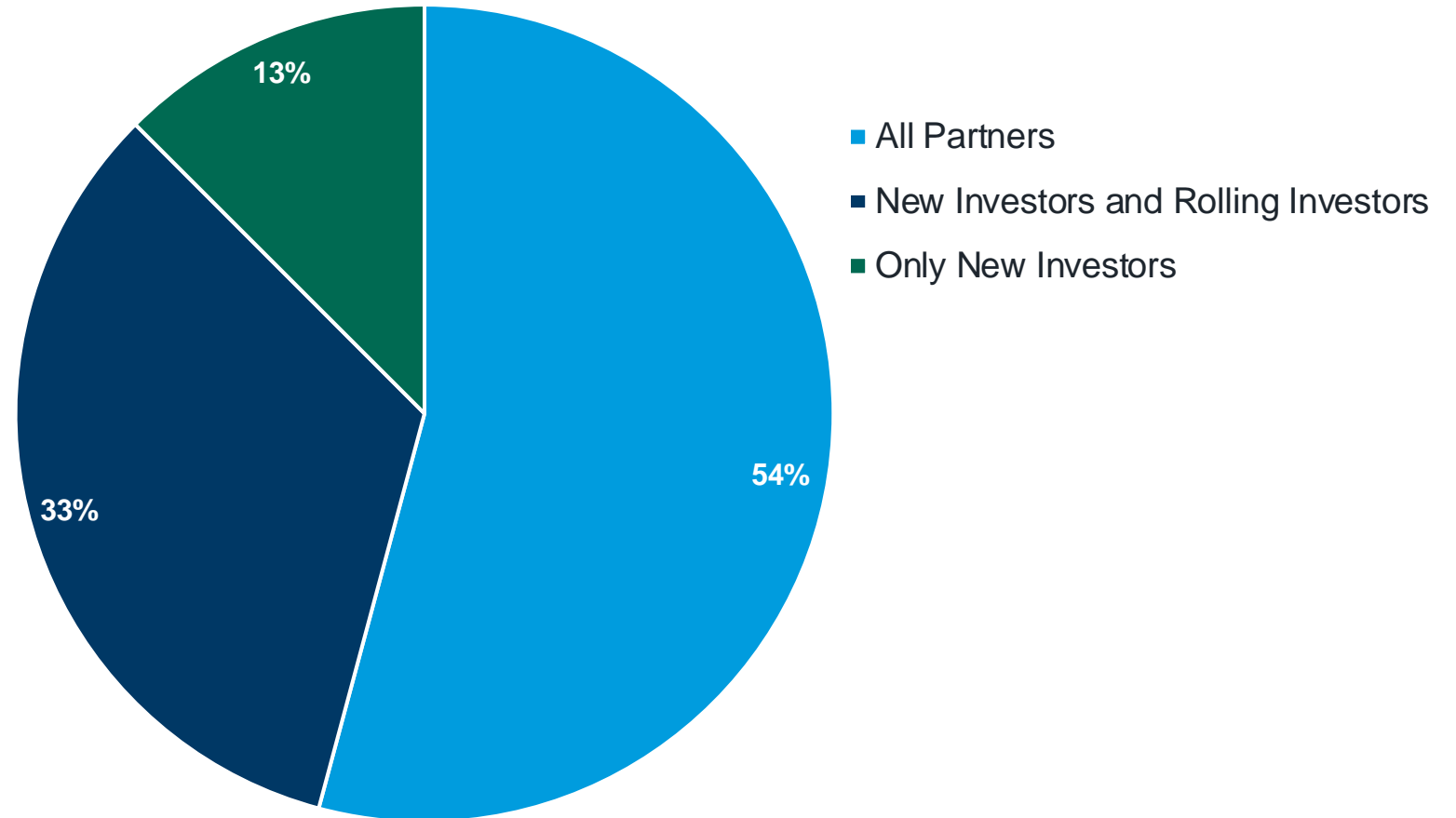
Who Bears the Transfer Taxes?

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



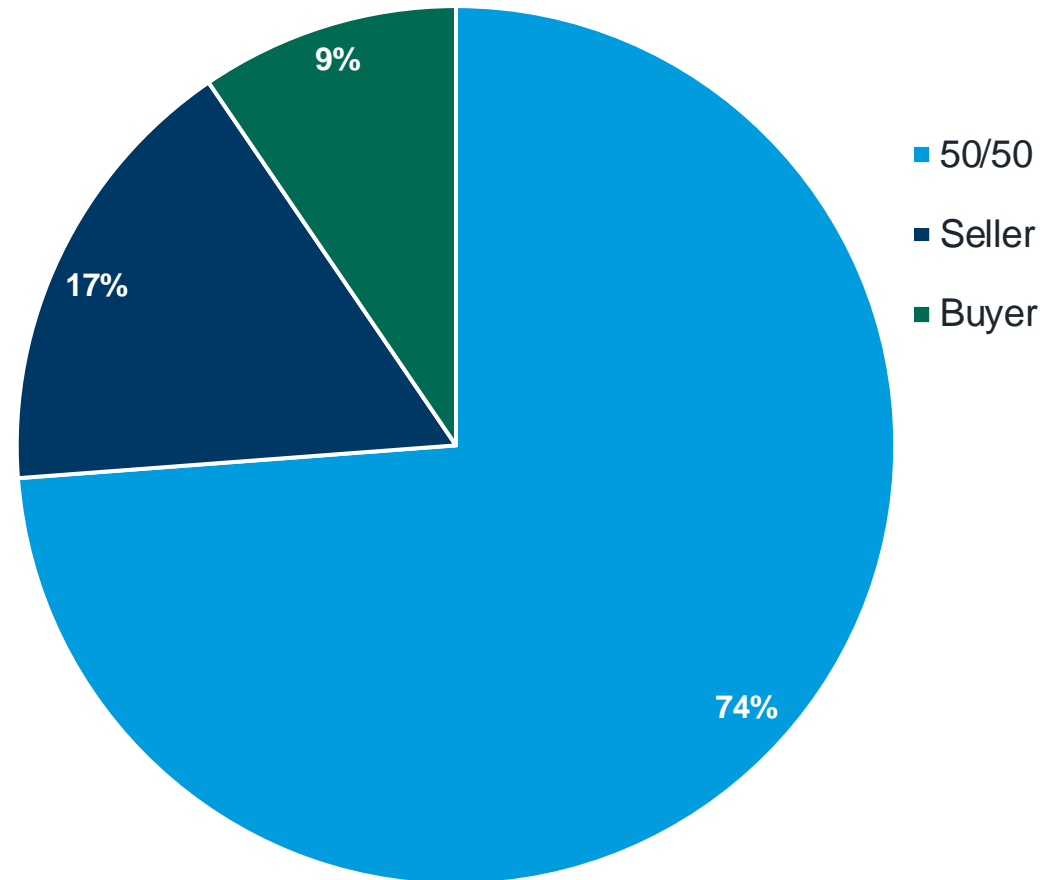
Who Bears the Organizational Expenses?

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



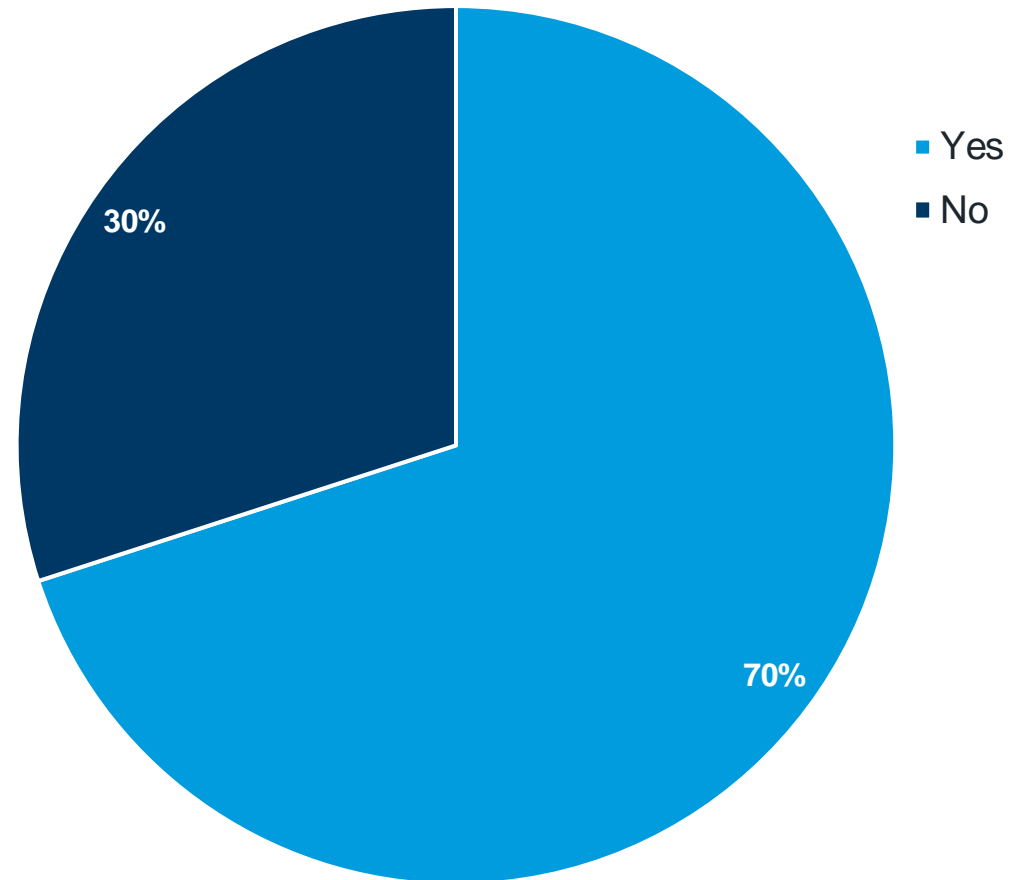
Who Bears the Regulatory Expenses?

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



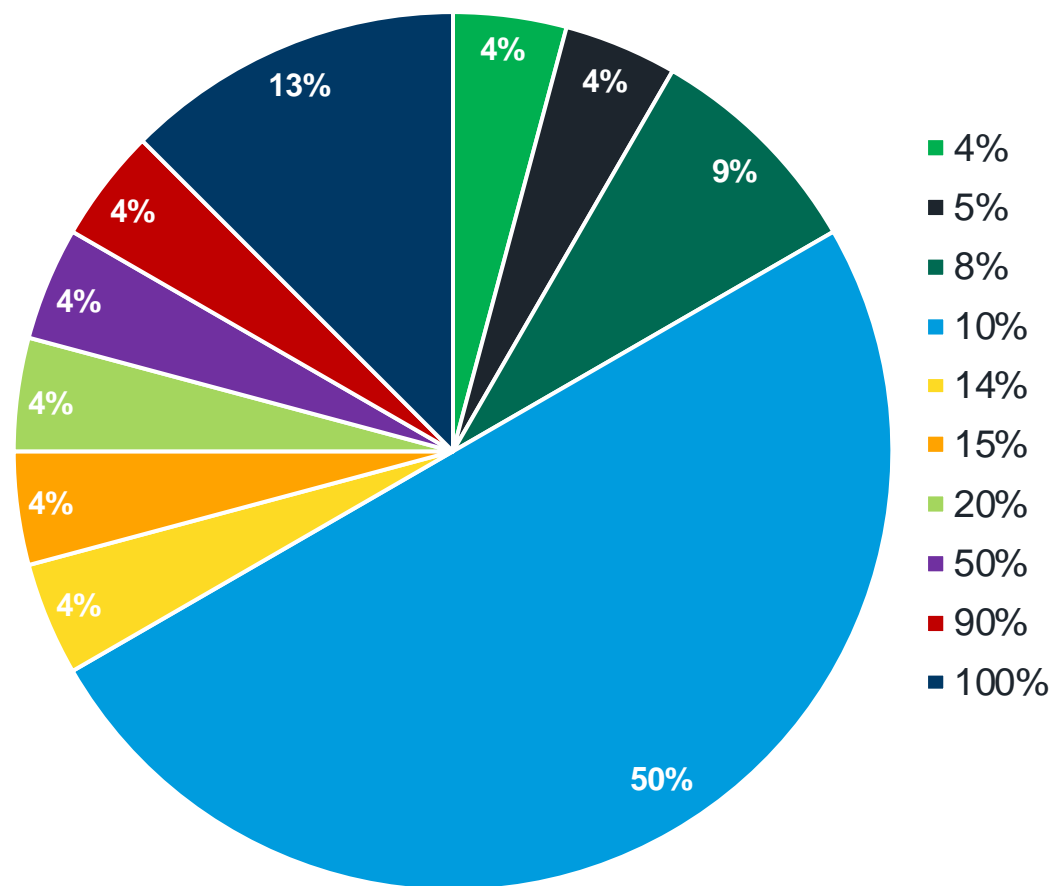
Is there Representation and Warranty Insurance?

70% of deals include RWI.



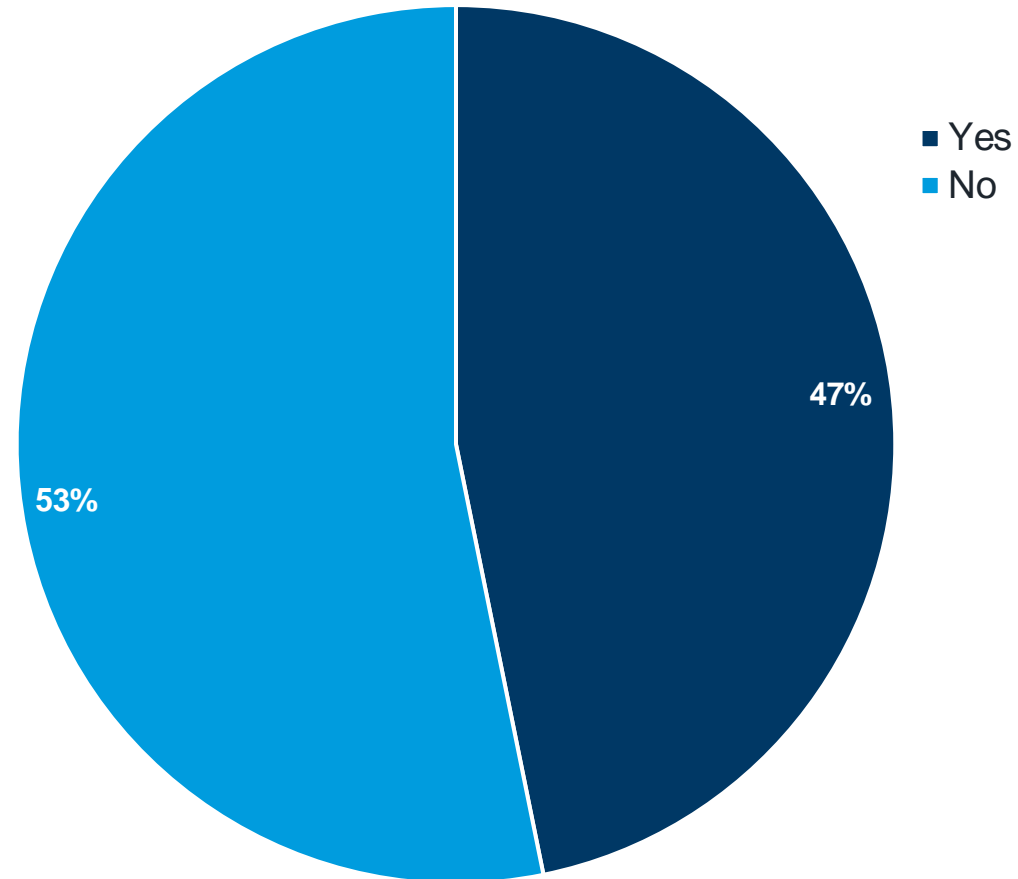
What is the Amount of the Primary Coverage?

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



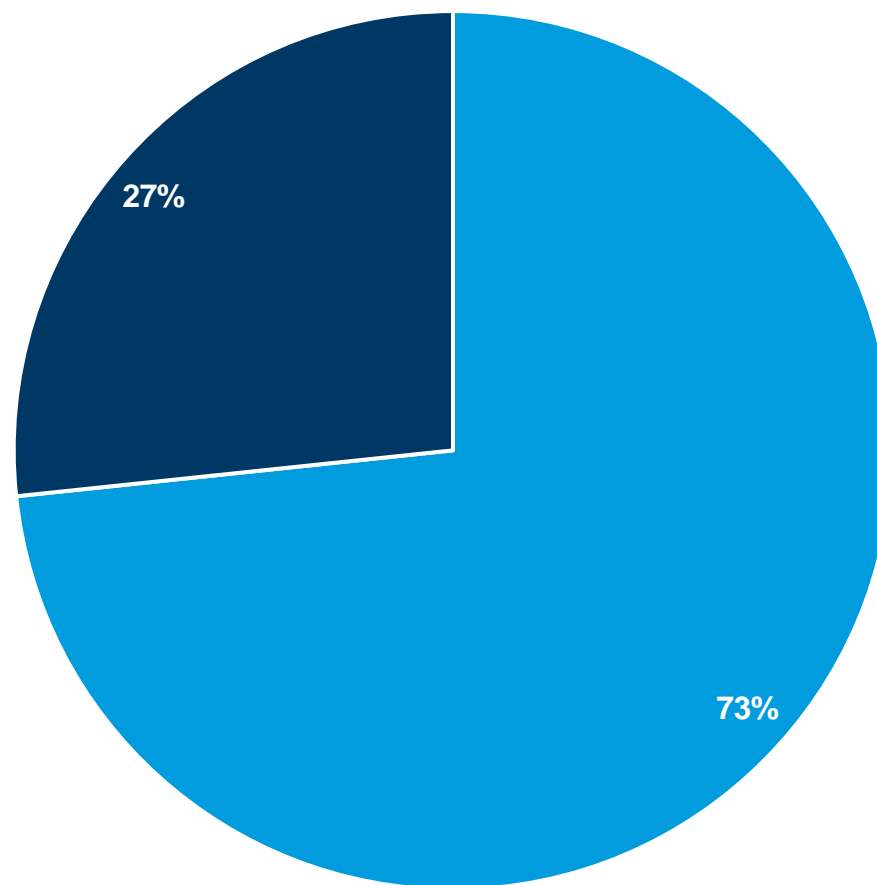
Is there Excess Coverage?

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



What Does the Excess Coverage Cover?

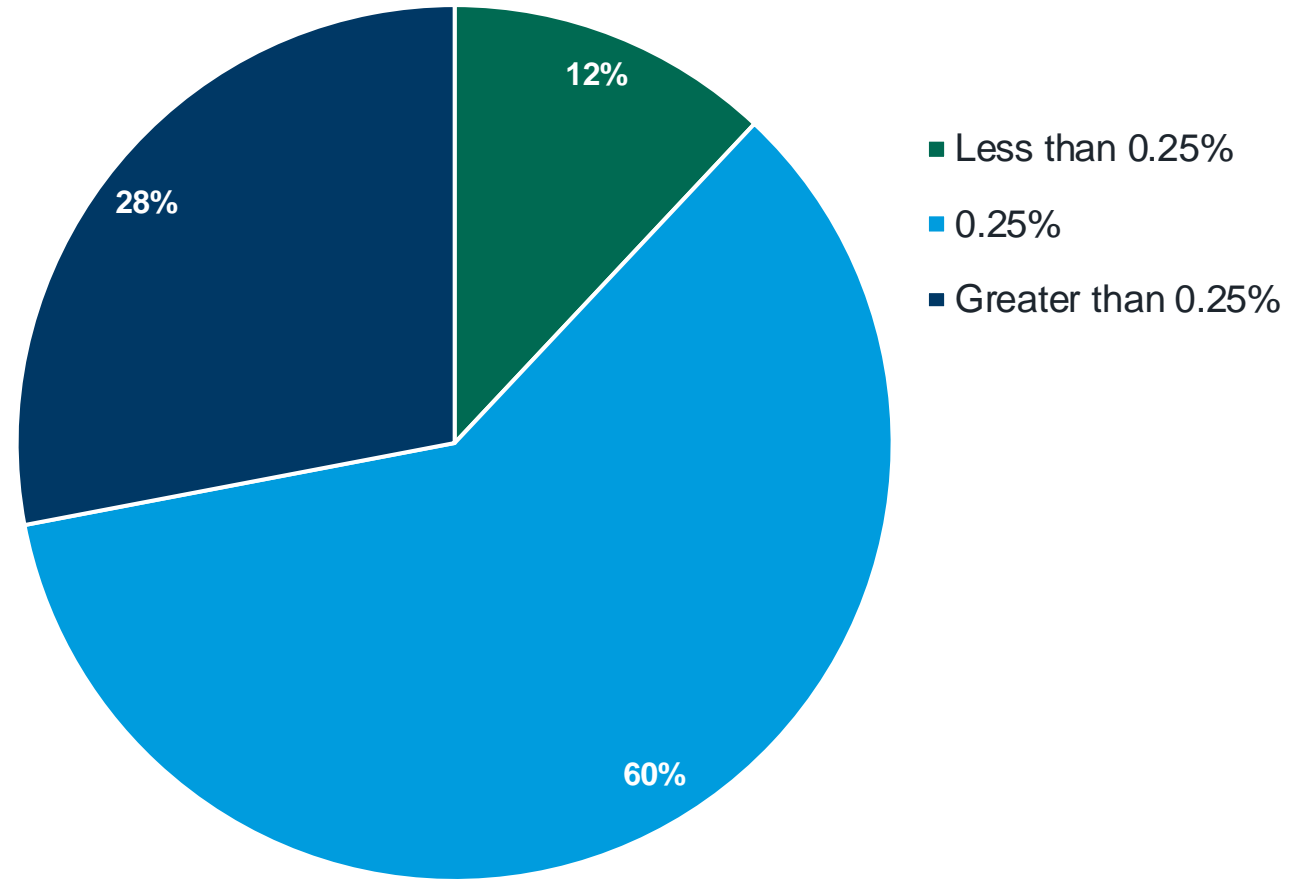
The excess coverage includes both fundamental representations and excluded obligations in nearly three-quarters of deals.



- Both Fundamental Representations and Excluded Obligations
- Fundamental Representations

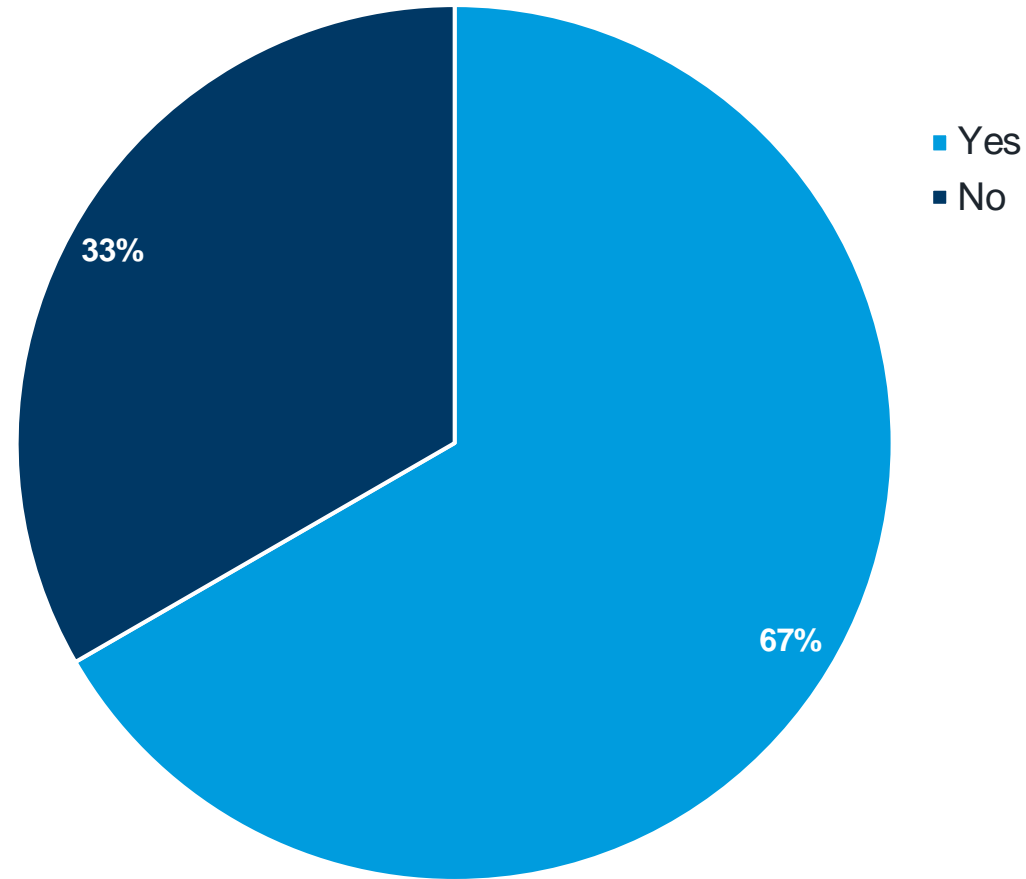
What is the Retention Amount?

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



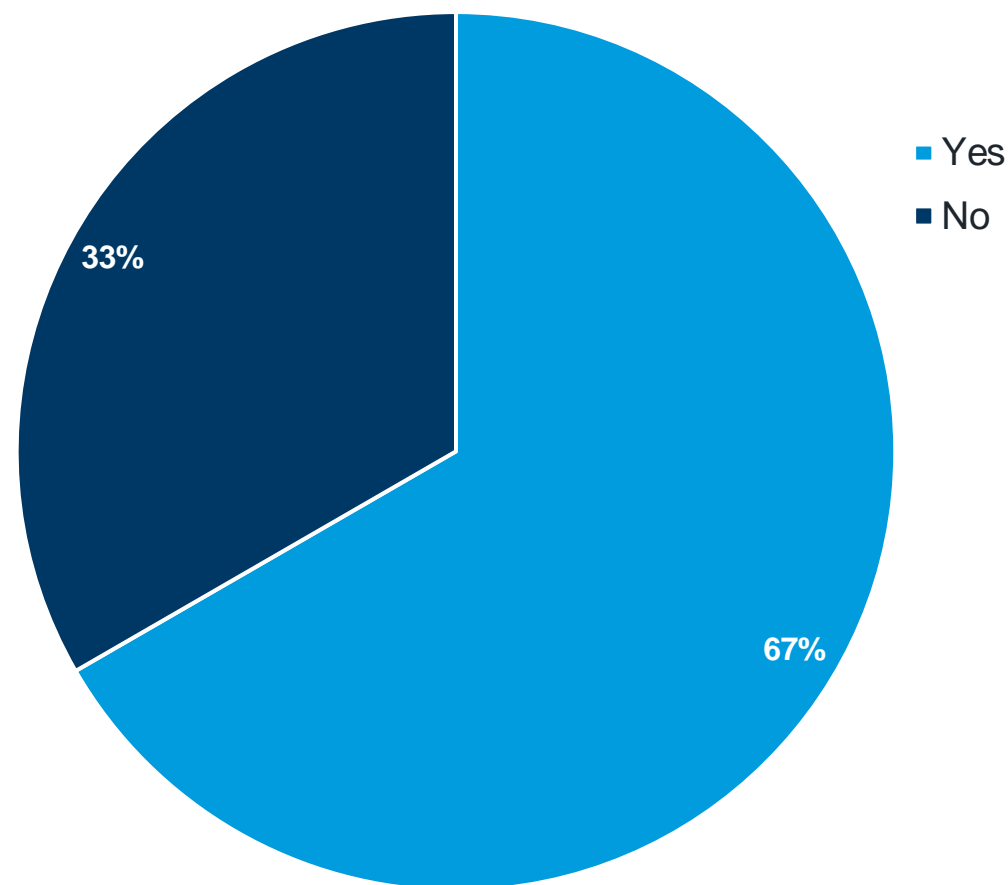
Is there Recourse Beyond the Policy?

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



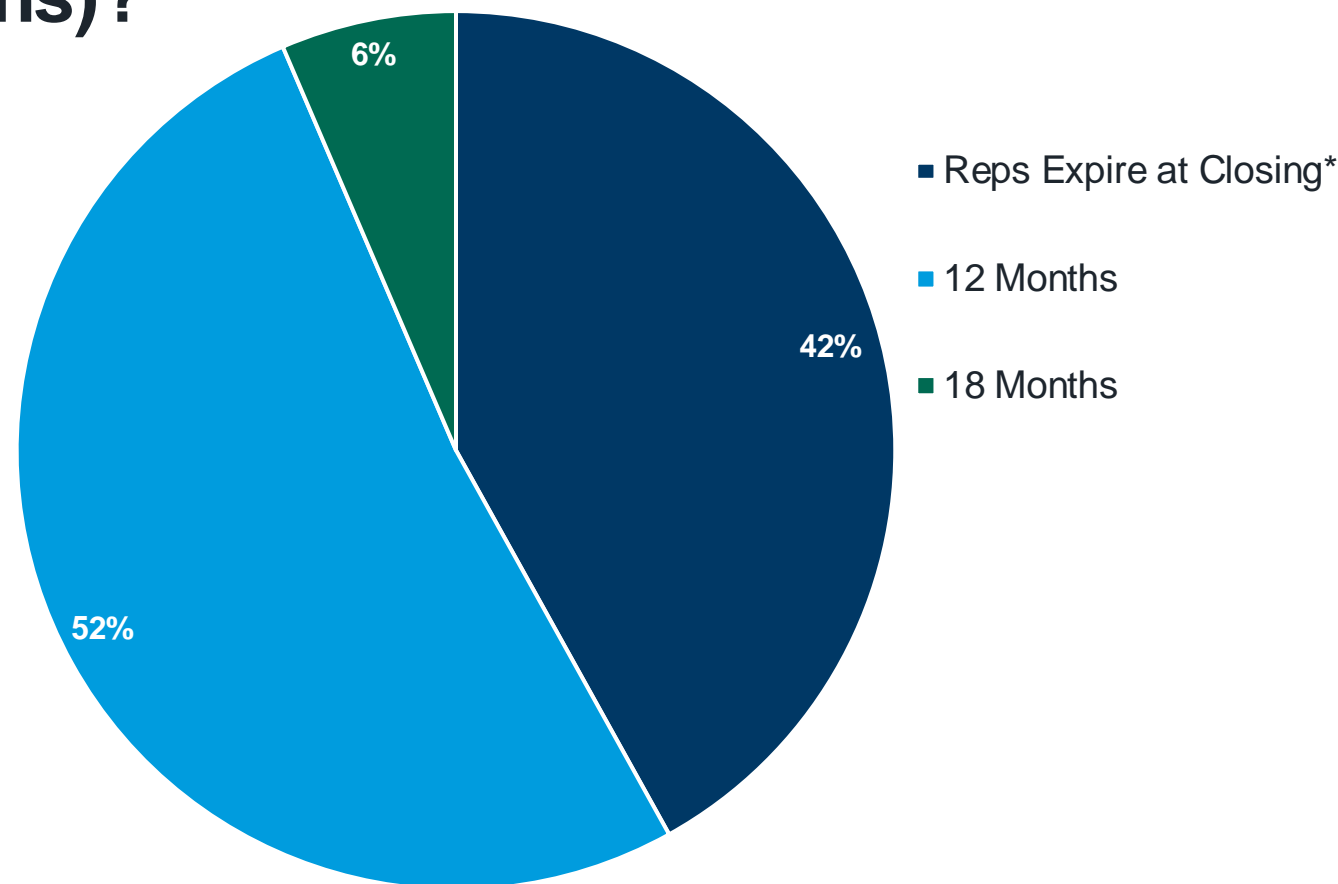
If there is Recourse Beyond the Policy, is there a Cap?

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)?

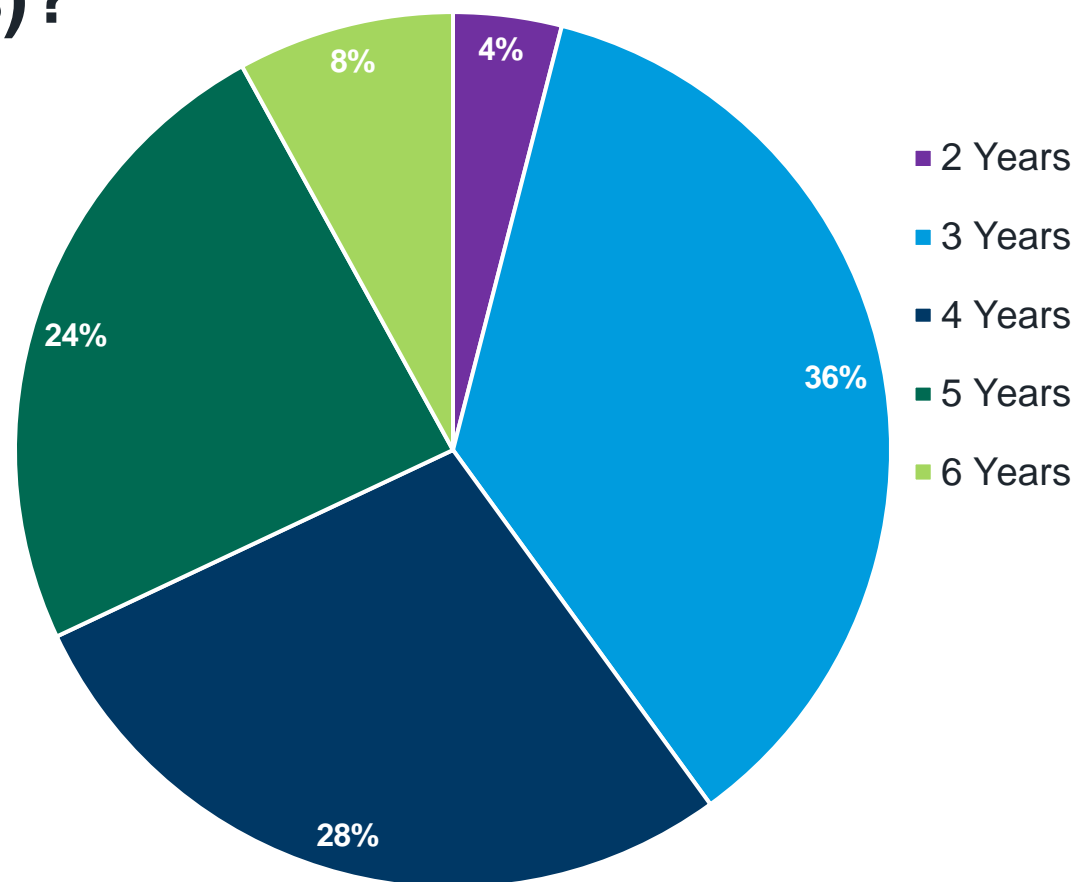
A majority of the deals have a survival period for general reps and warranties of 12 months.



*Reps continue to survive under an RWI policy.

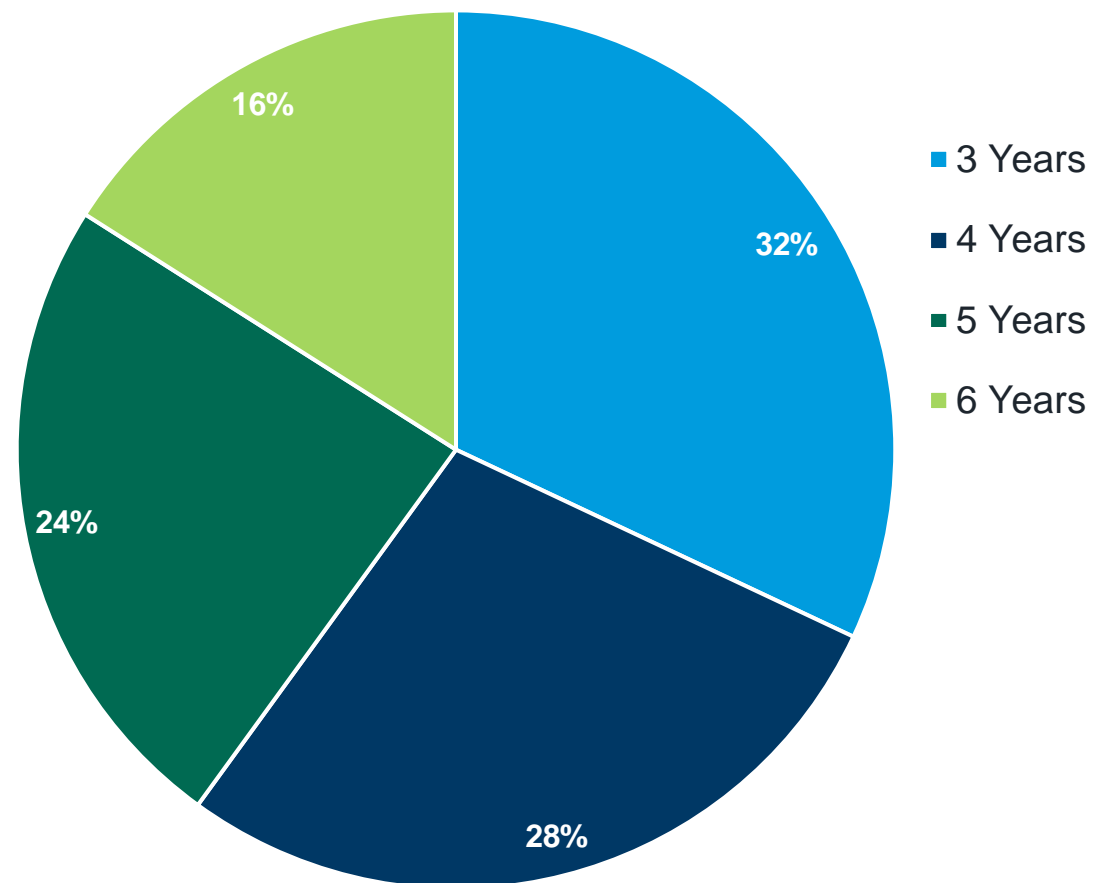
What is the Survival Period for Fundamental Representations and Warranties (in Years)?

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).



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NAVIGATING

LIQUIDITY

SECONDARIES PULSE CHECK CONFERENCE

Private Capital
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20 November 2024
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