



**Debevoise
& Plimpton**

European Investment Funds and Private Funds Transactions Offsite 2024

Oakley Court Hotel, Windsor Rd
Water Oakley, Windsor SL4 5UR

Table of Contents

- 1) Programme
- 2) Event Locations
- 3) Breakout Session Team Lists
- 4) Wi-Fi and Website Information
- 5) Breakout Session – Discussion Materials

Programme

Friday 28 June 2024

Start Time	End Time	Description	Location
9:30am	10:45am	Regulatory Team Meeting <i>(Patricia Volhard and Jin Jang)</i>	Eton Room – 1 st Floor Mansion House
10:30am		Arrival and luggage drop off	Reception
11am	11:30am	Welcome; Introduction to the Programme; Overview of the European IMG and Private Funds Transactions practice <i>(Various Partners)</i>	Oak Room
11:30am	12pm	What is PFT? <i>(Gavin Anderson)</i>	Oak Room
12pm	12:45pm	Introduction to GP Stakes Investments and Asset Management M&A <i>(Geoff Burgess and Matt Dickman)</i>	Oak Room
12:45pm	2pm	Lunch	Parlour Restaurant
2pm	2:45pm	Advanced Tax Considerations in Secondaries <i>(Cecile Beurrier, Matt Pincus and Chris Gossage)</i>	Oak Room
2:45pm	3:30pm	Overview of the Secondaries Market <i>(Wafiq Islam, Vice President, Lazard Private Capital Advisory)</i>	Oak Room
3:30pm	3:45pm	Short break	
3:45pm	4:15pm	Co-investments <i>(Geoff Burgess and Edo Troina)</i>	Oak Room
4:15pm	4:45pm	Breakout Session: Negotiation Topics in PFT <i>(See group assignments)</i>	Oak Room, Eton Room, Henley Room and (hopefully) hotel grounds
4:45pm	6pm	Group Discussion: Negotiation Topics in PFT <i>(Gavin Anderson, John Rife and Ben Amos)</i>	Oak Room
6pm		Close of Day	
6:30pm	8:00pm	Drinks Reception	Terrace
8:00pm		Dinner	Oak Room <i>(followed by drinks on the Terrace)</i>

Programme continued on following page

Saturday 29 June 2024

Start Time	End Time	Description	Location
7am	10am	Breakfast	Parlour Restaurant
11am		Hotel check-out	
10:30am	1:00pm	Outdoor activity – Crystal Maze Challenge	Meet at Reception
1:00pm	2:00pm	Lunch	Oak Room
2:00pm		Departures	

Event Locations

Meeting	Room	Location
Regulatory Meeting	Eton Room	1st floor, main house
Main Meetings	Oak Room	Conference Annexe
Lunch	Parlour Restaurant	Main house
Breakout Rooms	Eton and Henley Rooms	1st floor, main house
Dinner	Oak Room	Conference Annexe



Breakout Session Team Lists

Team 1

Dhara Kajal Basra
Gavin Benson
Lorna Bowen
Helena Inghelram
Dimitra Karakioulaki
Masha Okun
Matthew Saronson
Rachel Stables
John Young

Team 3

Kate Ashton
Matthew Dickman
Maria Epishkina
Jin-Hyuk Jang
Sam Lewis
Louis Liu
Keith Moshe
Veronika Polakova
Kurt Thieboux

Team 5

Julia Ahn
Selena Chisholm
Geoffrey Kittredge
Eric Olmesdahl
Lucas Orchard-Clark
Arie Scharf
Edoardo Troina
Mathieu Voos
Richard Ward

Team 2

Miles Aho
Paul Bird
Shawn D'Aguiar
Helen Ho
Lukas Ott
Matthew Pincus
Nikhil Subbiah
Eike Weidner

Team 4

Hosung Bae
Geoffrey Burgess
Allegra De Lorenzo
Christopher Dortschy
Jane Engelhardt
Milo Gordon-Brown
Christopher Gossage
Sameena Hussain
Weichi Liu

Team 6

Tom Berry
Cécile Beurrier
Charles Cartiglia
Maïssane Jama
Yannis Paradeisiadis
Sonia Ratiu
Lisa Sheldrick
Patricia Volhard

Dedicated Wi-Fi Network

Name: Debevoise

Password: Offsite June 2024

Event Webpage

<https://brightspaceevents.co.uk/offsite-2024/>



Event Feedback Survey

www.surveymonkey.com/r/Q2T3G59



PART A – MAIN FUND PROVISIONS

A1 – Main Fund Partnership Agreement

13.14 Continuation Funds.

(a) General. Notwithstanding any other provision of this Agreement, in connection with the realisation of any investment in a Portfolio Company, in whole or in part, the General Partner may, in its sole discretion (but shall not be obligated to), offer one or more of the direct or indirect investors in such Portfolio Company the ability to retain a direct or indirect interest in such Portfolio Company (a “Retained Interest”). In addition, the General Partner and its Affiliates may establish one or more funds, vehicles, accounts or other arrangements (each, a “Continuation Fund”) for purposes of acting as a continuation vehicle with respect to one or more investments of the Fund and holding long-dated or evergreen investments or investments targeting a lower return, among other purposes. Notwithstanding anything in this Agreement to the contrary, the Fund may sell (or otherwise structure the transfer of) one or more of its assets to any Continuation Fund at a price based on Price Validation (as defined below) and on such other terms that are determined by the General Partner to be fair and reasonable to the Fund, so long as all of the following conditions have been met prior to the closing of such transaction: (i) the consideration for such sale has been validated pursuant to (A) a fairness opinion from an independent financial advisor, (B) the participation in such sale, at a reasonably contemporaneous time, by a third party not Affiliated with the General Partner on substantially the same economic terms and for substantially the same amount, in each case relative to Fund’s participation therein or (C) a competitive auction (each of the foregoing, a “Price Validation”); (ii) the General Partner has notified the Advisory Committee of any proposed sale of an asset to a Continuation Fund at least 30 days in advance of the deadline by which the Advisory Committee members may object to such transaction pursuant to clause (iv) below; (iii) the General Partner has submitted to the Advisory Committee written materials describing the transaction and the Price Validation and, upon such submission, has scheduled a telephonic, video or other electronic conference with the members of the Advisory Committee to discuss such written materials and the Price Validation; and (iv) the General Partner has not received written objection to such sale from at least one third of the members of the Advisory Committee within 10 Business Days after such submission. In the event of such objection, the General Partner may elect (but is not obligated) to put such matter to the Advisory Committee for a formal vote and shall not consummate such transaction unless it has received the prior approval of the Advisory Committee. Following the sale of any Investment to a third party, the General Partner, the Manager and their Affiliates may receive fees or other compensation from the buyer of such investment in return for providing post-sale advisory services to the buyer with respect to management of such investment. In addition, the General Partner, the Manager and their Affiliates may receive carried interest, management fees and other compensation in connection with any Retained Interest or Continuation Fund. Any such interests or compensation will not constitute Fee Income and will not be shared with the Fund or reduce the Management Fee payable by any Limited Partner. Notwithstanding anything in this Agreement to the contrary, the General Partner may, without the consent of any other Person, amend this Agreement as necessary or appropriate to give effect to the intent of this Section 13.14, and may interpret in good faith any provision of this Agreement, whether or not so amended, to give effect to the intent of the provisions of this Section 13.14.

(b) Distributions in Kind; Expenses. Notwithstanding anything to the contrary in Section 6.6 or any other provision of this Agreement, the Limited Partners acknowledge and agree that, in connection with the establishment of a Continuation Fund, the Fund may (i) distribute interests in the applicable Portfolio Company (or Portfolio Companies) in kind to all or a subset of the Limited Partners and required that any such Limited Partners immediately contribute such interests to such Continuation Fund or (ii) distribute interests in a Continuation Fund to all or a subset of the Limited Partners. Furthermore, the General Partner may determine, in its reasonable discretion, that Fund Expenses attributable to the sale of interests by the Fund to a Continuation Fund should be borne by a subset of those Limited Partners that do not elect to retain a direct or indirect interest in the applicable Portfolio Company (or Portfolio Companies).

Points to Consider:

- *Why would the sponsor want such provisions?*
- *What concerns might an LP have? What changes might an LP want?*

A2 – Main Fund Side Letter Request

Continuation Vehicles. If at any time the General Partner and/or the Manager proposes to dispose (in whole or in part) one or more Portfolio Companies to a newly formed continuation vehicle owned or controlled by the General Partner or any of its Affiliates (a “Continuation Fund”), then (a) the General Partner and/or the Manager will notify the Investor as soon as it launches a sale process for such Portfolio Companies to such Continuation Fund, (b) the General Partner and/or the Manager will share the process letter and invite the Investor to participate in such sale process for such Portfolio Companies to such Continuation Fund, (c) the Investor will be allowed to continue and to extend and/or roll its existing *pro rata* investment in such Portfolio Companies in such Continuation Fund at terms no less favourable than effective in the Fund, (d) for single asset Continuation Funds, the Investor will be allowed to extend and/or roll its existing *pro rata* investment at a no fees no carry basis, (e) in case an Investor election process is held, the Investor will by default automatically be deemed to be electing to extend and/or roll its existing *pro rata* investment in such Portfolio Companies in such Continuation Fund unless explicitly stated otherwise by the Investor within the timeframe of the election process and (f) no transaction costs will be borne by the Investor.

Points to Consider:

- *Why would an LP want such a provision? Could this side letter provision be relevant in other situations?*
- *How would you advise the sponsor to react?*

PART B – CONTINUATION FUND PROVISIONS

B1 – Continuation Fund Partnership Agreement – Lead Investor Protections

1.12 Lead Investor Representative. The Lead Investor has, as of the date hereof, designated [] as a “Lead Investor Representative.” The Lead Investor Representative may be removed by the Lead Investor at any time in the Lead Investor’s sole discretion. In the event that any Lead Investor Representative ceases to serve as such for any reason, the General Partner shall permit the Lead Investor to appoint a replacement representative (such replacement representative, also a “Lead Investor Representative”) within a specified reasonable time period following the date of such cessation of service. In the event that the Lead Investor (or an Affiliate thereof) becomes a Defaulting Partner, then the Lead Investor will no longer be entitled to act as or appoint the Lead Investor Representative, *provided* that the foregoing penalty will not apply in the event the Lead Investor (or any of its Affiliates) has been designated a Defaulting Partner (after giving effect to all applicable notice and cure periods) due to the failure to make a Capital Contribution to the Fund if the Lead Investor (or any of its Affiliates) is disputing in good faith the General Partner’s right to issue the Drawdown Notice for such Capital Contribution and such dispute has not exceeded 90 days, unless a court of competent jurisdiction determines that the General Partner had the right to issue such Drawdown Notice. The General Partner shall consult with the Lead Investor Representative promptly following any allegation that the Selling Fund has breached, or otherwise failed to fulfil its obligations under, the Framework Agreement. To the maximum extent not prohibited by law, no Lead Investor Representative shall be required to take into account the interest of any Partner or the Selling Fund when exercising its rights pursuant to the Framework Agreement and each Lead Investor Representative may take into account its own interest. Further, to the maximum extent not prohibited by law, neither the Lead Investors nor the Lead Investor Representatives shall have a fiduciary duty to the Fund.

Points to Consider:

- *What is the rationale for this provision?*
- *If representing the Lead Investor, what comments might you make?*
- *What is the sponsor’s perspective?*

3.7 Advisory Committee.

(a) Appointment of Members, etc. The General Partner shall establish, within a reasonable time after the Closing, a single advisory committee (the “Advisory Committee”) for the Fund and certain Related Investment Funds, having no fewer than three, and no greater than five, voting members appointed by the General Partner and, subject to the foregoing, may from time to time appoint one or more additional voting members to the Advisory Committee. Each

voting member of the Advisory Committee shall be a representative of a Limited Partner (other than an Affiliated Partner), *provided* that no such limited partner shall have more than one representative on the Advisory Committee. . . .

Points to Consider:

- *How would you think about the LPAC from a Lead Investor perspective?*
- *Are the dynamics different to a main fund?*

B2 – Continuation Fund Partnership Agreement – GP Removal and Key Person

“Removal Conduct” shall mean, with respect to any Person, (a) gross negligence in the operation of the Fund (including (i) in the performance of such Person’s fiduciary duties, as such duties are modified by this Agreement, and (ii) any grossly negligent violation of non-U.S. securities laws that would have a material adverse effect on the Fund), (b) intentional fraud, (c) wilful malfeasance, (d) reckless disregard of duties, (e) a material and intentional breach of Section 10.1(e)(ii) [*Change of Control*], (f) a material and intentional breach of this Agreement or (g) a material violation of any U.S. federal or state securities law, *provided* that, in the case of clauses (a), (c), (d), (f) and (g), such conduct has resulted in a material adverse effect on the activities or investments of the Fund.

2.5 Removal of the General Partner. The General Partner shall notify the Limited Partners within five Business Days of any judgment by a court of competent jurisdiction (other than in the context of a temporary, preliminary or similar injunction), an admission by the General Partner or the Portfolio Manager in the settlement of any lawsuit or prosecution, or any plea of *nolo contendere*, that the General Partner or the Portfolio Manager has engaged in Removal Conduct in respect of the Fund. If such Removal Conduct is not curable in all material respects or, if curable in all material respects, is not cured in all material respects (e.g., by ensuring that all of the individuals that engaged in the Removal Conduct are no longer involved with the Fund and reimbursing the Fund for any actual financial loss that such conduct caused the Fund) within 30 days after written notice thereof has been provided to the Limited Partners, then the General Partner may be removed as the general partner of the Fund within 120 days after the Limited Partners receive notice of such final judgment, admission or plea by the written election of a Majority in Interest. At such time, a replacement general partner of the Fund shall be designated by the written election of a Majority in Interest, *provided* that any such replacement general partner shall be a Person permitted by applicable law. Upon such election: . . .

Points to Consider:

- *How might GP removal dynamics for a continuation fund differ from a main fund? What might you push for as the Lead Investor?*
- *What is the sponsor’s perspective?*
- *What economic consequences should follow removal?*

5.6 Key Person Termination.

(a) If, at any time during the Term, fewer than three of the Key Persons continue to devote, whether through the General Partner, the Portfolio Manager or otherwise, such time and effort to the investment and other activities of the Fund as is required by Section 2.3(f) for any

reason other than the temporary disability (*i.e.*, less than 180 days in any twelve month period) of such Key Persons, then the General Partner shall promptly notify the Limited Partners in writing of such occurrence and the Fund's ability to make Follow-On Investments and New Investments will be suspended (the "Suspension Mode"). Such Suspension Mode shall terminate, and the Fund's ability to make Follow-On Investments and New Investments shall resume, upon the earlier of (i) the election of Qualified Replacement(s) pursuant to Section 5.6(b) sufficient to result in at least four Key Persons satisfying the requirements of Section 2.3(f) and (ii) the consent of the Advisory Committee to resume the Fund's ability to make Follow-On Investments and New Investments. If the Suspension Mode has not been so terminated within 120 days after its commencement, then the Fund's ability to make Follow-On Investments and New Investments shall terminate immediately following such 120-day period.

(b) The General Partner may, by written notice to each member of the Advisory Committee, nominate a Qualified Replacement for any Key Person. The General Partner will use commercially reasonable efforts (i) to provide information to the members of the Advisory Committee with respect to any such nominee and, if requested by such members, shall arrange for an interview of such nominee with such members at a mutually convenient time and place and (ii) to schedule a vote by the Advisory Committee no sooner than five Business Days but no later than 30 days after the notice of nomination is given. A nominee's election shall be effective upon the affirmative vote of a majority of the non-abstaining voting members of the Advisory Committee and upon such election such nominee shall constitute a "Qualified Replacement."

Points to Consider:

- *How might Key Person dynamics for a continuation fund differ from a main fund?*
- *What consequences should flow from a Key Person event?*

B3 – Continuation Fund Provisions – Expenses and Allocations

Definitions

“Excess Organisational Expenses” shall mean the amount of Organizational Expenses (other than (i) any applicable VAT and/or (ii) Placement Fees) in excess of the Fund’s *pro rata* share (based on aggregate Capital Commitments) of \$7 million.

“Fund Expenses” shall mean, as determined by the General Partner, all fees, costs, expenses, liabilities and obligations (together with any applicable VAT thereon) relating to the Fund and/or its subsidiaries and Intermediate Entities and/or its or their activities, business, Portfolio Companies or actual or potential investments, including with respect to any Person formed to effect the acquisition and/or holding of a Portfolio Company (to the extent not borne or reimbursed by a Portfolio Company or potential Portfolio Company), including all fees, costs, expenses, liabilities and obligations relating or attributable to: . . .

“New Limited Partner” shall mean any Limited Partner that is not a Rolling Limited Partner.

“Organisational Expenses” shall mean the Fund’s *pro rata* share (based on Aggregated Capital Commitments) of all costs, fees and expenses (together with any applicable VAT thereon) directly or indirectly incurred in connection with the organization, funding and start-up of the Fund, the General Partner, the Special Limited Partner and any affiliated management company, in each case as determined in good faith by the General Partner, including all Placement Fees and all out-of-pocket legal, accounting, printing, travel (including, the cost of private air travel above the cost of first class and/or business commercial airfare when commercial travel is unavailable or not convenient (as reasonably determined by the General Partner)), lodging, meals, entertainment, mailing, courier, capital raising, regulatory compliance, initial and/or preliminary registrations notifications, filings and compliance and other offering requirements (including, to the extent relevant, those contemplated by the AIFMD) and administrative or filing costs, fees and expenses, and any other organisational costs, fees and expenses (including costs, fees and expenses incurred in the preparation of, and negotiations with respect to, this Agreement, Subscription Agreements and any Side Letters).

“Rolling Limited Partner” shall mean any Limited Partner that held an interest in the Selling Fund and whose Capital Commitment corresponds to the amount to which it was entitled to receive from the Selling Fund in connection with the Transaction.

Expense Allocation Provision (Framework Agreement)

12. Costs and Expenses.

(a) All costs, fees and expenses incurred in connection with the Framework Agreement, and the Transactions, whether or not consummated, will be paid by the Party incurring such cost or expense, unless otherwise set out in the Framework Agreement.

(b) The transaction expenses, transfer taxes (including any ECI and FIRPTA withholding taxes, if any) and the costs and expenses in relation to filings and registration fees will be borne 50% by and amongst the Selling Fund, on the one hand, and 50% by the Continuation Fund, on the other hand, *provided* that the Placement Fee shall be borne by the Continuation Fund.

(c) The Selling Fund will bear the contributing fund expenses and the Continuation Fund will bear its own organisational expenses.

Section 5.2

(d) Calculation of Each Partner's Share of a Drawdown. Each Partner shall pay the Capital Contributions determined in accordance with the provisions of this Section 5.2(d) and specified in the relevant Drawdown Notice, as the same may be revised pursuant to Section 5.2(c), by wire transfer in immediately available funds to the account specified therein. Except as otherwise provided herein, the required Capital Contribution of each Partner shall be made no later than the Drawdown Date specified in such Drawdown Notice and shall equal the following, in each case up to an amount not to exceed such Partner's Remaining Capital Commitment:

(v) in the case of a Drawdown to be used to pay Placement Fees, with respect to each New Limited Partner (other than Affiliated Partners) such New Limited Partner's *pro rata* share (based on Capital Commitments of the New Limited Partners) of any such Placement Fees then payable by the Fund, as applicable.

Points to Consider:

- *What are the main categories of expenses for continuation fund transactions?*
- *How could/should they be borne?*
- *If you are representing the Lead Investor, what comments would you make?*

B4 – Continuation Fund Partnership Agreement – Waterfall

6.3 Distributions Attributable to Portfolio Investments. Except as otherwise provided herein, Distributable Cash (other than *de minimis* amounts) attributable to any Portfolio Investment shall be distributed within 90 days after receipt by the Fund (or, if distribution within such 90-day period is not practicable, as soon as practicable thereafter). Distributable Cash attributable to any such Portfolio Investment shall initially be apportioned among the Partners in proportion to their Sharing Percentages with respect to such Portfolio Investment. Except as otherwise provided herein, the amount apportioned to the Special Limited Partner and to each Affiliated Partner shall be distributed to the Special Limited Partner and such Affiliated Partner, respectively, and the amount apportioned to each other Limited Partner shall be distributed as follows (with each determination made as of the time of distribution):

(a) *First*, 100% to such Limited Partner until the cumulative amount distributed to such Limited Partner pursuant to this Section 6.3(a) is equal to the Capital Contributions of such Limited Partner;

(b) *Second*, 100% to such Limited Partner until the cumulative amount distributed to such Limited Partner pursuant to this Section 6.3 is sufficient to provide such Limited Partner with an 8% annualised effective internal rate of return on the Capital Contributions of such Limited Partner described in Section 6.3(a) (computed from the due dates specified in the applicable Drawdown Notices until the dates distributions are made pursuant to this Section 6.3);

(c) *Third*, 100% to the Special Limited Partner until the cumulative amount distributed to the Special Limited Partner attributable to such Limited Partner pursuant to this Section 6.3 is equal to 15% of the excess of (i) the cumulative amount distributed to such Limited Partner and to the Special Limited Partner attributable to such Limited Partner pursuant to this Section 6.3 over (ii) the aggregate Capital Contributions of such Limited Partner;

(d) *Fourth*, 85% to such Limited Partner and 15% to the Special Limited Partner until the cumulative amount distributed to such Limited Partner pursuant to this Section 6.3 is sufficient to provide such Limited Partner with a 15% annualised internal rate of return on the Capital Contributions of such Limited Partner (computed from the due dates specified in the applicable Drawdown Notices until the dates distributions are made pursuant to this Section 6.3);

(e) *Fifth*, 100% to the Special Limited Partner until the cumulative amount distributed to the Special Limited Partner attributable to such Limited Partner pursuant to this Section 6.3 is equal to 25% of the excess of (i) the cumulative amount distributed to such Limited Partner and to the Special Limited Partner attributable to such Limited Partner pursuant to this Section 6.3 over (ii) the aggregate Capital Contributions of such Limited Partner; and

(f) *Seventh*, 75% to such Limited Partner and 25% to the Special Limited Partner.

Points to Consider:

- *How is this different to a main fund different waterfall? Why?*
- *What other economic protections might an LP want to include in the context of a continuation fund when LPs want to further incentivise the sponsor to maximise returns.*

B5 – Continuation Fund Partnership Agreement – Additional Issues

- The Partnership Agreement provides for the ability to make “New Investments”.

Points to Consider:

- *Is this reasonable? What is the GP/LP perspective on this?*

- The Partnership Agreement does not provide for any cap on aggregate or per investor capital commitments.

Points to Consider:

- *What concerns might the Lead Investor have?*