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COVID-19

IMPLICATIONS FOR INSTITUTIONAL INVESTORS

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New Funds and Market Opportunities

Subscriptions and Closings

Impact on Fund Launches and Closings

- **Some funds affected by market deferrals**
 - Delays or deferrals
 - Extensions of offering periods
 - Suspensions of subscriptions
- **Opportunistic funds**
 - Accelerated fund launches
 - Relatively brief offering periods

Subscriptions and Closings

Impact on Onboarding by Investors

- **Investor Decisionmaking**

- Range of Reaction: Some investors hit the “pause” button while others responded defensively and/or opportunistically
- Challenges: Standard operating procedures (such as standing periodic investment meetings or in-person meetings) may not be sufficient or possible
- Innovation: Delegation of Authority
 - Delegation from boards and other fiduciaries to chief investment officers
 - If temporary, is delegation period sufficient?

Subscriptions and Closings

Impact on Onboarding by Investors

- **Execution of Fund Documents**
 - Esignatures
 - Permissible under applicable law?
 - Permissible under the fund documents?
 - Must hard copies follow?
 - Notarization
 - Witnesses
- **Signing Authority and Authorized Signatory Lists**

Issues Impacting Fund Investors

Fund Investment Program

Impact on Performance

Changes in Investment Strategy and Portfolio Holdings

- Defensive or opportunistic
- Permissible or unauthorized style drift
- Violations of investment restrictions

Impact on Borrowing and Leverage

- Defaults
- Margin calls
- Pressure from lenders and prime brokers

Issues Impacting Fund Investors

Ability to Meet Capital Calls

Excuse Rights

- Broad enough to cover current funding issues?

Default Provisions

- Notice of not meeting initial call deadline
- Grace period
- Consequences of default

Force Majeure

Issues Impacting Fund Investors

Liquidity

Open-End Funds

Valuation Issues

Liquidity Issues

Side Pockets

Issues Impacting Fund Investors

Investor Exit Rights and Limitations

•Open-End Funds

- Hard and Soft Lock-ups
- Notice Requirements
- Frequency of Redemption Rights
- Redemption Gates
- Audit Hold-Backs
- Distributions in kind
- Suspensions
- Wind-Downs

Issues Impacting Fund Investors

Liquidity

Closed-End Funds

Plans to realize investments

Valuation
issues

Write-downs

Distributions
in kind

Extensions of
investment
period

Extensions of
harvest
period/term

Valuation
issues

Issues Impacting Fund Investors

Investor Exit Rights and Strategies

• Closed-End Funds

- Rights to Suspend and Terminate the Investment Period
 - Key Person Events
 - For Cause
- GP Kick-Out Rights
- Fund Termination Rights
- Transfers Through Secondary Transactions

Issues Impacting Fund Investors

Governance

Role and Operation of LPAC

Investor Meetings

Deemed Consent

Amendments

Issues Impacting Fund Investors

- Investor Opportunities
 - Opportunities to Renegotiate Fund Terms
 - Fees
 - Liquidity rights
 - Investment guidelines and restrictions
 - Borrowing and leverage limits
 - Opportunities to Impact Fund Operations
 - Business continuity, reopening, and contingency plans
 - Cybersecurity and data privacy
 - Investment Opportunities
 - Co-investment opportunities
 - Opportunities to purchase interests from distressed investors

New Funds and Market Opportunities



Opportunistic Credit Funds

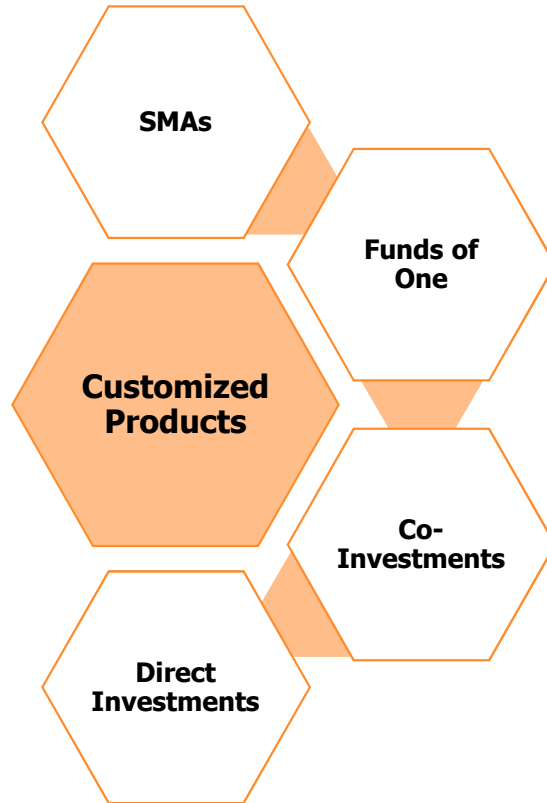
Customized Products

Term Asset-Backed Lending (TALF funds)

New Funds and Market Opportunities

- Opportunistic Credit Funds – Key Terms
 - Fundraising Period: Shorter to take advantage of the opportunity (e.g., 1-6 months)
 - Term: Shorter than 10-12 years (e.g., 5-8 years)
 - Investment Period: Shorter for same reasons (e.g., 1-2 years)
 - Capital Calls: Shorter than 10 calendar or business days (e.g., 5-7 days)
 - Recycling: Some funds have unlimited recycling during the investment period and/or substantial ability to recycle after the investment period
 - Hedging: Some closed-end funds require cash contributions to serve as collateral for any hedging, with the hedging contributions not generating a preferred return
 - Lock-ups: Some hedge funds have long hard lock-ups (e.g., 3-4 years)

New Funds and Market Opportunities



New Funds and Market Opportunities

- TALF 2.0
 - Authorized by section 13(3) of the Federal Reserve Act, TALF is intended to facilitate the issuance of, and improve the market conditions for, asset-backed securities
 - Key Parties:
 - TALF Lender: special-purpose vehicle capitalized by a \$10 billion investment by the Department of Treasury and a line of credit of \$100 billion from the New York Fed
 - TALF Agent: primary dealers that will act as agent for eligible borrowers to obtain TALF loans
 - Eligible Borrowers: US companies that own eligible collateral and have a relationship with a primary dealer
 - A US company is defined as a business that is created or organized in the United States or under the laws of the United States and that has significant operations in and a majority of its employees based in the United States.

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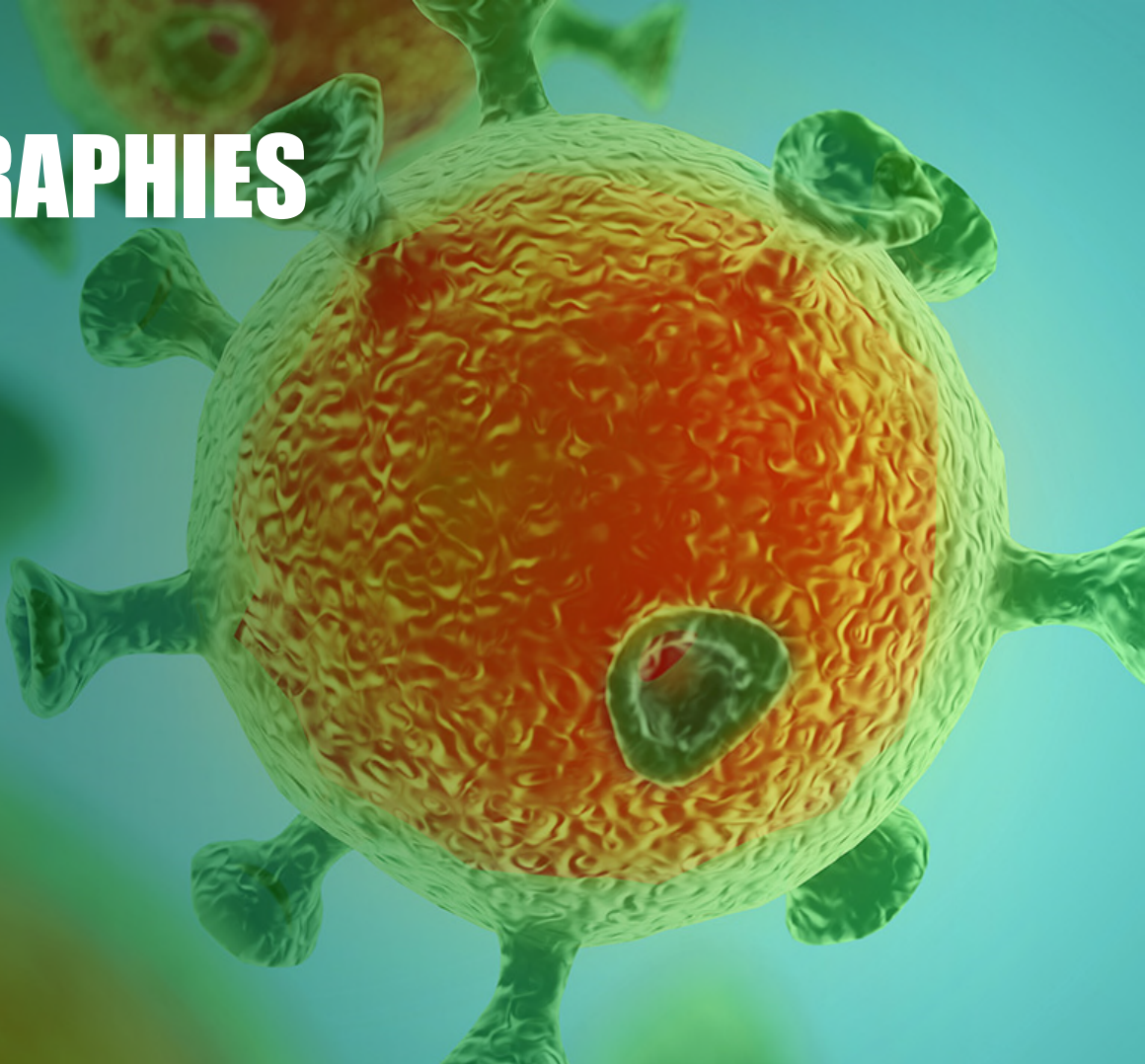
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Gregg Buksbaum focuses his practice on domestic and international business transactions, primarily representing private fund sponsors and institutional investors in the formation of, and investment in, various types of private investment funds, including private equity, hedge, venture capital, real estate, infrastructure, mezzanine, credit, distressed debt, special opportunity, and funds of funds, among others. He has extensive experience with co-mingled funds and bespoke funds of one, managed accounts, and similar investment management arrangements. Gregg also represents clients in private equity and venture capital transactions, joint ventures, financings, entity formation, and other domestic and cross-border transactional matters in developed and emerging markets in a variety of industries.

Gregg regularly advises institutional investors—including sovereign wealth funds, public pension plans, family offices, funds of funds, and other similar investors—in negotiating their investments in a variety of private investment funds and managed account platforms, as well as negotiating secondary transactions, co-investments, direct investments and arrangements with transition managers, prime brokers, custodians, and commodities trading advisers.

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Christopher is the chair of the firm’s institutional investors working group, a member of the firm’s diversity and inclusion committee, a member of the New York office’s recruiting committee, and the head of the New York office’s LGBT lawyer network.

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Courtney Nowell advises global clients on their inbound and outbound investments into private investment funds, including leveraged buyout, venture capital, distressed debt, real estate, hedge, energy, infrastructure, and credit funds. She also represents buyers and sellers in secondary transactions and investments in opportunity and sidecar funds and co-investments. Her clients include sovereign wealth funds and major public and private pension funds, as well as foundations, endowments, and family offices. She counsels institutional investor clients with respect to US corporate structuring, compliance, and governance issues, including the application of US anti-money laundering sanctions and know-your-customer laws and regulations.

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Stephen C. Tirrell's practice focuses on advising private investment funds (US and non-US) and investment advisers in relation to all aspects of their businesses. Steve assists clients in the structure and organization of hedge funds, hybrid funds and private equity funds, including equity, arbitrage, distressed, global macro, funds of funds, first-loss funds, real estate funds, infrastructure funds and others. Steve counsels clients on seed capital arrangements, compensation arrangements among partners and employees, complex fund restructurings, co-investments and compliance with the Investment Advisers Act of 1940 and other relevant US securities laws.

In addition to his private fund practice, Steve represents and advises a variety of entities, including banks, broker-dealers, CDOs, and hedge funds, with respect to issues involving joint venture arrangements, derivatives products and new product development.

At a previous firm, Steve was a member of both the investment management and structured products groups and split his time between structuring a variety of hedge funds and negotiating complex derivative transactions.

Before joining Morgan Lewis, Steve was at another international law firm, where he was a partner in their investment management practice.

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