

OCTOBER 5, 2026 | PUBLICATION

Client Alert: U.S. Private Equity Trends and Developments

The US private equity industry enters the second half of 2026 amid a landscape defined by structural evolution, regulatory recalibration, and the continued maturation of alternative investment strategies. While fundraising remains constrained relative to the 2021 peak, secondary transactions have surged to record levels, continuation vehicles have become a primary liquidity mechanism, and private credit has expanded well beyond direct lending into a multi-strategy asset class. Meanwhile, the regulatory environment has shifted meaningfully under new Securities and Exchange Commission (SEC) leadership, and the push to democratise retail investor access to private markets is reshaping fund structures and compliance considerations.

Secondaries

The global secondary market reached unprecedented scale in 2025, with transaction volume hitting USD240 billion, a 48 percent year-over-year increase and the largest year on record, according to Jefferies Private Capital Advisory. Looking ahead, William Blair projects total volume of USD250 billion for 2026, while Jefferies forecasts that secondary transaction volume could approach USD300 billion annually within the next 12 to 24 months.

The composition of the secondary market has evolved meaningfully. Investor-led transactions accounted for roughly 50 percent of volume in 2025, while sponsor-led buyout volume surged from USD58 billion to USD81 billion, a 39 percent increase. Dry powder allocated to secondary strategies reached USD327 billion in 2025 and closed-end fundraising for secondaries strategies accounted for 18 percent of total private capital raised. Notably, private credit secondaries achieved record levels, with nearly 300 percent year-over-year

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growth in sponsor-led transaction activity.

Several structural factors continue to drive secondary market growth: investor overallocation to private equity, longer holding periods, delayed distributions from underlying funds, and an expanding universe of asset classes beyond traditional buyouts. Notable transactions in recent quarters include Harvard's endowment selling a USD1 billion stake and New York City pension funds completing a USD5 billion sale to Blackstone.

Continuation Vehicles

Continuation vehicles have become, in the words of one leading advisory firm, "the primary liquidity mechanism" for private equity sponsors navigating a muted exit environment. Closed continuation vehicle volume surged in 2025, rising 34 percent in North America.

Moreover, a notable structural innovation gaining attention is the "CV squared" (CV2), in which assets are rolled from one continuation vehicle into another managed by the same sponsor. These structures have extended holding periods amid subdued IPO activity—only 14 private equity-backed IPOs priced in Q1 2026, down from 29 in Q1 2025. As Raymond James has noted, CV2s could turn "a one-time liquidity solution into a repeatable ownership model".

Sponsor commitment norms within continuation vehicles have evolved. In 2025, 37 percent of continuation funds involved the sponsor investing alongside its most recent flagship fund (up from 23 percent in 2024), and approximately 50 percent of sponsors invested additional capital on top of rollover equity. Investor scepticism around conflicts of interest inherent in these structures, where the sponsor sits on both sides of the transaction, continues to grow, and investors are increasingly demanding stronger disclosures around such conflicts and with regard to valuation. As such, practitioners should expect increased negotiation around fairness opinions, investor consent thresholds, and third-party valuations.

Private Credit

Private credit has evolved from a niche lending strategy into a dominant force rivalling the traditional banking system. Direct lending now matches the broadly syndicated loan market at approximately USD1.5 to USD2 trillion in size, with some forecasts projecting growth to USD3 trillion by 2028. Notably, the asset class has expanded well beyond direct lending to encompass asset-backed finance, debt-equity hybrid capital, infrastructure debt, and real estate lending. Asset-backed finance, in particular, is "on course to challenge direct lending's long-held dominance", according to Freshfields.

In addition, recent market dynamics reflect increasing maturity and concentration. Covenant-lite transactions rose to 21 percent of direct lending deals in 2025, up from just 4 percent in 2023, and the top 25 managers accounted for approximately 72% of total fundraising. Semi-liquid vehicles now command almost one-third of the USD1 trillion US direct lending market, and direct lending's share of total private debt capital raised fell from 58.4 percent in 2024 to 31 percent by Q1 2026, highlighting the increased diversification across sub-strategies.

The competitive landscape for credit providers is also shifting. Traditional banks are fighting back against direct lenders, with J.P. Morgan having announced last year that it was carving out USD50 billion for private-credit-style loans. Hybrid capital has also gained particular traction for sponsors holding 2021–22 vintage investments facing compressed exit markets. Meanwhile, private credit fundraising specifically for secondaries increased 14-fold between 2023 and 2025.

Co-Investments

Co-investment activity continues to intensify as both sponsors and investors seek to benefit from such arrangements. According to an Adams Street survey, 88 percent of investors intend to allocate up to 20 percent of their portfolios to co-investments before 2030. On the sponsor side, 82 percent of private equity firms now offer some form of co-investment opportunity, up from 75 percent in 2020.

A meaningful bifurcation has emerged among investors. Many remain passive co-investors, accepting allocations as offered, while more sophisticated investors are pushing for express provisions regarding continuation vehicle exits, warehousing costs, and co-investor governance rights. Co-investment frameworks are increasingly discussed during the fundraising process and memorialized in side letter agreements. For sponsors, co-investment capital provides the ability to pursue larger transactions without exceeding fund-level concentration limits, effectively increasing deployment capacity while strengthening relationships with investors.

Alternative Investment Vehicles

Non-traditional fund structures, such as “evergreen funds”, have experienced remarkable growth in recent years. Evergreen funds held more than USD493 billion in total net assets as of Q3 2025. More than 200 evergreen funds have launched since 2019, with 2025 setting a record for new fund creation. In the US alone, 486 semi-liquid evergreen funds had net AUM of USD457 billion at year-end 2025, with more than half of these having launched within the preceding four years.

In terms of strategies, direct lending funds comprise the bulk of the evergreen fund universe, with AUM tripling since 2022 to over USD209 billion as of November 2025. In addition, evergreen vehicles accounted for an estimated USD113 billion of total capital inflows in 2025, with approximately 41 percent allocated to secondaries strategies. Industry projections suggest that the size of the evergreen fund segment will surpass USD1 trillion by 2029.

Despite the rapid growth and high demand for evergreen offerings, cost remains a consideration. Semi-liquid funds averaged annual net expense ratios exceeding three percent compared with under one percent for most public market vehicles. Nevertheless, interval fund structures, such as the Cliffwater Corporate Lending Fund (with over USD20 billion in assets), continue to gain traction as an alternative wrapper for illiquid strategies.

Reutilization

The democratization of access to private equity and other alternative assets has accelerated significantly under the current presidential administration. In August 2025, President Trump signed an Executive Order titled “Democratizing Access to Alternative Assets for 401(k) Investors”. The Department of Labor followed in March 2026 with a proposed safe-harbour rule designed to permit plan sponsors to add evergreen fund options to 401(k) plan offerings without incurring additional fiduciary liability.

If ultimately finalized, this regulatory framework would clear the single largest legal barrier between USD12.2 trillion in US defined-contribution plan assets and billions of dollars in alternative investments.

Complementing the executive action, the “Retirement Investment Choice Act”, introduced in the House in mid-October 2025, seeks to enshrine these changes, made by Executive Order, into statute. Additionally, the SEC’s Division of Investment Management published guidance in August 2025 removing barriers to retail investors accessing closed-end funds that invest in private funds, and the INVEST Act, which passed the US House of Representatives in December 2025, aims to expand the definition of “accredited investor”.

Despite enthusiasm for the asset class, performance and fee concerns persist. The largest private equity-focused evergreen funds generated a median return of 11.97 percent in 2025, compared with the S&P 500's 17.43 percent. Coupled with average expense ratios exceeding three percent, suitability considerations remain paramount for practitioners advising on these structures.

Fundraising

Global private equity fundraising recovered only modestly in 2025 to approximately USD780 billion, remaining far below the USD1.1 trillion peak reached in 2021. Notably, for US-focused managers, 2025 marked the weakest fundraising year since 2020. The data for 2026 reveals an increasingly bifurcated market: aggregate dollars raised increased by nine percent in the first half of 2026 but the number of funds that successfully closed declined, with established managers capturing a growing share of commitments.

Distributions to paid-in capital (DPI) has become one of the defining fundraising metrics of this cycle. Firms demonstrating strong realized returns have raised capital quickly, while those unable to show meaningful DPI have struggled to close. Investors remain broadly overallocated to private equity, leaving limited capacity for new fund commitments. Fundraising timelines have lengthened further, and the investor/sponsor relationship is under increasing strain, with investors demanding greater accountability, more frequent reporting, and improved governance. Notably, three of the 10 largest private equity funds closed in 2025 were secondary-focused vehicles, underscoring the liquidity premium investors currently assign.

Net Asset Value Facilities

Net Asset Value (NAV) financing has evolved from a niche, late-stage product into a firmly established core fund financing tool deployed across private equity, credit, and real assets strategies throughout the fund life cycle. The NAV lending market has experienced tremendous growth in recent years amid a tough exit environment, as sponsors seek alternative sources of liquidity and distributions for their investors.

The SEC has taken particular notice and indicated that it is scrutinizing NAV loans and subscription lines, focusing on whether fund managers are disclosing these facilities accurately in ADV filings, fund documents, and investor communications. Specific areas where the SEC is particularly focused include valuation integrity, arm's-length terms for sponsor-affiliated lenders, and examining whether distributions funded by NAV loans are being disclosed as debt-funded versus realization-funded.

Special Purpose Acquisition Companies

After several years of decline after 2021, the market for Special Purpose Acquisition Companies (SPACs) has shown a significant recovery. In 2025, 138 SPACs raised USD25.8 billion, representing almost a threefold increase over the USD8.7 billion raised in 2024. SPACs accounted for 40 percent of US IPO deal count in 2025, up from 27 percent the prior year. The momentum has carried into 2026: 107 SPACs listed on US exchanges through mid-June 2026 compared with 57 over the same period a year earlier, with SPAC issuance in the first half reaching its highest level since 2021.

However, challenges remain. Redemption rates are still elevated, although improving in select transactions. De-SPAC activity has remained muted, with approximately 40 completed transactions in 2025 versus 73 in 2024, partly attributable to a smaller pool of vintage vehicles seeking targets. The SEC rules adopted under the prior administration, which sought to align SPAC disclosure obligations with traditional IPOs, remain in effect and continue to shape market practice.

Legal, Regulatory and Compliance Trends

The regulatory landscape for private fund managers shifted meaningfully in 2025 under new SEC leadership. Overall enforcement activity declined, though the SEC maintained its focus on investor harm, disclosure failures, and conflicts of interest. In addition, the SEC has been reassessing several prior regulatory initiatives, including Form PF amendments, with compliance deadlines now extended to 1 July 2027.

The SEC's September 2025 regulatory agenda signalled a pivot toward "innovation, capital formation, market efficiency, and investor protection", with Environmental, Social, and Governance (ESG)-related initiatives dropped from the agenda. The broader push to expand retail access is reshaping regulatory expectations for fund managers. In a notable development, the Commodity Futures Trading Commission (CFTC) issued a December 2025 no-action letter permitting SEC-registered investment advisers to forgo CFTC registration as Commodity Pool Operators (POs) or Commodity Trading Advisors (CTAs) under certain conditions.

Two additional developments merit attention. The Supreme Court's June 2026 decision in *FS Credit Opportunities Corp. v Saba Capital Master Fund* held that Section 47(b) of the Investment Company Act of 1940 does not provide an implied private right of action. Additionally, compliance deadlines for the Regulation S-P (Safeguards Rule) amendments arrived in 2026 for smaller registered investment advisers.

Investment Terms and Fund Documentation

Investors have gained meaningfully greater negotiating leverage in this cycle. A 2025 ILPA member survey found that 69 percent of large investors reported having more negotiating power than in prior fundraising cycles. Side letters have become increasingly routine for larger commitments and first-close investors. Notably, smaller investors are now scrutinizing terms as closely as their larger counterparts; the breadth of operational due diligence is no longer correlated with commitment size.

Several specific trends are reshaping fund documentation. Investors are increasingly resisting "off-market" terms, and there is a discernible shift from bespoke side letter arrangements to explicit provisions in fund limited partnership or limited liability company agreements, driven in part by the Institutional Limited Partners Association (ILPA) reporting template coming into effect in 2026. Investors are negotiating limitations on NAV financing, co-investment allocation policies, and rights regarding continuation vehicle exits. Fee compression continues, with average buyout fund management fees falling to 1.6 percent in 2025—a 20 percent decline from the traditional 2percent level. ILPA's Model LPA project, part of its broader LPA Simplification Initiative, is gaining industry traction as a reference point for investor negotiations.

Investor Focus and Priorities

Distributed to Paid-In Capital (DPI) has effectively replaced Internal Rate of Return (IRR) as the defining performance metric for investor capital allocation decisions. Survey data indicates that 2.5 times as many investors now rank DPI as "most critical" compared with three years ago. Investors are demanding realized returns over paper marks, with more than 60 percent expressing a preference for conventional exits over alternatives such as dividend recapitalizations.

Broader investor priorities in 2026 include operational transparency, team stability, ESG integration with measurable outcomes, and clear succession planning. Concerns over continuation vehicles and NAV-loan-funded distributions, both of which have the potential to artificially inflate DPI, remain at the forefront of investor due diligence. In addition, investors have become more selective and more demanding in negotiations, willing to push for bespoke side letter terms that address these risks. Governance has also

become a meaningful differentiator, with investors increasingly considering clean structures and transparent decision-making processes as essential in evaluating new commitments.

SEC and Regulatory Focus Areas

The SEC's Division of Examinations released its 2026 priorities in November 2025, reorganizing its approach to private fund adviser oversight. Private fund advisers no longer have a standalone section; instead, scrutiny is embedded across four thematic categories, with sharpened focus on private credit, side-by-side conflicts, valuation practices, fee calculations, and AI governance.

NAV loans and subscription lines face heightened scrutiny, with the SEC focusing on disclosure accuracy in ADV filings and investor communications, and a particularly heightened focus on whether distributions funded by NAV loans are properly disclosed as debt-funded.

On the deregulatory side, crypto has been removed from the examination agenda, and the INVEST Act seeks to expand the accredited investor definition. The Form PF compliance deadline has been extended to 1 July 2027, and an Executive Order addressing proxy advisory firms was issued in December 2025.

Artificial Intelligence

Artificial intelligence (AI) has become a transformative force across the private equity value chain. AI accounted for more than seven percent of all private equity deal activity by 2025, up from approximately two percent in 2021–22. The software sector represented 72 percent of AI-related private equity deals in North America during the 2021–25 period. Technology M&A rebounded sharply, with deal value increasing over 75 percent year-over-year to almost USD480 billion by mid-December 2025.

Digital infrastructure encompassing AI-related power generation and data centers has emerged as a major private equity investment theme. AI now accounts for more than 50 percent of global venture capital funding, creating a robust pipeline of potential private equity acquisition targets.

Beyond the deal market, private equity firms are deploying AI internally across their operations. Among generative AI adopters, 35 percent are using the technology for deal sourcing, 40 percent for M&A strategy and market assessment, and significant minorities for due diligence, portfolio monitoring, and fundraising. Industry commentators have described AI as the “third value lever” alongside financial engineering and operational excellence. Fund and operating leaders report positive financial effects from AI deployment across portfolio companies, spanning revenue acceleration, cost optimization, and underwriting insights. The best mid-market funds now review three to five times more proprietary opportunities than in 2022, with the same or smaller deal teams. Notably, the SEC's 2026 examination priorities include AI governance as a focus area for fund advisers.

Conclusion

The US private equity industry in 2026 is characterized by adaptation and innovation in the face of constrained liquidity, longer holding periods, and an evolving regulatory environment. Secondaries and continuation vehicles have emerged as indispensable tools for generating liquidity, private credit has expanded into a multi-faceted asset class, and the democratization of access to alternatives is poised to unlock trillions in defined-contribution capital. For legal practitioners, this environment demands close attention to novel structures, shifting regulatory priorities, and the increasing complexity of investor-sponsor negotiations. As the industry continues its structural evolution, funds lawyers must remain at the forefront of developments across fundraising, compliance, and deal structuring to effectively advise their clients through

this dynamic period.

For more information or questions, please contact Nick Federici.