



New Market Realities Through Timeless Classics

ACIC SPRING INVESTMENT FORUM

APRIL 7-8, 2022 • THE FOUR SEASONS HOTEL • CHICAGO, IL

A Whole New World

New Market Realities Through Timeless Classics

ACIC SPRING INVESTMENT FORUM

APRIL 7-8, 2022 • THE FOUR SEASONS HOTEL • CHICAGO, IL

CO-CHAIRS

CHARLES C. CALLOWAY JR

*Chapman and Cutler LLP
Chicago IL*

NOELLE SPROUL

*Nuveen, LLC
Charlotte NC*

THURSDAY, APRIL 7TH

7:30 am - 8:30 am NEW MEMBER / YOUNG LAWYER BREAKFAST

8:30 am - 8:45 am WELCOME / INTRODUCTION / ANNOUNCEMENTS

8:45 am - 9:45 am

#1 *A Whole New World* – ALADDIN

A Whole New Market? - Market Update

Are we done soaring, tumbling and freewheeling through Covid yet? Let our panel of bankers open your eyes and take you slide by slide, to the Whole New World that the institutional investor deal market is facing in 2022. No magic carpets required.

Moderator Clara Pauw, *Chapman and Cutler LLP*

Speakers Stephanie Acheson, *KeyBanc Capital Markets*
Chris Oberholtzer, *BofA Securities, Inc.*

9:45 am - 10:45 am

#2 *Surface Pressure* – ENCANTO

In the Grip, Grip, Grip of the REIT Legacy Market

Investors have long desired increased covenant protection in legacy REIT/Real Estate financings but are they strong enough to move those mountains? This panel will walk attendees through best practices and advisable covenant protections in REIT financings through the lens of a broad overview the commercial real estate market.

Moderator Brendan Kelly, *New York Life Insurance Company*

Speakers Joseph L. Pagliari, Jr., Ph.D., CFA, CPA, *The University of Chicago*
Michael La Fleur, *TD Securities (USA) LLC*
Jerry Kokal, *U.S. Bancorp*

10:45 am - 11:15 am BREAK



11:15 am - 12:15 pm

#3 *Mother Knows Best* – TANGLED

NAIC Knows Best

Listen to your panelists - on your own you may not survive the new evolving NAIC regulatory changes! This panel will walk through filing exempt transactions, rating agency reporting requirements, private letter ratings and the new Ratings Rationale Report requirement, financial reporting, other updated guidance for filing exempt transactions and potential regulatory changes on the horizon, so we can all step outside our comfort zone without getting hurt along the way.

Moderator Chris Lawrence, *Akin Gump Strauss Hauer & Feld LLP*

Speakers Sasha Kamper, *Apollo Global Management, Inc.*
Tracey Lindsey, *Nationwide*

12:15 pm - 1:30 pm LUNCH

1:30 pm - 2:30 pm

#4 *Something There* – BEAUTY AND THE BEAST

Legal and Structuring Considerations in Private ABS

I wonder why I didn't see it there before....says institutional investors in relation to the Private ABS market. The market is maturing now, searching for yield, pursuing structured credits, like Private ABS transactions. This panel will discuss why institutional investors are now drawn to private ABS, while laying out some of the key structural considerations that arise in these structured transactions. This panel is joined by lawyers and investment professionals, who will share with the audience the "something there" they see from both the legal and business perspective.

Moderator Leah Sanzari, *Orrick*

Speakers Katy Berger, *King & Spalding LLP*
Faisal Kassam, *Kuvare Insurance Services*
Paul Carroll, CFA, *MetLife Investment Management*
Enzo Incandela, *Kuvare Insurance Services*

2:30 pm - 3:45 pm

#5 *Lead the Way* – RAYA AND THE LAST DRAGON

Impact in Private Placements

Institutional investors have fully embraced their responsibility to lead the way when it comes to impact in investing, embracing the choice to build a sustainable future. Listen to your panelists as they discuss the legacy the private placement industry hopes to create, including a discussion of the start brand-new on a standardized framework for ESG diligence led by the Private Placements Investors Association (PPIA) and bringing light to the dark in evaluating "green" offerings.

Moderator Julia Singh, *Greenberg Traurig, LLP*

Speakers Jeff Hughes, *Ares Management Corporation*
Jamie Kocis, *Kramer Levin Naftalis & Frankel LLP*
Kristine Larson, *Allianz Investment Management*
Erica Elsasser, *KeyBanc Capital Markets*



3:45 pm - 4:15 pm BREAK

4:15 pm - 5:30 pm

#6 For the First Time in Forever – FROZEN

The Infrastructure Door is Finally Open - H.R. 3684 - Infrastructure Investment and Jobs Act and Effects on Market Players

For the first time in what feels like forever, we are no longer just speculating about what infrastructure spending will look like. With the gates to the federal coffers open, let our panelists walk you through the economic and political ramifications of H.R. 3684 amongst private placement market players, academia and political advisors. This in-depth panel will seek to offer the membership a general audit of the bill and how they can position their institution to best take advantage.

Moderator Omar Woodard, *Results for America*

Speakers Mansi Patel, *MetLife Investment Management*
Luke Fernandes, *Swiss Re Management (US) Corporation*
Susan Lent, *Akin Gump Strauss Hauer & Feld LLP*

6:00 pm - 8:00 pm RECEPTION - DELAWARE ROOM

FRIDAY, APRIL 8TH

8:15 am - 8:30 am ANNOUNCEMENTS

8:30 am - 9:45 am

#7 Poor Unfortunate Souls – THE LITTLE MERMAID

POSSIBLE ETHICS CREDIT

Candid Conversations About the Challenges of Predesignated Counsel alongside the Ethics Rules

Poor Unfortunate Predesignated Counsel. Facing one of life's tough choices, in a battle with the "witch" but shackled by the duty of loyalty and other ethical obligations, devoted to their unidentified client, faced with the "witch's" quest for payment...those poor unfortunate souls. This panel of brave souls will host a candid conversation about the ethical rules and the practical challenges of predesignated investor counsel in the private placement market, with a promise from the outside counsel participating that they haven't sold their souls and remain loyal to the investor group.

Moderator Heather Wenzel, *Morgan, Lewis & Bockius LLP*

Speakers Michael L. Urschel, *King & Spalding LLP*
William Bulmer, *Prudential Private Capital*
Abhishek Gupta, *BofA Securities, Inc.*



9:45 am - 10:45 am

#8 Bare Necessities – THE JUNGLE BOOK

Return to the Bare Necessities of the Private Placement Market

While it may seem simple, the basics of a private placement can often be overlooked, especially in this turbulent market. Pull up a rock and give our panelists the opportunity to reduce your worries and strife with this refresher.

Moderator Owen Zingraff, *Barings LLC*

Speakers R. Brendan Olin, *Unum Group*
Mark Sternberg, *ArentFox Schiff LLP*
Ann King, *SLC Management*

10:45 am - 11:00 am BREAK

11:00 am - 12:15 pm

#9 Dig a Little Deeper – PRINCESS AND THE FROG

POSSIBLE ETHICS CREDIT

Digging Deeper to Diversity – Diversity in Private Placements – Strengthening the Future Pipeline – Ethics

Surface talk does not cut it anymore. If an organization wants to truly commit to diversity, it has to dig a bit deeper to find and commit to its pipeline. Join our discussion of how to support that pipeline of diverse talent, particularly as we shift into the post-lockdown work environment. This discussion of recruitment, retention and community building best practices from law firms, financial institutions and banks will also touch on balancing excellence at work with inclusion efforts and expectations.

Moderator Fellicia Foster, *BMO Harris Bank*

Speaker Andrea Zopp, *Cleveland Avenue*



2022 ANNUAL SPRING MEETING AND EDUCATION CONFERENCE

CO-CHAIRS:



CHARLES CALLOWAY

Charles Calloway is a partner and member of Chapman's Corporate Finance Department. He represents financial institutions and other strategic investors in domestic and international private placements, project finance deals, and M&A transactions. Charles also has an active sports finance practice where he represents strategic investors in "league-wide" financings and stadium financings.

Charles has been a Fellow of the American College of Investment Counsel (ACIC) since 2014 and previously served as co-editor of the ACIC's newsletter "Private Notes." He is a member of the Economic Club of Chicago, a member of the Leadership Greater Chicago (LGC) Signature Fellows Program Class of 2022, a 2021 Fellow of the Chicago Urban League's IMPACT Leadership Development Program, and serves on the Dean's Advisory Council of The George Washington University Law School. In 2021, Charles was selected by Crain's Chicago Business as a Notable Nonprofit Board Leader in recognition of his service on the boards of Spark Program Inc. and the Chicago Humanities Festival.



NOELLE SPROUL

Noelle H. Sproul is an experienced structured finance and investment attorney, with expertise in private ABS, project finance, Commercial Property and Clean Energy ("CPACE") transactions and other structured finance transactions. Noelle is known for acting commercially and helping clients understand legal risks so they can make appropriate business decisions. She also has a key focus on outcome and execution, including transaction management and process efficiencies. Noelle currently serves as a Managing Director and Associate General Counsel at Nuveen, a wholly owned subsidiary of TIAA. Prior to joining Nuveen, Noelle was a member in the Charlotte office of Moore & Van Allen, with experience representing banks, placement agents, issuers and borrowers in complex financial services transactions. Noelle received a B.S. in Communication Studies and Political Science from Vanderbilt University and a J.D. from the University of Richmond School of Law.

Noelle has been active in TIAA/Nuveen initiatives related to inclusion and employee engagement, serving on Nuveen's Culture Counsel. Previously, she was the Charlotte Co-Chair for Nuveen LEAD (Leadership, Education, Advocacy and Development), which is focused on improving diversity and inclusion in the asset management industry and at Nuveen. In her previous role on TIAA's Advocacy & Oversight Culture Action Team, she supported enterprise initiatives with respect to improving inclusion & diversity efforts of the legal industry and remains committed to intentional personal actions focused on building inclusive legal teams.

Noelle serves on the Networking Committee for Women in Securitization, an initiative of the Structured Finance Association. She also serves as the Vice President of Sponsorship for the Charlotte Chapter of Association of Corporate Counsel. She previously served on the Transaction Process Management Committee for American College of Investment Counsel ("ACIC") and recently joined the Education Committee for ACIC. Noelle is also an active member in the group Diverse Professionals in Private Placements, a newly launched industry group focused on increased inclusion in the private placement market.

In her personal time, Noelle is an advocate for children with learning differences, seeking to educate parent and teachers about neurodiversity and encouraging early identification with the end goal of increased literacy. Noelle also serves as the Vice Chair of Troop 249 of Scouts for America, a diverse group of more than forty scouts.

SESSION 1: PRIVATE PLACEMENT MARKET UPDATE

MODERATOR: Clara Pauw, Chapman and Cutler LLP

PANELISTS: Chris Oberholzer, BofA Securities, Inc.
Stephanie Acheson, KeyBanc Capital Markets

- I. Market Trends in Deal Volumes/Ratings/Geographies
 - A. 2021 Market Data
 - B. COVID impact on market issuance
 - C. Trends in Ratings
 - D. Breakdown of market activity in U.S., Europe and Australasia
- II. Discuss Key Issuance Sectors
 - A. REITs/Utilities/Financials
- III. Important Flexible Features for Issuers
 - A. Deferrals, Currencies
- IV. Trends in ESG/Green Bonds
- V. Buyside Investor Trends
 - A. New entrants
- VI. Developments in Infrastructure
 - A. Investor overview – additional entrants, new groups, more interest in pursuing
 - B. Trends in P3 and PF transactions
- VII. 2022 Market Outlook
- VIII. Questions?

MODERATOR:

CLARA PAUW is an associate in Chapman and Cutler's Corporate Finance Department. Clara represents institutional investors and other financial institutions in connection with the advising, documenting and structuring of a broad range of debt finance transactions, with a particular emphasis on domestic and cross-border private placements, project finance and credit tenant loans (CTLs) and other real estate financings. Clara's experience spans a wide range of industries, including state and federal government, public utilities, hotels, universities, hospitals, parking facilities, medical office buildings, airports, retail outlets, toll roads and distribution warehouses, among others.

PANELISTS:

CHRIS OBERHOLTZER has led Private Placement transaction teams for BofA Securities, Inc. for over 20 years, during which time he has completed over 400 capital raising or related advisory assignments raising in excess of \$80 billion. Chris focuses on the Real Estate and Financial Services sectors and has also worked extensively with consumer/retail, industrial and other corporate issuers. Chris is based in Chicago.

STEPHANIE ACHESON has been in the private placement market for 25 years executing billions in transactions. She is currently part of the fixed income syndicate desk and primarily responsible for the execution of private placements. She is actively involved in the origination process by providing market intelligence which includes investor color, pricing guidance, structuring advice and fully executes on the private placement transactions and assists in new issue investment grade public transactions. Prior to her work for KeyCorp, she was a Director and Vice President for ABN AMRO and LaSalle Debt Capital Markets for six years focusing on origination and execution of private placements across many industries. Prior to ABN she was at Banc of America Securities for 5 years in private placements focused primarily on execution.

Stephanie holds a B.A. with a concentration in Journalism and Mass Communication from the University of Minnesota (1991) and an M.B.A. from the University of Illinois (1997). Ms. Acheson is Series 7 & 63 certified.

NOTES:

NOTES:

SESSION 2: REIT MARKET UPDATE WITH A CLINICAL ANALYSIS OF MACRO REAL ESTATE TRENDS

MODERATOR: Brendan Kelly

PANELISTS: Jerry Kokal
Michael La Fleur
Joseph L. Pagliari Jr.

- I. A Broad Overview of the Commercial Real Estate
 - A. Core Pricing:
 - 1. NCREIF Property Index: Values, NOI & Cap Rates
 - 2. Greenspan's Definition of a "Bubble"
 - 3. Risk & Return
 - B. Non-Core Assets
 - 1. NAREIT Equity Index: Non-Core > 60%
 - 2. Digital Real Estate: Returns =f(# people)
 - 3. Non-Traded REITs (NTRs)
 - C. Lending Characteristics:
 - 1. Lender Composition
 - 2. Changes in Underwriting Guidelines Over Time
 - 3. Delinquency Rates
 - 4. Changes in Spreads Over Time
 - D. Appendix:
 - 1. Changing Mix of NCREIF Property Index
 - 2. Values, NOI & Cap Rates, by Core Property Type
- II. Types of REITS and PP Market Update for REITs
 - A. What makes up REITS/real estate in the private placement market
 - B. Real estate continues to grow in the private placement market
 - 1. Total volume
 - 2. Number/types of deals
 - C. Real estate sectors issuing in the private placement market
 - D. How deal flow for REITs has changed in recent years
 - 1. Volume
 - 2. Types of real estate issuers
 - E. Which type of investor is active in the real estate private placements (larger vs. smaller investors)
 - F. What trends we expect in the next couple of years in the private placement real estate market
- III. REIT Terms and Covenants Update
 - A. Customary financial and other covenants included in REIT transactions
 - B. Current state of the covenant packages being agreed to in REIT transactions
 - 1. how and why covenant packages have changed in recent years
 - 2. what recent changes to covenant packages have been the most contentious
 - 3. how covenant packages may be trending over the next couple of years
 - a. leverage levels
 - b. valuation methodology

MODERATOR:

BRENDAN KELLY is Associate General Counsel at New York Life Insurance Company where his practice focuses on all aspects of private placement transactions. He joined New York Life in 2013 and is based in the Chicago office of New York Life affiliate NYL Investors, LLC. From 2001 to 2013, Mr. Kelly was an Associate and then Counsel in the Finance group at Schiff Hardin LLP in Chicago where he focused on a wide variety of financing transactions, including private placements, mezzanine finance, asset-based lending and private equity borrower representations. For two years prior to joining Schiff Hardin, Mr. Kelly was an in-house attorney at LaSalle Bank (now Bank of America) in Chicago where he focused on commercial lending, commercial mortgage loans and equipment leasing transactions. Mr. Kelly received a J.D. from DePaul University College of Law and a B.A. in Economics from the University of Illinois at Urbana-Champaign. Mr. Kelly has been a Fellow of the ACIC since 2006.

PANELISTS:

JERRY KOKAL serves as Managing Director of the Private Placement Group at U.S. Bancorp Investments, Inc. Jerry is responsible for the origination, structuring and distribution of investment grade private placements. Previously, Jerry served as Executive Director in JPMorgan's Private Placement Group specializing in the distribution of securities to institutional investors and managing ongoing relationships. Jerry was responsible for managing communication and marketing with investors of privately placed securities. Jerry had been a member of the Private Placement Group since 1992 through various predecessor firms. Throughout his professional career, Jerry originated and/or distributed over 500 transactions, raising over \$750 billion in financing. Prior to 1992, Jerry worked as an Audit Manager at KPMG Peat Marwick and in the Merchant Banking Group of BNP Paribas. Jerry earned a B.S. degree in Accounting from the University of Illinois and an M.B.A. degree from the University of Chicago Graduate School of Business.

MICHAEL LA FLEUR has over 16 years of experience in the finance industry, the last 12 of which have been spent in TD Securities' Debt Capital Markets Group. He is responsible for managing the private placement business in the U.S., executing structured and vanilla corporate offerings. In the past 12 years, Michael has been the transaction lead on various traditional (Reg D) and 144A private placements for REITs, energy and utilities, consumer products, industrial clients as well as structured transactions

JOSEPH L. PAGLIARI JR., Ph.D., CFA and CPA, focuses his research and teaching efforts – based on over 40 years of industry experience – on issues broadly surrounding real estate investment, attempting to answer important questions from a rigorous theoretical and empirical perspective. These issues include:

- the risk-adjusted performance of core and non-core funds,
- principal/agent issues in incentive fees,
- a comparison of REITs and private real estate,
- real estate's pricing and return-generating process,
- real estate's role in a mixed-asset portfolio,
- the strategic uses of leverage
- mezzanine financing, etc.

He has authored (or co-authored) numerous papers on a variety of these and other topics, including publications in The Journal of Portfolio Management and Real Estate Economics. He has also co-authored several chapters in the Handbook of Real Estate Portfolio Management; of which, he is also the editor. He has presented these papers and thoughts on other topics at a variety of industry events (including ARES, AREUEA, NCREIF, NAREIM, PREA and ULI) as well as the Federal Reserve Bank of Atlanta and testimony before a subcommittee of the House of Representatives. His views on these and other topics have also been published in the popular press, including Barron's and The Wall Street Journal.

Pagliari is board member of the Real Estate Research Institute (RERI). He is also a member of numerous academic and professional associations including the American Real Estate Society (ARES), the American Real Estate and Urban Economics Association (AREUEA), the Homer Hoyt Institute (where he is a Hoyt Fellow), the National Association of Real Estate Trusts (NAREIT), the National Council of Real Estate Investment Fiduciaries (NCREIF), the Pension Real Estate Association (PREA) and the Urban Land Institute (ULI). Pagliari was also the 2015 winner of PREA's James A Graaskamp Award.

Pagliari earned a bachelor's degree in finance from the University of Illinois-Urbana in 1979. He earned an MBA from DePaul University-Chicago in 1982 and a PhD in finance from the University of Illinois-Urbana in 2002.

NOTES:

NOTES:

SESSION 3: NAIC KNOWS BEST

MODERATOR: Chris Lawrence, Akin Gump Strauss Hauer & Feld LLP

PANELISTS: Sasha Kamper, Apollo Global Management, Inc.
Tracey Lindsey, Nationwide

- I. Two Approaches for NAIC Debt Security Ratings:
 - A. Unrated Security – File with the SVO who reviews and assigns its own risk designation
 - B. Rated Security = Filing Exempt
 1. Rating received from a Nationally Recognized Statistical Ratings Organization (NRSRO), which is shared with the SVO
 2. Rating must meet certain requirements to be filing exempt
- II. Why do Ratings Matter?
 - A. Drives capital charge reserves
 - B. What does this mean from a practical standpoint?
- III. What is required to be filed with the SVO to receive a rating designation
 - A. Offering Memorandum/PPM
 - B. Legal documents
 - C. 3 years of audited financial statement
 - D. Internal analysis memo
- IV. What happens if you don't timely file – must carry as NAIC 5
- V. Types of NRSRO Ratings:
 - A. Issuer Level Ratings
 - B. Debt Ratings
 - C. public vs. private NRSRO ratings
- VI. What must be included for a Private Rating Letter to be accepted by the NAIC?
 - A. Issue-level rating
 - B. Private placement number
 - C. Current rating
 - D. Addresses likelihood of repayment
 - E. Allows sharing with the SVO

VII. New Private Rating Rationale Report – Effective as of 1/1/22

- A. Explains the transaction structure
- B. Discloses rating methodology utilized
- C. Must mirror the work product that an NRSRO would produce for a similar publicly-rated security
- D. Must be updated and shared with the SVO annually
- E. Discussion of new ACIC model language

VIII. Are any securities not eligible for filing exemption?

IX. Regulatory Changes on the Horizon?

- A. December 2021 – NAIC publishes a study that assessed rating comparability across NRSRO's
 - 1. Found material discrepancies in ratings scales and methodologies between certain NRSRO's
 - 2. Discrepancies appeared to be most pronounced in private ratings
 - 3. Study has caused the NAIC to re-evaluate its policy of treating all NRSRO ratings equally and deferring to NRSRO ratings for capital charges (particularly for single-rated securities)
- B. Four potential avenues being considered by the NAIC:
 - 1. Requiring two NRSRO ratings for FE status
 - 2. Allowing SVO to reject ratings from certain NRSRO's
 - 3. Approval right over acceptable NRSRO's
 - 4. Further research
- C. Industry is concerned about capital market disruptions that could potentially result
- D. What is being done? Where do we go from here?

MODERATOR:

CHRISTOPHER LAWRENCE is a partner in the Corporate practice at Akin Gump Strauss Hauer & Feld LLP. His practice focuses on the representation of insurance companies, investment funds and other institutional investors in a wide range of secured and unsecured debt and equity financing transactions, including private placement financings, mezzanine financings, first and second lien debt financings, “one-stop” and unitranche financings, private equity fund investments and private securities offerings.

His experience includes representing investors in connection with leveraged buyouts, cash flow and asset-based lending transactions, project financings, maritime financings and cross-border financings.

Chris also has experience representing investors and lenders in out-of-court workouts, reorganizations and debt restructurings, and advises clients in the purchase and sale of distressed loans and other debt instruments.

Chris is currently a member of the ACIC’s Transaction Process Management Committee and serves as counsel to the Private Placement Investors Association.

PANELISTS:

TRACEY LINDSEY began her career with Nationwide in 1998. Tracey leads Nationwide’s NAIC filing and reporting efforts, across several areas, in her role as an Investment Analyst within the Nationwide Investment and Asset Management Operations team.

Tracey also coordinates, for both business and IT resources, efforts to create innovative technology solutions across regulatory and financial control areas.

Tracey joined NASVA in 2001, joined the and was privileged to join the Executive Committee in 2015. She has been president since May 2017.

SASHA KAMPER is a Managing Director on Apollo Global Management, Inc.’s debt private placement team. Sasha has over 27 years of fixed income experience, including work in the ALM and corporate debt areas, both for Total Return and for Buy and Maintain portfolios. Sasha’s expertise lies in corporate credit analysis where she has followed the Transportation and Manufacturing sectors for over 20 years; she also has extensive experience in amendment and restructuring activities. Prior to joining Apollo, Sasha worked as a Private Placement Portfolio Manager for American Equity Investment Life Insurance Company and as a Senior Private Placement Analyst for Principal Global Investors, LLC. Sasha has earned her CFA Charterholder designation and has served on the CFA Society of Iowa Board. Sasha also serves as the Regulatory Committee Co-Chair for the Private Placement Investors Association. She is a graduate of Drake University, where she earned both her Bachelors in Mathematics and MBA degrees.

NOTES:

SESSION 4: LEGAL AND STRUCTURING CONSIDERATIONS IN PRIVATE ABS

MODERATOR: Leah Sanzari, Orrick

PANELIST: Katy Berger, King & Spalding
Paul Carroll, MetLife
Enzo Incandela, Kuvare
Chris Miller, Nuveen

Panel Summary: In the search for yield, many insurance companies are pursuing structured credits, like Private ABS transactions. This panel will discuss some of the key structural considerations that arise in private ABS transactions, while also distinguishing these transactions from those offered in the 144A market. This panel is joined by lawyers and investment professionals so that the audience will get both the legal and business perspective on these transactions.

- I. Intro
- II. What is a Private ABS Transaction?
- III. Why is the ABS 4a2 market an interesting space for investors?
 - A. Building long term relationships
 - B. Developing Partnership
 - C. Voice in structuring
 - D. Due Diligence
 - E. Pricing
 - F. Small club deals
- IV. Investing through 4a2 as opposed to 144A market –
 - A. 144A deals:
 - 1. Deal is delivered to market with terms
 - 2. Larger investor base
 - 3. More traditional ABS
 - 4. Pricing
- V. How are deals being structured in this new esoteric space to build in traditional ABS investor/rating agency requirements?
 - A. Bankruptcy remote structures
 - B. Recourse limited to Issuer Assets
 - C. Traditional protections built in:
 - 1. Perfection
 - 2. Cash Controls – follow the cash, enforceable cash flows
 - 3. Asset Level Reps with repurchase obligations
 - 4. Full ABS Opinions delivered

- VI. As in-house counsel at an investor, what are the main legal concerns you consider when your client is looking at a deal?
- A. Due Diligence
 - B. Corporate structure
 - C. Underwriting
 - D. Financial Triggers
 - E. Standard ABS Opinions
 - F. Other

MODERATOR:

LEAH SANZARI leads Orrick's esoteric ABS practice in both the 144A and 4(a)(2) Private Placement markets. She regularly represents issuers and investors in complex, novel, esoteric deals of first impression.

Leah's experience includes a wide variety of asset-backed securities, with a particular emphasis on esoteric assets, including tax liens, PACE liens, oil & gas securitizations, renewables, music catalog securitizations, diamond receivables securitizations and whole business operating company securitizations. She also has a large practice in residential mortgage transactions. She often works with numerous borrowers and lenders on financing and warehouse facilities for mortgages and esoteric assets and also advises both sellers and buyers of portfolios of assets, including mortgages and esoteric assets.

Leah advises a number of financial institutions and government agencies with regard to the implications of financial markets regulation, as well as in connection with complex capital markets, debt financing and other transactions.

In the Chambers USA 2021 USA - Nationwide Capital Markets: Securitization: PACE and USA - Nationwide Capital Markets: Securitization: ABS directories, a client noted that "she does a really good job of guiding us commercially and she helps to keep us focused on the big picture. She demonstrates incredible diligence; she is available all the time and she helps us dive in and understand the nuances of transactions." Another said, "she works tirelessly to close transactions, she is very practical, she is super competent, she rises to the occasion and she is a problem-solver." In the Structured Finance: Securitization category of The Legal 500 US, a client stated that "she is business-oriented and does a good job of framing issues so that we can craft solutions that are a win-win for both sides."

Leah's recent experience includes advising investors in the securitization of oil and gas wellbore interests done in the ABS Market starting with Raisa Energy. Since inception, Orrick has led the investors in establishing the market for these deals..

She is a part of the Financial Institutions Industry Group, a multi-practice global group of partners who have client relationship responsibilities for financial institutions around the world.

Leah is a member of Orrick's Financial Audit Committee and the former chair of Orrick's Women's Initiative.

PANELIST:

KATY BERGER is a senior associate in King & Spalding's Finance practice group. Katy represents financial institutions, institutional investors, private equity funds and specialty lenders in variety of structured asset-based financing transactions, including 4(a)(2) private placements, Rule 144A offerings, warehouse financing facilities, bankruptcy safe harbored repurchase facilities, trade receivables financing and securitization, and other types of asset-based lending transactions.

PAUL CARROLL is responsible for sourcing, underwriting and managing the Private Structured Credit portfolio for MIM. In previous roles within MIM, Paul acted as the Head of Strategy for MIM's Structured Finance group and as lead credit analyst for US Esoteric and International Structured Credit. He previously worked at Bank of America Merrill Lynch managing the ABS lending portfolio. He graduated Cum Laude with a degree in Finance from the Isenberg School of Management at the University of Massachusetts, Amherst and received his MBA with Distinction from the Tuck School of Business at Dartmouth College. He is a CFA charterholder.

ENZO INCANDELA counsels the investment team on transactional matters and provides legal support on a range of regulatory, governance, compliance and contract matters for Kuvare Insurance Services. He has over 20 years of finance industry experience, most recently as Associate General Counsel at OFS Capital Management. Enzo previously practiced at Paul Hastings LLP and Ice Miller LLP, specializing in a wide range of financing and private equity transactions. Prior to his legal career, Enzo worked at UBS and Morgan Stanley (previously Smith Barney). Enzo is a graduate of Loyola University Chicago School of Law, DePaul University Kellstadt Graduate School of Business and North Central College.

FAISAL KASSAM leads the firm's Asset-Backed investment efforts for Kuvare Insurance Services. He has 10 years of industry experience and previously at Waterfall Asset Management, he led the origination and structuring of private Asset-Backed debt facilities and special situation private equity investments collateralized by a wide variety of traditional loan and esoteric asset types. Faisal began his career at Guggenheim Partners, where he originated and structured esoteric Asset-Backed securities, executed M&A transactions for specialty finance and fintech companies and invested in special situation aircraft debt and equity transactions. Faisal attended the University of Wisconsin-Madison where he earned a BA in Economics.

NOTES:

SESSION 5: LEAD THE WAY IN PRIVATE PLACEMENTS – CONSIDERING TRANSACTIONS THAT CAN HAVE AN IMPACT

MODERATOR: Julia Singh | Greenberg Traurig, LLP

PANELISTS: Erica Elsasser | KeyBanc Capital Markets
Jeff Hughes | Ares Management Corporation
Jamie Kocis | Kramer Levin Naftalis & Frankel LLP
Kristine Larson | Allianz Investment Management

- I. Introduction
 - A. Brief introduction of what we mean by transactions that can have an impact and why investors and issuers care about transactions that have an impact.
- II. Business Perspective – Investors
 - A. Discussion will focus on impact investing from an investor perspective, including why it is important to investors and investor perspectives to such investments.
- III. Business Perspective – Agents and Issuers
 - A. Discussion will focus on ESG offerings from the sell-side, including:
 - 1. Views of the issuers around ESG private placements
 - 2. Pros and cons of ESG offerings from issuer perspectives (such as costs, reporting, greeniums, positive public relations)
 - 3. Future of ESG offerings
- IV. Legal Perspective – Regulatory and Other Legal Considerations
 - A. Discussion will focus on regulatory and other legal considerations in reviewing and documenting green offerings, including:
 - 1. Legal Standards
 - 2. Green Bond Principles
 - 3. Components for Green Bond Principles
 - 4. Key Recommendations
 - 5. Legal Recourse
- V. “Digging Deeper” – ESG Due Diligence
 - A. Discussion will focus on measures that are being developed in conjunction with the Private Placements Investors Association (PPIA) to standardize the approach in the private placement industry to ESG due diligence in assessing issuers and their ESG offerings.

MODERATOR:

JULIA SINGH is a Shareholder in the Chicago office of Greenberg Traurig, LLP. Her practice focuses primarily on the representation of insurance companies, pension funds and other institutional investors in private placement financings with issuers across a variety of jurisdictions, including the U.S., Europe and Australia. These financings encompass corporate and structured finance transactions involving a variety of assets and industries, including social housing, higher education, healthcare, utilities, power and energy, ports and other infrastructure assets.

Greenberg Traurig has a team of attorneys engaged on a full-time basis in the practice of institutional private placements in, among other places, its Chicago, New York, London, Berlin and Amsterdam offices.

PANELISTS:

ERICA ELSASSER is a Director in KeyBanc Capital Markets' Debt Capital Markets group. She has spent 11 years on the team and currently focuses her efforts on originating both private placements and investment grade public bonds across multiple sectors (including healthcare, infrastructure, consumer, and industrial). She is also responsible for building out the ESG financing efforts. She is a graduate of Ohio State University and currently pursuing her MBA at UCLA Anderson School of Business.

JEFFREY HUGHES is a Managing Director and Portfolio Manager, Private Placements in the Ares Credit Group, where he focuses on U.S. direct lending. Prior to joining Ares in 2021, Mr. Hughes was a Senior Director at Nuveen LLC in New York City, where he was responsible for sourcing, underwriting, and managing a portfolio of private placements for TIAA and several third-party clients. In addition, he managed the NY private placement corporates team for the Company. Previously, Mr. Hughes was a Vice President at Alliance Bernstein, and focused on originating, underwriting, and managing a portfolio primarily of investment grade private placements and high-yield bank loans. In addition, Mr. Hughes was a Vice President at MONY Life insurance Company, where he underwrote and monitored a portfolio of investment grade and mezzanine private placements as well as high yield bank loans, which he also actively traded. Mr. Hughes began his career as a Relationship Manager with HSBC's Multinational Corporate Banking unit. Mr. Hughes holds a B.A. from Temple University in Economics and an M.B.A. from Bloomsburg University.

JAMIE KOCIS advises securitization participants in both warehouse securitization facilities and term securitizations across all esoteric asset classes. She serves as deal counsel in market-leading transactions involving new and emerging asset classes, including in the solar asset and commercial PACE (property assessed clean energy) space.

Jamie represents issuers, underwriters, borrowers, lenders and service providers in structured finance transactions involving a variety of asset classes, including timeshare loans, solar assets, commercial PACE assets, structured settlements, lottery receivables, equipment leases, auto loans, consumer loans, small business loans, collateralized debt obligations, commercial mortgage loans, marketplace lending, distressed assets, government contract receivables, student loans, and trademark and licensing rights. She also counsels investment funds in their participation in tender option bond programs.

Chambers USA recognized Jamie as a leading securitization lawyer. According to a Chambers source, "She is responsive, constructive, she works with all parties to resolve any issues" and "is very good for esoteric securitization and PACE" (2021).

Jamie has also been named one of the 500 Leading Dealmakers in America by Lawdragon (2021), named one of the 500 Leading Lawyers in America by Lawdragon (2019 – 2021), named to PACENation's First 100 Leaders (2019) and named among the Notable Women in Law by Crain's New York Business (2019).

Jamie is co-chair of Kramer Levin's Women's Initiative Committee and is a member of the firm's Attorneys of Color Affinity Group.

KRISTINE LARSON is a Director for Debt Private Placements on Allianz Global Investors' Private Credit team. She is based in New York City and manages a private placement portfolio of corporate and infrastructure investment-grade credits. Prior to joining Allianz in 2014, Kristine held various investment and marketing positions at Genworth Financial, TIAA-CREF and Bank of America, covering interest rate and currency derivatives and asset classes such as structured finance and convertible bonds. Kristine was also a Management Consultant with KPMG Consulting.

Kristine has a keen interest in Corporate Sustainability. She is currently co-leading the Committee on ESG Standards for the PPIA. Representing a diverse group of private placement investors, the team is charged with creating a common Corporate Sustainability questionnaire to be available to all interested PPIA investors.

Ms. Larson holds a B.S. in accounting from Loyola Marymount University and an M.B.A. from Haas School of Business, UC Berkeley. Ms. Larson is a CFA Charterholder and CPA.

NOTES:

NOTES:

SESSION 6: H.R. 3684 - INFRASTRUCTURE INVESTMENT AND JOBS ACT AND EFFECTS ON MARKET PLAYERS

MODERATOR: Omar Woodard

PANELISTS: Luke Fernandes
Mansi Patel
Susan Lent

What is the Infrastructure Investment and Jobs Act?

- A. Law makes \$1.2 trillion available over 5 years for infrastructure projects.
- B. Takes expansive view of infrastructure
 - 1. Transportation
 - 2. Energy
 - 3. Water
 - 4. Broadband
 - 5. Cybersecurity

What Are the Opportunities for Federal Financial Assistance?

- A. Funding available through grants and loans for infrastructure projects over five years.
- B. Funding available to private sector and governments for research, development and demonstration with a focus on emerging and clean technology.
- C. Opportunities for private sector to deliver projects through public private partnerships (P3) and traditional contracts.

Reforms Relevant to Public Private Partnerships

- A. Private Activity Bonds
 - 1. Law increases the limit for Private Activity Bonds for qualified highway and surface freight transportation facilities from \$15 billion to \$30 billion enabling private entities to obtain benefits of tax exempt financing through a government conduit issuer.
 - 2. Expands the types of projects eligible for funding with PABs to include qualified broadband projects and qualified carbon dioxide capture facilities. These new categories will have a 75% exemption from the volume cap under per Section 146(g) of the Internal Revenue Code.
- B. Value for Money Analyses
 - 1. For any highway project estimated to cost \$100 million or more, a public entity seeking to undertake the project through a P3 and also receive federal assistance (grant or loan) must perform a Value for Money (VfM) analysis to determine its appropriateness. The public entity also must certify to the Department of Transportation within 3 years after the project opens that the private partner is meeting the terms of the P3 agreement and describing any violations of the agreement.
 - 2. Any public entity seeking a DOT loan for a project estimated to cost more than \$750 million that is anticipated to generate user fees or other revenues in a state that authorizes P3s, must conduct a VfM analysis to determine the appropriateness of undertaking the project through a P3 and report the results of the analysis to the Secretary. The Secretary is required to submit the analysis to Congress.
- C. Asset Concessions
 - 1. Law establishes a new program to provide technical assistance and expert services to governmental entities in evaluating and entering into asset concessions. The program requires that asset concessions do not impose added costs, including user fees and tolls, on taxpayers with annual household income less than \$400,000/year.

Transportation

- A. \$567.5 billion will be distributed over 5 years by the U.S. Department of Transportation (DOT).
- B. Funding will go to state departments of transportation, transit agencies and airports by formula.
- C. State and local governments, including cities, counties, transit agencies, airports and seaports, can apply for competitive grants.

Key Grant Programs - Transportation

A. Electric Vehicle Charging Infrastructure

- 1. \$7.5 billion for formula and competitive grants to install and operate electric vehicle charging infrastructure.
- 2. Program encourages public private partnerships.

B. Smart Cities

- 1. \$500 million for competitive grant program to fund projects that demonstrate innovative transportation technologies, including coordinated automation, connected vehicles, sensor-based infrastructure, systems integration, commercial delivery and logistics, and use of unmanned aircraft systems, smart grids and smart technology traffic signals.
- 2. \$900 million for grants to deploy, install, and operate advanced transportation technologies that improve safety, mobility, efficiency, system performance, intermodal connectivity, and infrastructure return on investment.
- 3. Encourages private sector innovation and partnerships.

C. Congestion Relief

- 1. \$250 million in competitive grants for large urbanized areas to reduce congestion, including by adding high-occupancy vehicle (HOV) lanes, toll lanes, cordon pricing, parking pricing and congestion pricing and implementation of mobility services and incentive programs that encourage nonhighway travel and travel during nonpeak times.

Key Grant Programs - Transportation

A. Resilient Infrastructure

- 1. \$8.7 billion in formula and competitive grants for infrastructure that is resilient against vulnerabilities to current and future weather events, including sea level rise.
- 2. Funds may be used for highways, transit and port infrastructure.

B. Intercity passenger rail and freight rail

- 1. \$36 billion for intercity passenger rail, which can be operated by a private entity.
- 2. \$5 billion for Consolidated Rail Infrastructure and Safety Improvements (CRISI) program to fund intercity passenger and freight rail infrastructure.
- 3. \$3 billion for a new railroad grant crossing elimination program.

C. Projects of National and Regional Significance

- 1. \$7.5 billion for local and regional programs (including road, rail, hike and bike path, freight, port, road access to airports) and \$5 billion for large-scale megaprojects.
- 2. \$8 billion for nationally significant freight and highway projects.
- 3. \$12.5 billion for new competitive grant program to rehabilitate and replace bridges.

Key Grant Programs - Transportation

A. Seaports

1. \$2.25 billion for infrastructure projects at public ports (private port operators/container terminal operators can apply for funds with a port).
2. \$250 million for projects to reduce truck emissions at ports, including through electrification.

B. Airports

1. \$5 billion for competitive grants for airport terminal development, airport access roads and rail access to airports.

C. Public Transportation

1. \$36.6 billion for various grant programs for public transportation, including to construct light and heavy passenger rail, streetcars and bus rapid transit projects and purchase zero and lower emission transit vehicles and infrastructure.

Water

- A. \$55 billion for Environmental Protection Agency (EPA) programs.
- B. \$83 billion for Bureau of Reclamation programs.
- C. \$9.55 billion for Army Corps of Engineers programs for authorized projects.
- D. \$1 billion for Federal Emergency Management Agency (FEMA) state resiliency grant program (BRIC).

EPA Programs

- A. Most of the EPA money will be distributed to states to capitalize their clean water and drinking water revolving loan funds.
 1. States must distribute 49% of funds to projects in low income communities as grants or forgivable loans.
 2. \$30.7 billion is for Drinking Water State Revolving Fund
 - a. Of that amount, \$15 billion is set aside for lead service pipe replacements and \$4 billion is set aside for projects to address emerging contaminants.
 3. \$12.713 billion is for State Clean Water Revolving Fund
 - a. Of that amount, \$1 billion is set aside for projects to address emerging contaminants.
- B. \$5 billion for grants to small and disadvantaged communities to address emerging contaminants in water.
- C. 1.2 billion for brownfields competitive grants.

Bureau of Reclamation Programs

Bureau of Reclamation funds water and hydropower infrastructure projects in the Western states. The following are key Bureau of Reclamation programs funded under the infrastructure law:

- A. \$1 billion for a competitive grant program for large scale projects that reclaim and reuse municipal, industrial, domestic, or agricultural wastewater or impaired groundwater or surface water.
- B. \$250 million for competitive grants for desalination projects.
- C. \$400 million for WaterSMART and Energy Efficiency Grants
- D. \$100 million for competitive grants for small water storage and groundwater projects.

Energy

- A. The law includes funding for grants, loans and cooperative agreements for research and development and demonstration projects and projects for construction of manufacturing facilities to ensure a robust clean energy supply chain.
 1. \$27.65 billion is for grid infrastructure, resiliency and reliability programs.
 2. \$7.712 billion is for research and development and manufacturing incentives to establish supply chains for clean energy technologies.

3. \$27.85 billion is for fuels and technology infrastructure (e.g., carbon capture).
4. \$9.5 billion is for programs related to research, development, demonstration and deployment of hydrogen from clean energy sources.
5. \$5.05 billion is for grant and loan programs to encourage investment in energy-efficient infrastructure, vehicles and technology.
6. \$763 million is for hydropower incentives.

DOE Grant Programs – Energy Transmission

DOE Grant Programs – Energy Efficiency

DOE Grant Programs – Emissions Reduction

DOE Grant Programs – Emissions Reduction

DOE Grant Programs – Emissions Reduction

DOE Grant Programs – Emissions Reduction

DOE Grant Programs – Batteries

DOE Grant Programs – Batteries

DOE Grant Programs – Energy Storage

Broadband Funding

- A. The infrastructure law includes \$65 billion for broadband infrastructure to be distributed by the Department of Commerce.

Broadband Funding

- A. Department of Homeland Security Funding
- B. The law makes funding available for resilient infrastructure and cybersecurity infrastructure.

U.S. Government Loan Programs

- A. DOT, DOE and EPA have programs that make or guarantee loans to private project sponsors and state and local government entities at low interest rates with favorable repayment terms.
- B. The interest rate is typically the rate for U.S. treasuries of similar maturity.
- C. The borrower can defer loan payments for five years after substantial completion of the project.
- D. The new law requires a state or local government entity seeking a loan for a project estimated to cost more than \$750 million to complete a value for money analysis to determine if pursuing a public private partnership would provide greater value.
 1. This change may encourage governmental entities to consider public private partnerships to deliver, finance, operate and/or maintain infrastructure projects.

USDOT Loan Programs

- A. USDOT administers two loan programs:
 1. Transportation Infrastructure Finance and Innovation Act (TIFIA).
 2. Railroad Rehabilitation and Improvement Financing (RRIF).

DOE Loan Program

- A. Title 17 Innovative Energy Loan Guarantee Program will make \$3 billion of loan guarantee authority available for transmission expansion projects that use innovative technologies yet to be deployed at commercial scale to move electrical power more efficiently.
- B. Domestic manufacturing of components involved in efficient transmission technologies may be eligible under the same solicitation, including high voltage direct current (HVDC) components.
- C. Projects must (1) utilize a new or significantly improved technology; (2) avoid, reduce or sequester greenhouse gases; (3) be located in the U.S.; and (4) have a reasonable prospect of repayment.
 1. Includes projects that employ elements of commercial technologies in combination with new or significantly improved technologies.

Financial Terms of Loan/Loan Guarantee

- A. Loan guarantee can fund up to 80% of project costs.
 - 1. Depends on coverage ratios and security of projected offtake.
- B. Can guarantee 100% of direct loan from the Federal Financing Bank (FFB) with interest rate calculated at U.S. Treasury rate for tenor of loan plus FFB liquidity spread plus credit risk premium (all in interest rate ranges from .375% to 2% above interest rate of Treasury securities with similar average life).
- C. Can provide partial loan guarantee of commercial debt from eligible lenders with interest rate negotiated between Loan Program Office, commercial lender and borrower.

Senior secured loans or loan guarantees with fixed or floating rate debt.

Flexible repayment terms.

- A. Up to 30 years or 90% of projected useful life with possible grace periods.
- B. Can structure based on predictable cash flows.

Changes to the DOE Loan Program in the Infrastructure Law

- A. Expanded the types of projects eligible for DOE loans and loan guarantees to include:
- B. Medium and heavy-duty vehicles, trains, locomotives, maritime vessels, aircraft and Hyperloop technology.
- C. Projects that increase the domestically produced supply of critical minerals, including through production, processing, manufacturing, recycling or fabrication of mineral alternatives.
- D. Certain Alaska natural gas transportation programs and systems eligible for loan guarantees.
- E. Projects for the transportation by a common carrier of carbon dioxide for a fee.
- F. Added factors the Secretary may consider in determining creditworthiness, including:
- G. Strength of contractual terms of the project (if commercially reasonably available).
- H. Forecast of non-contractual cash flows supported by market projections.
- I. Cash sweeps and other structure enhancements.
- J. Projected financial strength of borrower at loan close and throughout loan term after the project is completed.
- K. Financial strength of investors and strategic partners of borrower.
- L. Other factors relied on by private lending community and nationally recognized rating agencies as determined by the Secretary.

EPA Water Infrastructure Financing and Innovation Act

- A. EPA makes loans to sponsors of eligible water and wastewater infrastructure projects.
- B. Loans can fund up to 49 percent of the total project cost.
- C. Repayment schedules can be customized.
- D. The maximum final maturity of a loan is 35 years.
- E. Repayment can be deferred up to 5 years after substantial completion of the project.
- F. Interest rate will be equal to or greater than the U.S. Treasury rate of a similar maturity at the date of closing.
- G. Projects must be creditworthy and have a dedicated revenue stream.

Compliance Considerations

- A. Federal grants and cooperative agreements come with compliance obligations and potential traps for those not familiar with receiving federal funding.
- B. Grant compliance requirements are set out in the Code of Federal Regulations (CFR) - 2 CFR Part 200 –Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- C. Unique Federal Laws and Regulations Not Applicable to Commercial Projects.

- D. Whistleblower Protections – 41 U.S.C. 4712 – written notice to employees working on grant that they are subject to whistleblower rights and remedies.
- E. Mandatory disclosures – 2 C.F.R. 200.113 – requires disclosure to the government violations of Federal criminal law involving fraud, bribery or gratuity violations potentially affecting the Federal award.
- F. Suspended/debarred entities – 2 CFR Part 180 – prohibits debarred or suspended entity from participating in a grant.
 - 1. Grant recipient must confirm vendors are not suspended or debarred from doing business with government before entering into contracts for \$25,000 or more.

Buy America Requirements

- A. IIJA requires that within 180 days of enactment, federal agencies must ensure that no funds made available for a federal financial assistance program for infrastructure is obligated for a project unless all of the iron, steel, manufactured products and construction materials used in the project are produced in the U.S.
- B. Federal financial assistance program means assistance to non-federal entities in the form of grants, cooperative agreements, non-cash contributions or donations or property, direct appropriations, loans, grants, insurance, interest subsidies and other assistance in accordance with 2 CFR 200.1.
- C. Produced in the U.S. means:
 - 1. For iron or steel products, all manufacturing processes, from the initial melting stage through the application of coatings, must occur in the U.S.;
 - 2. For manufactured products, (i) the product must be manufactured in the U.S.; and (ii) the cost of the components of the manufactured product that are mined, produced, or manufactured in the U.S. must be greater than 55% of the total cost of all components of the manufactured product, unless another standard for determining minimum amount of domestic content has been established under applicable law or regulation; and
 - 3. For construction materials, all manufacturing processes for the construction material must occur in the U.S. except that aggregates and concrete are exempt from the definition of construction materials.
- D. OMB is required to issue standards that define “all manufacturing processes” in the case of construction materials within 180 days.

Agency Grant Regulations/Guidance

- A. General. Grant compliance requirements are set out in the Code of Federal Regulations (CFR) – 2 CFR Part 200 –Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards.
- B. Agency Terms and Conditions. Each federal agency has specific grant terms and conditions with additional/different compliance requirements.
- C. Agency Specific:
- D. 2 C.F.R. Subtitle B (agency specific regulations)
- E. Department of Energy – extensive and different 2 CFR Subtitle B requirements.

Buy America Requirements

- A. Infrastructure includes, at a minimum, the structures, facilities, and equipment for (1) roads, highways and bridges; (2) public transportation; (3) dams, ports, harbors and other maritime facilities; (4) intercity passenger and freight railroads; (5) freight and intermodal facilities; (6) airports; (7) water systems, including drinking water and wastewater systems; (8) electrical transmission facilities and systems; (9) utilities; (10) broadband infrastructure; and (11) buildings and real property.
- B. Project means the construction, alteration, maintenance, or repair of infrastructure in the U.S.

- C. Buy America must be interpreted consistent with U.S. Government obligations under international treaties.
- D. State agencies and certain local agencies (e.g., Port Authority of New York and New Jersey) may be parties to trade agreements and, therefore, prohibited for certain procurements, from applying domestic preferences against countries that are a party to the trade agreement.
- E. Transportation and water federal financial assistance programs are exempt.
- F. Local governments typically not covered by trade agreements.

Buy America Requirements

Thresholds below which procurement is not covered by the General Procurement Agreement (GPA.)

Buy America Requirements

- A. Federal agencies were required to submit a report to OMB and Congress by January 14 that identifies all federal financial assistance program for infrastructure administered by the agency, the domestic content procurement preferences, including the applicable laws and regulations; the scope, applicability, and any exceptions and waivers issued; and the types of infrastructure projects that receive funding under the program. The report also was required to identify any deficient programs where a domestic content procurement preference requirement does not apply in a manner consistent with the IIJA or is subject to a waiver of general applicability not limited to the use of specific products for use in a specific project.
 - 1. Note that to the extent an existing domestic preference requirement meets the requirements of the IIJA, it may remain in effect.
- B. Law directs OMB to issue guidance to assist agencies with identifying deficient programs and applying new domestic content procurement preferences. Law also directs OMB to amend 2 CFR Part 200 if necessary to ensure domestic content procurement preference requirements are imposed through the terms and conditions of awards of federal financial assistance.

Buy America Requirements

- A. Agencies may waive Buy America requirements only upon a determination that (1) applying the preference is inconsistent with the public interest; (2) the types of iron, steel, manufactured products or construction materials are not produced in the U.S. in sufficient and reasonably available quantities or of a satisfactory quality; or (3) inclusion of iron, steel, manufactured products or construction materials produced in the U.S. will increase the cost of the overall project by more than 25%.
- B. Before issuing a waiver, agency must provide (1) a written justification; and (2) not less than 15 days for public comment.
- C. Federal agencies must review existing general applicability waivers every five years and provide an opportunity for public comment.

Davis-Bacon Act Requirement

- A. Construction or renovation contracts in excess of \$2,000 funded by federal funds, in whole or in part, are subject to the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148)
 - 1. Department of Labor (DOL) regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction") implement the Davis-Bacon Act.
- B. Grant recipients are required by law to ensure that all laborers and mechanics employed by contractors or subcontractors on federally-funded construction projects shall be paid wages at rates that are not less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor. See 2 CFR 200 Appendix II.
- C. The Davis-Bacon wage determination established by the DOL lists various construction work classifications, such as carpenter, electrician, plumber and laborer and the minimum wage rates (and fringe benefits, where prevailing) that people performing work in those classifications must be paid.

1. Apply to specific geographic areas, usually a county or group of counties. Wage decisions are modified from time to time to keep them current.
2. Davis-Bacon and the DOL regulations provide for remedies in the event of violations, including withholding from payments due to the contractor to ensure the payment of wages or liquidated damages which may be found due. These contract clauses enable the contract administrator to enforce the Federal labor standards applicable to the project.

D. Budget Impacts

1. Davis-Bacon Act prevailing wages, benefits and administrative costs can increase the cost of construction materially.

Accounting

Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards

- A. Allowable costs must be in accordance with 2 CFR Part 200.
- B. Must maintain records to demonstrate costs are reasonable, allowable and allocable to the work done under the grant.

Standards for Financial Management Systems – 2 CFR 200.302; 2 CFR 215.21

- A. Grantee must maintain records that identify the source and application of funds for federally-sponsored activities.
- B. Records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.
- C. Grantee must maintain effective control over and accountability for all funds, property and other assets.
- D. Grantee must be able to demonstrate how federal grant funds and the applicable cost share is budgeted, tracked and monitored.
- E. Grantee must have written cash management policies and procedures.

Cost Sharing – Matching

- A. Agency Use/Identification
 1. Not required to be included as part of a grant.
 2. If used for evaluation, criteria for evaluation must be included in Notice of Funding Opportunity.
- B. Cost Share/Matching can include:
 1. Cash
 2. In-Kind (including third party in-kind contributions)
 3. Volunteer Services
 4. Property/Equipment
 5. Unrecovered indirect cost
- C. Agency Accounting Requirements for Cost Share can Vary.

Pre-Award Costs

- A. Definition
 1. Pre-award costs are those incurred prior to the effective date of the Federal award or sub-award directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work.
 2. Allowable only to the extent that they would have been allowable if incurred after the date of the Federal award.
- B. Approval
 1. Most agencies require written approval.
 2. Look for specific agency pre-approval: “It is DOC’s policy to waive the prior approval requirement for pre-award costs (up to 90 days) for research awards. However, such costs incurred remain at the applicant’s risk.”
 3. Always include an potential pre-award costs in application/proposal.

Program Income

A. Definition

1. Gross income earned by the recipient that is directly generated by a supported activity or earned as a result of the award.
2. Income from service fees, conference fees, sale of commodities, usage or rental fees and royalties on patents and copyrights.

B. Sale of real and personal property.

1. If purchased in whole or in part with Federal funds, may be treated by some agencies as program income. (Check agency specific regulations, grant terms and conditions and grant manuals)

C. With approval, can be used to offset cost share.

Equipment

A. 2 CFR 200.313; 2 CFR 215.34 Equipment:

1. Title to equipment purchased with federal funds vests with grantee subject to certain conditions.
2. Grantee must use equipment for authorized purpose and not encumber property without approval.
3. Must maintain property records, including serial number or other identification, source of funding, who holds title, acquisition date, cost of property, percent of federal participation, location, use and condition of the property, and any ultimate disposition data, including the date of disposal and sale price.
4. Must take a physical inventory of property and reconcile results with property records at least once every three years.
5. Must develop control system that has adequate safeguards to prevent loss, damage or theft.
6. Must develop adequate maintenance procedures to keep property in good condition.
7. Must obtain approval from government to dispose of equipment acquired under grant even if no longer needed or obsolete.

Closeout/Audit

A. 2 CFR 200.333; 2 CFR 215.53 Record Retention

1. Must retain records for three years from date of submission of the final expenditure report.
2. Must retain records for equipment acquired with federal funds for three years after disposition.

B. 2 CFR 200.343; 2 CFR 215.71 Closeout Procedures

1. Must submit financial, performance and other reports required by the terms and conditions of the grant within 90 days after date of completion of grant.

C. 2 CFR 200.501; 2 CFR 215.26 Audit Requirements

1. For profit entities that receive \$750,000 or more during their fiscal year in federal grants, are required to undertake audits of their grants and submit to federal government.

MODERATOR:

OMAR WOODARD is Vice President of Solutions at Results for America (RFA), where he advises government leaders on using data and evidence in policymaking, and supports collaborative, community-led partnerships with local governments across the U.S. to accelerate economic mobility.

Prior to RFA, Omar spent nearly ten years as a social impact investor in roles as executive director of GreenLight Fund Philadelphia, and principal at Venture Philanthropy Partners. He spent his early career in global, federal, state, and local government affairs across a range of roles: registered federal lobbyist, policy director for the PA State Senate Minority Whip, policy director for a Philadelphia mayoral campaign, and urban policy aide to a U.S. Congressman.

Omar is a member of the Federal Reserve Bank of Philadelphia's Economic and Community Advisory Council, and is a board member of Compass Working Capital, Philadelphia Alliance for Capital and Technology (PACT), and the Independence Public Media Foundation. He is a Term Member of the Council on Foreign Relations and held fellowships with the Institute for Emerging Health Professions at Thomas Jefferson University, the Association of Black Foundation Executives, and the Center for the Study of the Presidency and Congress.

Omar received a M.P.A. in Nonprofit Management, and a B.A. in International Affairs (Economics, Arabic) and a minor in public policy, both from George Washington University, where he was a Presidential Fellow. He completed executive education in nonprofit governance from Harvard Business School, where he received the Hansjoerg Wyss Award for Social Enterprise.

PANELISTS:

LUKE FERNANDES currently is Head of US Infrastructure Finance for Swiss Re based in NYC. He joined in early 2022 to build out the US direct infrastructure debt platform and team. Focus will be on the broad infrastructure sector which includes renewables, transportation, power, utilities, and social infrastructure. Previously, Luke was at Legal and General Investment Management America in Chicago where he held various roles however most recently was an Investment Manager within the US Private Credit team focused on infrastructure debt and corporate private placements. Luke began his career at Citigroup within the Project Finance and Infrastructure Team where he spent three and a half years helping clients structure project finance transactions either using Citi's balance sheet as a solution or structuring project and/or private placement bonds to syndicate out to the broader institutional investor market.

MANSI PATEL is the Head of U.S. Infrastructure and Project Finance debt investments at MetLife Investments Management in the MetLife Private Capital group. The team is responsible for transaction sourcing, origination, underwriting and portfolio management in the infrastructure sector and is focused on transportation, power, renewables, water, pipeline, energy, energy transition and social infrastructure sectors. As of December 31, 2021, MetLife Investments Management managed US\$34 billion of Global Infrastructure Debt Investments. Prior to joining MetLife Investment Management in 2006, Ms. Patel held roles at PricewaterhouseCoopers in their advisory and consulting tax divisions. She holds a B.S. degree in Statistics and a B.S. degree in Finance from Rutgers College and a M.B.A. in Finance from Silberman College of Business at Fairleigh Dickinson University.

SUSAN LENT is a partner in Akin Gump's Washington, D.C. office and is the head of the firm's infrastructure and transportation practice and co-head of the firm's autonomous vehicles initiative. Susan advises clients on financing and developing transportation and other infrastructure projects, including toll roads, highways, ports, freight, airport, intermodal, rail, water infrastructure, renewable energy, economic development and social infrastructure. She represents clients seeking loans from the Department of Transportation (DOT), the Department of Energy (DOE) and the Environmental Protection Agency (EPA) and counsels clients on the regulations with which grant or loan recipient must comply. Susan is deeply familiar with the regulations of the various DOT modal. Susan also represents clients before Congress in light of her deep experience with transportation and other infrastructure programs. Before joining Akin Gump, Susan served as counsel to the Subcommittee on Surface Transportation and as counsel for investigations and oversight to the House Committee on Transportation.

NOTES:

NOTES:

SESSION 7: CANDID CONVERSATION ABOUT THE CHALLENGES OF PREDESIGNATED COUNSEL ALONGSIDE THE ETHICS RULES

MODERATOR: Heather Wenzel, Morgan, Lewis & Bockius LLP

PANELISTS: William Bulmer, Prudential
Abhi Gupta, BofA
Michael Urschel, King & Spalding

One of the hallmarks of the private placement market is the concept of predesignated counsel. The agent and/or the issuer appoint “designated counsel” for the investor group to prepare documents before the identity of the investor group is known. This creates challenges for counsel, representing a client they don't yet know, and raises important questions about the duty of loyalty (always owed to the investor-client, even though another person selects counsel) and effective representation of a client you don't yet know. Four brave souls have agreed to step into the hot seat and candidly discuss this challenge, from the investor perspective, the agent perspective and the law firm perspective.

I. Overview of Predesignated Counsel:

- A. History of Predesignated Counsel.
- B. How is Predesignated Counsel Chosen?

II. Ethics Rules:

- A. When the client relationship is formed?
- B. Duty of Loyalty.

III. Candid Discussion of Effective Representation

- A. What are the challenges posed by predesignated counsel?
- B. Perspective Of:
 - 1. Investor
 - 2. Investor's Counsel
 - 3. Placement Agent

MODERATOR:

HEATHER WENZEL is a Partner at Morgan, Lewis & Bockius LLP where she represents institutional investors and other lenders in a wide range of domestic and cross-border finance and restructuring transactions. Her practice is primarily focused on secured and unsecured debt transactions including private placements, syndicated debt financings, “one-stop” financings, mezzanine financings, and other strategic financings across a number of industries and business sectors.

PANELISTS:

BILL BULMER has been a Vice President & Corporate Counsel with Prudential Private Capital (PPC) for over 25 years. Bill is one of three lawyers primarily supporting PPC's Dallas-based, private investment management units: Real Assets – Energy; Real Assets – Power and Dallas Corporate Finance. Prior to joining Prudential, Bill was in private practice with Fulbright & Jaworski, LLP focusing on general corporate, M&A and securities matters. His current finance practice includes new originations, modifications and exits, workouts and general portfolio management matters arising from a combined Dallas portfolio of over \$19 billion in assets under management. Bill has significant experience in a wide variety of private investment transactions, including traditional secured and unsecured debt transactions, bank loans, project and infrastructure financing and mezzanine debt and equity investments (representing Prudential Capital Partners, L.P. and Prudential Capital Energy Partners, L.P.).

Bill is a Fellow of the American College of Investment Counsel and has been a member of the State Bar of Texas since 1990. He received a BBA (Economics) from The University of Iowa in 1987 and earned his MBA and JD (with high distinction) from Iowa in 1990.

ABHI GUPTA is a Director in the US Private Placement Group at BofA Securities. He is responsible primarily for executing US Private Placements in North America and Europe across a variety of industries including industrials, power, infrastructure, financial institutions and entertainment. Since joining the group in 2012, Abhi has been involved in the execution of more than 250 transactions aggregating over \$45 billion.

Abhi earned a bachelor's degree in Economics at the University of Chicago prior to joining BofA.

MICHAEL URSCHEL leads our structured finance team focusing on debt capital markets, securitization, private placements, hybrid finance and structured lending, with a particular focus on esoteric asset financing and acquisition financing of complex assets. A member of our firm's Financial Services leadership team, Michael advises our financial institutions clients on a variety of financing opportunities, regulatory matters and portfolio acquisitions and dispositions across the capital structure. Michael also serves as a member of the firm's Business Review Committee.

Michael counsels banks, purchasers, sponsors and borrowers in a wide range of capital markets, structured lending and acquisition financing transactions. He has structured and led dozens financings of numerous franchised concepts, digital infrastructure, cellular tower, data center and distributed antenna operators, solar and renewable energy assets, transportation assets, media royalties, outdoor advertising receivables, ground lease financing transactions and specialty real-estate lending platforms, among others. Michael is recognized by Chambers USA and Legal 500 U.S., and has been profiled by Asset-Backed Alert. Michael serves on the Structured Finance Committee of the New York City Bar Association and the Legal Counsel Committee of the Structured Finance Association, is a former Chairman of the Board of Directors of Make Music New York, Inc. and is the Editor of The Securitisation Law Review, published by Law Business

NOTES:

NOTES:

SESSION 8: BACK TO BASICS PANEL DISCUSSION OUTLINE

MODERATOR: Owen Zingraff, Barings LLS

PANELISTS: R. Brendan Olin, Unum Group
Mark Sternberg, ArentFox Schiff LLP
Ann King, SLC Management

- I. High Level Overview
 - A. Quick overview of private placement transactions
 - B. Market Overview and Deal Structure
 - 1. 4(a)(2) exemption
 - 2. Reg D / Reg S
 - 3. 144A (public vs private)
- II. The Different Model Forms
 - A. What it covers and what it doesn't (i.e., secured transactions; project financing)
 - B. Key differences and why
 - 1. Cross Default vs Cross Acceleration
 - 2. Cross Currency and Swap Issues
 - C. Note MF1 language making it into MF2 deals, e.g.
 - 1. Open market purchase option (Section 8.5)
 - 2. Issuer risk shifting in reps, particularly additional MAE qualifiers in, for example, OFAC reps (Section 5.16)
- III. General Issues
 - A. Exit Consents
 - B. Confidentiality Provisions
 - 1. Need uniformity across deals
 - 2. How does it play out internally
 - 3. Not opting in via click-wrap (e.g., S&P ratings letter)
 - C. Financial Covenants
 - 1. How/when/why calculated
 - a. Incurrence vs maintenance
 - b. Pro forma basis
 - D. Priority Debt/Cookson/Structural Subordination
 - 1. Collateral AND Guaranty Parity
 - E. Change of Control
 - 1. Par put option vs EoD
 - F. MFL Provisions
 - 1. Rationale/Scope/How Modified

G. Make-Whole vs Modified Make-Whole

1. Purpose and issues if optional prepayment notice is revocable
2. Discount Rates
3. Make-Whole Holidays

H. Delayed Draw Issues

I. Wire/Funding Issues

1. Flag changes in documentation (e.g., microdeposit provisions) and market practice (e.g., zoom calls with treasurer of issuer to confirm)

VI. Items for the TMPC to Consider?

A. Payment Instructions and Purchaser Schedules – consider cutting from NPA and including in separate document

1. Institutions don't want info out there
2. Considerably lengthens document
3. Creates duplicative work when paying/other agents involved as they have their own specific forms and information requests

B. Model Form "Corrections"

C. Canadian Sanctions – Important for All Deals

D. Update in Ratings Language

1. Need for ratings rationale report – filing exemption important
2. Quick Note on NAIC Filing Process
 - a. What are NAIC ratings and why important?

V. [Secondary Transactions]

MODERATOR:

OWEN ZINGRAFF is an Assistant General Counsel on Barings' Private Credit Legal Team, providing internal legal support for Barings' Global Private Placement, Global Infrastructure Debt and Global Private Finance investment, product and structuring teams. Owen has been a lawyer since 2008. Prior to joining Barings in 2019, he was a partner in Winston & Strawn's Charlotte office, focusing his practice on corporate lending and other corporate finance transactions. Before that, Owen was an associate at Winston & Strawn (Charlotte), K&L Gates (Charlotte) and Clifford Chance (New York). He holds a B.A. in Political Science from the University of North Carolina at Chapel Hill and a J.D. from Georgetown University Law Center. He is admitted to practice law in New York and North Carolina.

PANELISTS:

ANN KING is an Assistant Vice President and Senior Counsel on the legal team of Sun Life Assurance Company of Canada and its investment adviser, Sun Life Capital Management (U.S.) LLC ("SLC Management"), in Wellesley, Massachusetts. She primarily advises the Private Fixed Income group of SLC Management on investment transactions for Sun Life affiliates and third-party clients, including secured and unsecured notes, project finance, structured finance and private equity, including debt and equity purchases and sales, amendments and consents, restructurings and workouts and bankruptcy matters. Ann was in private practice in Boston prior to joining Sun Life. She is a former Trustee of the American College of Investment Counsel (ACIC) and a former Co-Chair of its Education Committee.

BRENDAN OLIN joined Provident Life and Accident Insurance Company, which is a subsidiary of Unum Group, in 1986. Brendan primarily focuses on private placements, derivatives, reinsurance transactions, public bonds, financial restructuring, mergers and acquisitions, insurance securitization transactions, tax credits transactions, investment laws compliance and legislation regarding investments by insurers, commercial real estate transactions and commercial mortgage loans.

Brendan is a graduate of Northwestern University (1978) and Washington University in St. Louis School of Law (1983).

MARK STERNBERG is a partner in the corporate finance practice in the Chicago office of ArentFox Schiff LLP. Mark serves primarily as special counsel to institutional investors including insurance companies, banks, finance companies and leasing companies in a wide range of privately placed, Rule 144A and public financing transactions that include: unsecured loans to REITs, real property funds and listed property trusts; unsecured and secured loans to non-profits, including universities, colleges and hospital systems; secured and unsecured loans to investor owned utilities, distribution and generation and transmission cooperatives and other energy related issuers; domestic and cross-border leveraged and synthetic leasing of aircraft, industrial equipment, railroad rolling stock, real estate and vessels; project, infrastructures and stadium financings; contract monetizations, credit tenant loans, asset securitizations and other secured and unsecured debt financings. Mark also represents a number of corporations in their private and public debt financings and represents clients in restructuring and workout matters.

Mark received his law degree (J.D., Magna Cum Laude, Order of the Coif, 1988) from the University of Illinois College of Law at Urbana-Champaign and his bachelors of science in accountancy (B.S., High Honors, 1985) from the University of Illinois at Urbana-Champaign Geis College of Business. He is also is a Certified Public Accountant.

Mark is a past trustee of the American College of Investment Counsel.

NOTES:

SESSION 9: DIVERSITY IN PRIVATE PLACEMENTS - STRENGTHENING THE FUTURE PIPELINE

MODERATOR: Fellicia Foster, Managing Director, Head of U.S. People, Process, Change, Inclusion & Talent Integration, BMO Harris Bank

PANELISTS: Andrea Zopp, Managing Partner, Cleveland Avenue – CAST US

Context Setting

- I. Share Diversity Representation Slides: Provides context on how we are quantifying the problem of diversity representation and gaps within Law Firms, Private Equity Firms and Financial Services Organizations
 - A. Diversity and Attrition in Law Firms (refer to Eliminating Bias in Evaluations deck - slides 3 – 4)
 - B. Diversity in Financial Services Firms (refer to slide from Fellicia F. – slide 5)
 - C. Diversity in Private Equity (refer to slides from Andy Z. – slides 6)

Uncovering the Nature of the Problem

- II. What has been the cause for low diversity representation within these firms? What are the broader equity issues that impact their diverse colleagues, clients and communities where they do business?
 - A. Early career talent and interest in the industry
 - B. Lack of investment in diverse communities and small businesses
 - C. Red-tape for wealth generation through real-estate
 - D. Impacts to career development and advancement of diverse talent
 - E. Recruitment and new hire selection bias
 - F. Understanding where the need is and intentionally addressing it
 - G. Implicit and systemic biases in policy and procedures
- III. What are the key enablers to the success of intentional diversity and equity strategies?
 - A. FF: Data, Discussions, Decisions
 - B. Intentional focus on attraction, talent growth, career development, promotions and advancement, retention
- IV. What role does senior leadership play in the enablement of a successful and intentional diversity and equity strategy?
 - A. Leadership Accountability
- V. What are some of the actions that are currently in play within law firms, PE firms or FSIs?
 - A. Law Firms
 - 1. Comment 4 to Rule 8.4 MPR [4]
 - a. Conduct related to the practice of law includes representing clients; interacting with witnesses, co-workers, court personnel, lawyers and others while engaged in the practice of law; operating or managing a law firm or law practice; and participating in bar association, business or social activities in connection with the practice of law. Lawyers may engage in conduct undertaken to promote diversity and inclusion without violating this Rule by, for example, implementing initiatives aimed at recruiting, hiring, retaining and advancing diverse employees or sponsoring diverse law student organizations.
 - Diversity in the legal profession is critical to public trust and confidence in the legal system that bar admission authorities serve.
 - Diversity in the legal profession is critical for access to justice.
 - Diversity in the legal profession is a critical component of bar admission authorities' mission of protecting the public.
 - Diversity is a core value of the legal profession.
 - Mansfield Rule – Chapman and Cutler signed on to this rule
 - Partnerships, Internal Representation, Compensation Equity – based on these requirements, organization will be certified

2. Mansfield Rule

- a. The Mansfield Rule, inspired by a winning idea at the 2016 Women in Law Hackathon, measures whether law firms have affirmatively considered at least 30 percent women, lawyers of color, LGBTQ+ lawyers, and lawyers with disabilities for leadership and governance roles, equity partner promotions, formal client pitch opportunities, and senior lateral positions.

- Chapman & Cutler are committed

B. PE Firms

1. IMPACT Investing

- a. 75% of fund will be invested in Black and Latinx owned companies
- b. 50% of the fund will be invested in women owned companies
- c. 75% of the fund will be invested with companies positively impacting majority diverse communities on the Chicago's South and West sides.

C. FSI

1. Financial Services Pipeline Initiative
2. Career Advancement Programs (CAP)
3. BMO BOLD Conversations
4. Listening & Action Sessions
5. BMO EMPower

VI. We've seen many diversity strategies being led by diverse individuals; how do we activate the concept of allyship to drive diversity forward?

VII. Strategies for Developing and Implementing Diverse Pipelines

- A. Commit From The Top. Make DE&I initiatives a company strategic initiative.
- B. Keep Diversity and Inclusion Front and Center.
- C. Create a truly diverse diversity committee.
- D. Invest in sponsorship programs.
- E. Use diverse interview panels
- F. Consider paid internships.
- G. Analyze your promotion process.
- H. Monitor workforce demographics and progress.
- I. Tie compensation to diversity efforts (not results).

VIII. Close the pay gap for women and minorities.

IX. How can diverse employees thrive in environments that aren't as inclusive or engaged in diversity?

MODERATOR:

FELICIA FOSTER is the Managing Director and Head of U.S. People, Process, Change, Inclusion & Talent Integration. In this capacity, she is accountable for driving alignment and integration across business groups on U.S. HR strategic priorities and business integration. She is responsible for leading key initiatives that support DEI, Talent Management, Data & Analytics, Change and Project Management, Organizational Design and Strategy Development with thoughtful prioritization and implementation of integrated enterprise solutions. Felicia previously served as the Vice President and U.S. Head of Inclusion & Diversity where she developed, lead and executed a multi-year diversity strategy aligned to BMO's customers, colleagues and communities focused on creating an environment with zero barriers to inclusion.

Felicia joined BMO in 2010 and has progressively navigated her career across multiple business units, leaving an impactful, inclusive and change agent legacy. She has demonstrated her leadership capability, agility, and strong work ethic by leading multi-year strategy implementation projects, managing a consumer leading operations team, serving as a strategic advisor and coach to senior leaders and executives in the Specialty Sales division, developing and heading the North American diversity recruitment strategy and team and providing on-going redesign and implementation of innovative diversity strategies, programs, policies and initiatives.

Felicia proudly sits on the board of YWCA Metropolitan Chicago, Illinois Diversity Council, and Illinois State University Alumni Association, FSP Chicago Steering Committee, and a Founding Member of the Hacking HR Experts Council.

Felicia holds a Bachelor of Science in Business Administration from Illinois State University. Felicia was recognized by Collaborate Magazine "Top 40 under 40" in 2014, Illinois State University's 2017 College of Business Early Career Achievement Award, 2020 40 Game Changers Under 40 by Ariel Investments and WVON, 2021 Chicago Defender Women of Excellence Honoree and recently selected to the Leadership Greater Chicago Fellowship Class of 2022.

PANELISTS:

ANDREA L. ZOPP current role at Cleveland Avenue Ms. Zopp leads the organization's work investing in and supporting minority and women entrepreneurs and their companies. Previously she served as President and CEO of World Business Chicago, where she led the organization's mission of inclusive economic growth, supporting businesses, and promoting Chicago as a leading global city. Prior to joining WBC, she served as Deputy Mayor, Chief Neighborhood Development Officer for the City of Chicago.

Ms. Zopp has held executive leadership positions at several Fortune 500 companies. She was General Counsel and Chief Human Resources Officer at Exelon Corporation and served as Senior Vice President General Counsel and Corporate Secretary at Sears Holdings Corporation. Ms Zopp also served as Vice President and Deputy General Counsel at Sara Lee Corporation. As the former President and CEO of the Chicago Urban League, she led the nationally-recognized organization's focus on expanding economic opportunity in underserved communities. Andrea also served as a federal and state prosecutor, serving as an Assistant United States Attorney and as the first woman and African American First Assistant in the Cook County State's Attorney's Office.

Ms. Zopp currently serves on the board of Relativity a global e-discovery and document management software company and has served on the boards of Urban Partnership Bank and Andrew Corporation. She is the Chair of the Board of Trustees at Chicago State University and also serves on the boards of the Henry Ford Health System, the Economic Club of Chicago, the Northwestern Memorial Hospital Foundation and the Black Ensemble Theater as well as the Chicago Police Board. She received her BA in History and Science from Harvard University and her JD from Harvard Law School

NOTES:

NOTES:

NOTES:

ATTENDEES:

Note: Current list as of 3.30.2022

Stephanie Acheson - KeyBanc Capital Markets
Thais M. Alexander - Prudential Private Capital
Sumbul Ali - Sun Life Capital Management
Bernard Armoo - Bryant Rabbino LLP
Keith F. Atkinson - TIAA-CREF
Shannon Baldwin - Bracewell LLP
Tom Bannister - Akin Gump LLP
Scott B. Barnett - PGIM Private Capital
John Beck - Hogan Lovells US LLP
Katy Berger - King & Spalding LLP
Aaron J. Borden - Prudential Financial, Inc.
Patti L. Boss - Voya Investment Management LLC
David Botter - Akin Gump Strauss Hauer & Feld LLP
Kevin P. Braun - Morgan, Lewis & Bockius LLP
Christian Brose - McGuireWoods LLP
Goldie Bryant - Bryant Rabbino LLP
Seth Bryant - Bryant Rabbino LLP
William H. Bulmer - Prudential Private Capital
Peter Butler - ArentFox Schiff LLP
Emma Victoria Butler - Akin Gump LLP
Charles C. Calloway - Chapman and Cutler LLP
Alfredo Cantoral - American Equity Life Insurance
Paul Carroll - MetLife Investment Management LLC
Bryan Cho - MetLife
Melody R. Cross - Prudential Financial, Inc.
Renee M. Dailey - Akin Gump Strauss Hauer & Feld LLP
Christopher S. Dallas - Pacific Life Insurance Company
Colin T. DeHoney - Greenberg Traurig LLP
Troy DeLeon - Akin Gump Strauss Hauer & Feld
Anneke Diem - Nationwide Mutual Insurance Company
Douglas A. Doetsch - Mayer Brown LLP
Christopher M. Eisold - The Northwestern Mutual Life Insurance Company
Erica Elsasser - KeyBanc Capital Markets
Luke Fernandez - Swiss Re
Erika Finn - Voya Investment Management LLC
Jennifer Fitzpatrick - Pacific Life Insurance Company
Paige Forcier - Morgan, Lewis & Bockius LLP
Fellicia Foster - BMO Harris Bank
Dorothy L. Foster - Akin Gump Strauss Hauer & Feld LLP
Barbara T. Friedman - Aflac Global Investments
Julia Frost-Davies - Morgan, Lewis & Bockius LLP
Matthew E. Gabrys - The Northwestern Mutual Life Insurance Company
Armando M. Gamboa - Prudential Financial, Inc.
James Gaskill - Milbank LLP
Samuel Gray - State Farm
Abhishek Gupta - Bank of America
Michael Gustafson - Akin Gump LLP
Edward J. Hammond - Foley & Lardner LLP
Margot Mendelson - Hammond - Holland & Knight
Wendy Harlan - Unum Group
Philip Hart - Genworth Financial, Inc.
Deborah K. Hayes - Neuberger Berman
Caryn Hemsworth - The Prudential Insurance Company of America
Amanda Hoffman - Chapman and Cutler LLP
Catherine Hood - Bracewell LLP
Inderveer Hothi - Akin Gump
John Hreno - Morgan, Lewis & Bockius LLP
Jeffrey J. Hughes - Ares Management LLC
Enzo Incandela - Kuvare Insurance Services LP
Jenna Karen Jensen - Thrivent Financial
Sasha Kamper - Apollo
Brendan J. Kelly - New York Life Insurance Company
Andrew A. Kling - Schiff Hardin LLP
Jamie Kocis - Kramer Levin
Gerald Kokal - U.S. Bancorp
Abim O. Kolawole - The Northwestern Mutual Life Insurance Company
Charles J. Kolin - Greenberg Traurig, LLP
Rebecca Kristall - Guggenheim Life and Annuity Company
Tammy Y. Lam - Greenberg Traurig, LLP
Eric Larson - Greenberg Traurig, LLP
Kristine Larson - Allianz GI
David J. LaSota - Greenberg Traurig, LLP
Christopher E. Lawrence - Akin Gump Strauss Hauer & Feld LLP
David Lawton - Morgan, Lewis & Bockius LLP
Parkin Lee - Rockefeller Group
Robin Lenarz - Securian Asset Management Inc.
Susan Lent - Akin Gump Strauss Hauer & Feld LLP
Tracey Lindsey - Nationwide
Nicolette Lopez - Voya Investment Management
Ruining Ma - The Guardian Life Insurance Company of America
Howard E. MacKichan - Norton Rose Fulbright Canada LLP
Danielle L. Maksimow - Norton Rose Fulbright Canada LLP
Tyler Margolis - ArentFox Schiff LLP
Shelly Marsh - State Farm
Leslie M. Mazza - Willkie Farr & Gallagher LLP
Sarah McKee - Akin Gump LLP
Ryan McNaughton - King & Spalding LLP
Annie Mose - ArentFox Schiff LLP
Chris Oberholtzer - BofA Securities, Inc.
R. Brendan Olin - Unum Group
Sarah May Olson - Thrivent Financial
Kathleen O'Neill - New York Life Insurance Company
Hailey Osland - Lincoln Financial Group
Brenda J. Page - The Hartford Financial Services Group, Inc.
Joseph Pagliari - University of Chicago Booth School of Business
Daniel I. Papermaster - Morgan, Lewis & Bockius LLP
Margaret G. Parker-Yavuz - Akin Gump Strauss Hauer & Feld LLP
Thomas J. Pasuit - Kuvare Insurance Services
Mansi Patel - MetLife Investment Management
Clara Pauw - Chapman and Cutler LLP
Christine Peaslee - The Guardian Life Insurance Company of America
Edward J. Pelican - Chapman and Cutler LLP
E. David Pemstein - John Hancock/Manulife
Colin D. Pennycooke - Principal Financial Group
Pamela S. Petree - Nuveen
Lyneth Rhoten - Mutual of Omaha Insurance Company
Christine L. Rittberg - Northwestern Mutual
Michael D. Robson - Greenberg Traurig, LLP
Manuel M. Rodriguez - Avila Rodriguez Hernandez Mena & Garro LLP
Barry G. Russell - Akin Gump LLP
Trevor T. Sanford - Nuveen, LLC
Leah Sanzari - Orrick, Herrington & Sutcliffe
Todd Serpico - DBRS Morningstar
Siddharth Sethy - Prudential Private Capital
David Shim - Morgan, Lewis & Bockius LLP
Mandeep Kaur Sidhu - Pricoa Private Capital
Ronald Silverman - Hogan Lovells US LLP
David P. Simonds - Hogan Lovells US LLP
Julia J. Singh - Greenberg Traurig, LLP
Tina Smith -
Noelle Hicks Sproul - Nuveen, LLC
Sarah Stanton - Northwestern Mutual Life Insurance Company
Mark A. Sternberg - ArentFox Schiff LLP
Bret Strzelczyk - Greenberg Traurig, LLP
Kathleen J. Swan - Locke Lord LLP
Justin P. Szalanski - The Northwestern Mutual Life Insurance Company
Jenny Erica Talel - Milbank LLP
Brandon Michael Tanguay - Morgan, Lewis & Bockius LLP
Jason Thibodeaux - Securian Asset Management
Todd Turall - Ascension Investment Management, LLC
Michael Urschel - King & Spalding
Luke Abraham Weedon - Baker Botts L.L.P.
Heather L. Wenzel - Morgan, Lewis & Bockius LLP
Nicole Windsor - Chapman and Cutler LLP
Jordan Wohlner - Northwestern Mutual
Omar Woodard - Results for America
Anthony D. Yager - Chapman and Cutler LLP
Issa Yesufu - Northwestern Mutual Life Insurance Company
Chanwon Yoon - Akin Gump Strauss Hauer & Feld
Elina Yuabov - Group One Thousand One Advisory Services, LLC
Owen Scott Zingraff - Barings LLC

OFFICERS AND TRUSTEES:

PRESIDENT

Christopher S. Dallas - *Pacific Life Insurance Company*

VICE PRESIDENT

Renée M. Dailey - *Akin Gump Strauss Hauer & Feld LLP*

Luke Weedon - *Baker Botts L.L.P.*

SECRETARY

Melody Cross - *Prudential Financial, Inc.*

TREASURER

Bryan Cho - *MetLife*

PAST PRESIDENTS

Anthony D. Yager - *Chapman and Cutler LLP*

Tina Smith

TRUSTEES

Keith F. Atkinson – *Nuveen, LLC*

Patti L. Boss – *Voya Investment Management LLC*

Alfredo Cantoral - *American Equity*

Daniel Favero - *Mayer Brown LLP*

Dora Jimenez – *New York Life Insurance Company*

David Lawton - *Morgan, Lewis & Bockius LLP*

Robin Lenarz - *Securian Asset Management, Inc.*

Danielle Maksimow – *Norton Rose Fulbright Canada LLP*

Michael Robson – *Greenberg Traurig, LLP*

WEBSITE COMMITTEE:

Co-Chair

Michael Fierro - *Prudential Financial, Inc.*

Co-Chair

Melody Cross - *Prudential Financial, Inc.*

Co-Chair

David Lawton - *Morgan, Lewis & Bockius LLP*

Leigh Sapir-Kashi - *Sullivan & Worcester LLP*

Manuel Rodriguez - *Avila Rodriguez Hernandez Mena & Ferri LLP*

Samuel Gray - *State Farm*

DEVELOPMENT COMMITTEE:

Co-Chair

Tina Smith – *Thrivent Financial*

Co-Chair

Maureen Cronin – *New York Life Insurance Company*

Co-Chair

Renée M. Dailey – *Akin Gump Strauss Hauer & Feld LLP*

Erika Finn - *Voya Investment Management*

Jennifer Fitzpatrick - *Pacific Life Insurance Company*

Jenna Jenson – *Thrivent Financial*

Jon Heiny – *AIG Investments*

Kate Lindsay - *MetLife*

David Simonds – *Hogan Lovells US LLP*

Sarah Valenziano - *Prudential Private Capital*

EDUCATION COMMITTEE:

Co-Chair

Alfredo Cantoral - American Equity

Co-Chair

Robin Lenarz - Securian Asset Management, Inc.

Co-Chair

Luke Weedon - Baker Botts L.L.P.

Thais M. Alexander – Prudential Financial, Inc.

Katy Berger – King & Spalding LLP

Patti L. Boss – Voya Investment Management LLC

Renée M. Dailey – Akin Gump Strauss Hauer & Feld LLP

Dora Jimenez – New York Life Insurance Company

Nathan A. Limpert - Greenberg Traurig, LLP

Brenda J. Page – The Hartford Financial Services Group, Inc.

Colin D. Pennycooke – Principal Financial Group

James B. Roberts – AIG Investments

Ronald Silverman - Hogan Lovells US LLP

Noelle Sproul – Nuveen, LLC

Todd Turall – Ascension Investment Management

Abid Qureshi – Akin Gump Strauss Hauer & Feld LLP

MEMBERSHIP COMMITTEE:

Co-Chair

Catherine Hood - Bracewell LLP

Co-Chair

Kirk Orr – AIG Investments

Patti L. Boss – Voya Investment Management LLC

Hugh McCrory – MetLife

Tina Smith – Thrivent Financial

Colin Pennycooke – Principal Financial Group

Margaret Parker-Yavuz – Akin Gump Strauss Hauer & Feld LLP

Lonneke Purucker – Aegon Asset Management

Kevin Knohl - Schiff Hardin LLP

Stacy Pike - Chapman and Cutler LLP

TRANSACTION PROCESS MANAGEMENT COMMITTEE:

Co-Chair

Bryan Cho - MetLife

Co-Chair

Daniel J. Favero – Mayer Brown LLP

Brian A. Bates – Morrison & Foerster (UK) LLP

Andrew Bobenski - John Hancock Life Insurance Company

Aaron Borden - Prudential Financial, Inc.

Joshua Deason – Willkie Farr & Gallagher LLP

Matthew J. DelRosso – New York Life Investment Management LLC

Charles J. Kolin – Greenberg Traurig, LLP

Matthew E. Gabrys – The Northwestern Mutual Life Insurance Company

Christopher E. Lawrence – Akin Gump Strauss Hauer & Feld LLP

Nicolette Lopez – Voya Investment Management LLC

R. Brendan Olin – Unum Group

Daniel Papermaster - Morgan, Lewis & Bockius LLP

Lauren Reeves - AIG Investments

Mark A. Sternberg – ArentFox Schiff LLP

Anthony D. Yager – Chapman and Cutler LLP

COMMUNICATIONS COMMITTEE:

Co-Chair

Lisa Conmy – *Foley & Lardner LLP*

Co-Chair

Keith F. Atkinson – *Nuveen, LLC*

Co-Chair

Danielle Maksimow – *Norton Rose Fulbright Canada LLP*

Co-Editor

Sarah May Olson – *Thrivent Financial*

Co-Editor

Stephanie Holding - *Holland & Knight LLP*

Co-Editor

Josephine Vashi – *AIG Investments*

Tom Bannister – *Akin Gump Strauss Hauer & Feld LLP*

Amy Beaudoin – *John Hancock/Manulife*

Aaron Borden - *Prudential Financial, Inc.*

Kevin Braun – *Morgan, Lewis & Bockius LLP*

Charles Calloway – *Chapman and Cutler LLP*

Andy Christianson – *Reinhart Law*

Benjamin J. Cordiano – *Morgan, Lewis & Bockius LLP*

Nicholas Dumas – *Aflac Global Investments*

Jeff Dutson – *King & Spalding LLP*

Wendy Harlan – *Vnum Group*

Inderveer Hothi - *Akin Gump LLP*

Alexander Judd – *Day Pitney*

Brendan Kelly – *New York Life Insurance Company*

Chiraag Kumar – *MetLife*

Lisa Love – *Love and Long Law*

Amy Maloney – *Morgan, Lewis & Bockius LLP*

Tyler Margolis - *ArentFox Schiff LLP*

Michael Robson – *Greenberg Traurig, LLP*

Barry Russell – *Akin Gump LLP*

Tekhara Silva – *Day Pitney*

David Simonds – *Hogan Lovells US LLP*

Jason Thibodeaux - *Securian Asset Management, Inc.*

Andrew Thomison – *Baker Botts L.L.P.*

Maggie Yavuz – *Akin Gump Strauss Hauer & Feld LLP*

NOTES:

NOTES:
