SAN JOAQUIN REGIONAL TRANSIT DISTRICT
SPECIAL RETIREMENT BOARD MEETING – NOTICE AND AGENDA
11:30 A.M. ON WEDNESDAY, APRIL 5, 2023

The Retirement Board of the San Joaquin Regional Transit District (RTD) will hold a special meeting at 11:30 A.M. on Wednesday, April 5, 2023, in the Boardroom of RTD's Downtown Transit Center, 421 East Weber Avenue, Stockton, California. Please visit https://sanjoaquinrtd.com/retirement-board/ for an electronic copy of this document.

ACCESSIBLE PUBLIC MEETINGS: RTD is committed to ensuring that all meetings are accessible regardless of an individual's ability or access method. RTD will make all reasonable accommodations for persons with disabilities to participate in this meeting. Upon request to the Chief Executive Office, RTD will provide agenda materials in appropriate alternative formats or disability-related modification or accommodation, including auxiliary aids or services, to enable individuals with disabilities to participate in public meetings. Please send a written request, including your name, mailing address, phone number, and a brief description of the requested materials, preferred alternative format, auxiliary aid, or service, at least three workdays before the meeting. Requests should be sent to RTD by mail at 421 East Weber Avenue, Stockton, CA 95202, by phone at (209) 467-6613, by fax at (209) 948-8516, or by email to BoardSupport@sjRTD.com.

The RTD Retirement Board of Directors may take action on each item on the agenda. The action may consist of the recommended action, a related action, or no action. Staff recommendations are subject to action and/or change by the Retirement Board of Directors.

For language assistance, interpreter services, please contact (209) 943-1111. Para información en Español, por favor llame al (209) 943-1111.

1. CALL MEETING TO ORDER

2. MOMENT OF SILENCE/REFLECTION

3. SAFETY ANNOUNCEMENT

4. PLEDGE OF ALLEGIANCE TO THE FLAG

5. ROLL CALL

6. PUBLIC COMMENT

   All public comments shall be limited to no more than THREE MINUTES. In addition, applause, loud noises, or any other outbursts or disruptions from the audience are not allowed during or after public comment. Those who violate this protocol may be removed from the meeting at the presiding officer's discretion.

7. DISCUSSION ITEMS

   A. FIDUCIARY TRAINING
   Retirement Board Legal Counsel Christopher Waddell will provide training regarding the fiduciary duties of the Retirement Board members.

   B. PRIVATE EQUITY EDUCATION
   Team Hewins, LLC Chief Investment Officer John Bussel will lead a discussion about investing in private equity.

8. QUESTIONS AND COMMENTS FROM THE RETIREMENT BOARD AND/OR STAFF

9. ADJOURNMENT

NOTE: THE NEXT QUARTERLY SCHEDULED RETIREMENT BOARD MEETING WILL BE HELD ON THURSDAY, MAY 25, 2023 AT 10:00 A.M.

DATE POSTED: MARCH 31, 2023

The Fiduciary Duties of SJRTD Retirement Board Members

SJRTD Retirement Board

April 5, 2023

Chris Waddell, Senior Counsel

Olson | Remcho

Today’s Agenda

- Fiduciary Duties of Loyalty and Care (and a few corollary duties)
- How do the relatively unique circumstances of the Retirement Board as compared to other California public retirement systems affect the Retirement Board Member’s fiduciary duties, if at all?
- Eight questions to ask yourself before you make a decision or cast a vote on a Retirement Board issue

Duty of Loyalty

"The members of the retirement board of a public pension or retirement system shall discharge their duties with respect to the system solely in the interest of, and for the exclusive purpose of providing benefits to, participants and their beneficiaries, minimizing employer contributions thereto, and defraying reasonable expenses of administering the system. ***A retirement board's duty to its participants and beneficiaries shall take precedence over any other duty."***

Article 16, §17 (b) of the California Constitution

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Duty of Loyalty– What Sayeth the Courts?

- "…. A trustee is held to something stricter than the morals of the marketplace. Not honesty alone, but the punctilio of an honor the most sensitive, is then the standard of behavior. As to this there has developed a tradition that is unbending and inveterate."
  - Chief Judge (later Supreme Court Justice" Benjamin Cardozo
  - "Punctilio"= A minute detail of conduct in observance of a code."

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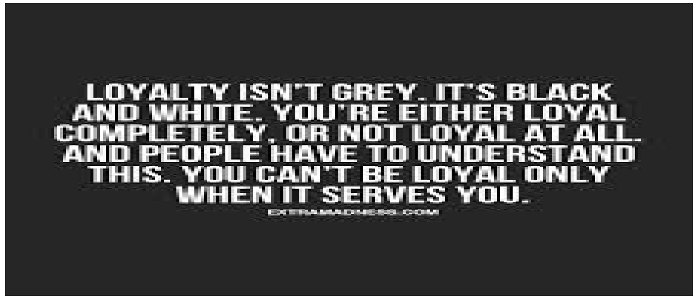
Duty of Loyalty– Continued

- “Most fundamental” fiduciary duty
  - **“A retirement board’s duty to its participants and beneficiaries shall take precedence over any other duty”** (California Constitution)
- Retirement Board members must place the interests of Plan participants above all other interests



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Duty of Loyalty– In Plain English

A fiduciary must not harm the interests of system members and beneficiaries by doing any of the following:

- Self-dealing
- Expending system assets or acting in the interests of a third party (includes employer/plan sponsor)
    - Exclusive Benefit Rule
    - “Two Hats” Rule
- Favoring one group of members/beneficiaries over another (Duty of impartiality).

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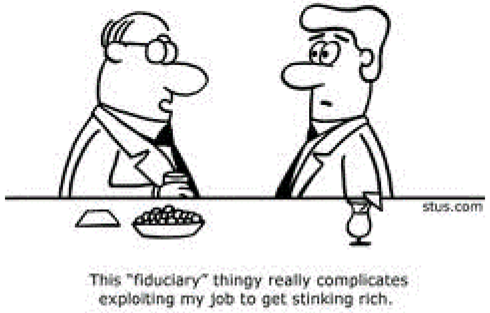
Self Dealing

- A trustee may not serve personal or other interests in preference to those of the trust or its beneficiaries.
  - Examples:
    - Personal financial interest in system investment decision or contract;
    - Accepting campaign contributions or personal gifts from individuals or entities doing/seeing business with the system.



Exclusive Benefit Rule

Plan assets must be held/used for the exclusive purposes of:

- Providing benefits to participants and their beneficiaries;
- Minimizing employer contributions;
- Defraying reasonable expenses of administering the system

Not for the Benefit of:

- The plan sponsor (SJRTD Board of Directors)
- Employee organizations (ATU)
- Taxpayers
- The world at large?

But the Constitution Says "Minimizing Employer Contributions," Doesn't It?

- Yes, *but*:
  - Constitution goes on to say that the board's duty to its participants and beneficiaries takes precedence over any other duty;
  - Case law concurs:
    - "Even assuming that article XVI, section 17 creates a duty to minimize employer contribution, it cannot be construed to require PERS to manage the retirement system in a way which would favor an employer over the beneficiaries to whom it owes a fiduciary duty"
      - *City of Sacramento v. Public Employees Retirement System (1991) 229 Cal. App. 3d 1470.*

"Two Hats" Rule

- Retirement Board members may ***have*** "two hats
    - For example, elected or appointed plan sponsor official, union official, *et cetera*, in addition to being a Board Member.
    - Board members may only ***wear*** one hat at a time and must wear their fiduciary hat when making decisions as a board member.

“Two Hats” Rule– Recent California Case

- *O’Neal et. al. v. Stanislaus County Employees’ Retirement Association* *(2017) 8 Cal. App. 5th 1184.*
  - *“…the evidence, when viewed most favorably to appellants, could support an inference that StanCERA took steps to reduce the employer contributions owed under its actuarial calculations based on the financial interests of the employers and the threat of reduced cooperation from the County in the future.”*
  - *“In their responsive briefing, StanCERA and County provide a significant amount of evidence supporting a competing conclusion that StanCERA reasonably took employer troubles into account in order to prevent job losses to StanCERA members and, thus, was acting exclusively in its members’ interests.”*

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Duty of Impartiality

- Derives from the duty of loyalty
- Duty of Loyalty owed to *all* members and beneficiaries– fiduciary must be impartial among differing interests.
  - Retirees and actives;
  - Younger and older members;
  - Long-term and short-term members.

Duty of Impartiality-- Continued

- Doesn’t require absolute equality
- Decision to favor one group over another must be made carefully after weighing different interests
- Risk of being second-guessed mitigates towards avoiding decisions favoring one group over another if it is otherwise prudent to do so
  - You don’t always have to make the tough decisions

Duty of Care– What the Law Says

"The members of the retirement board of a public pension system shall discharge their duties with respect to the system with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims."

- Article 16, §17 (c) of the California Constitution

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Duty of Care– In Practical Terms

- Emphasizes process over outcome;
- Not “one size fits all”
- Evaluate in terms of the actions of prudent fiduciaries for other systems facing similar circumstances.
- Independent of the question of good faith (“good heart, empty head” not good enough).

Elements of a Prudent Process

- Adequate investigation
- Advice from experts, including consultants and staff
- Review of available information
- Ask questions
- Discussion of pros and cons
- Active, not passive participation

“Corrollary” Fiduciary Duties

- The California Constitution also provides that:
  - Retirement plan assets must be invested in a diversified manner unless it is clearly prudent not to do so (Art. 16, §17 (d)
  - Retirement plan Board has the sole and exclusive power to provide for actuarial services in order to ensure the competency of the plan’s assets (Art. 16, §17(e)
  - Retirement plan Board has the sole and exclusive power to administer the system in a manner that assures the prompt deliver of benefits to their participants (Art. 16, §17(a)

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How Does Administration of the SJRTD Retirement Plan Differ From Administration of (Most) Other California Retirement Systems?

- Plan provisions are collectively bargained;
- Relatively small number of standing members (4) with Umpire member existing solely to break tie votes;
- No independent standing members of the Retirement Board;
- Retirement Board does not have its own staff and is dependent on SJRTD management to carry out day to day administrative responsibilities of the Plan;
- Very small AUM as compared to other California public retirement systems.

Implications?

- Retirement Board members and SJRTD staff must be ever-vigilant about wearing the correct hat when engaged in administration of the Retirement Plan
- While Retirement Board members and SJRTD staff should be familiar with prevailing practices with respect to plan administration and investment management practices at other California public retirement systems, at the same time they must be cognizant of how SJRTD's relative size and circumstances affect the Duty of Care equation

Sound Board Decisions Consistent with Applicable Fiduciary Duties

- Common denominator = Casting the vote
- One approach:
  - What should a trustee ask his/herself in order to be confident that they are complying with their fiduciary duties before casting a vote?
  - CalPERS asked itself this question a few years ago, and the resulting 8 questions tie directly to the underlying fiduciary duties we've discussed and tell us a lot about the need for sound governance practices.

Eight Questions

1. Do the agenda materials and presentation/discussion at the meeting provide all of the information necessary for a proper understanding of the issue so that we can make a sound, informed decision?
2. Have all of the potential benefits and risks resulting from this decision been appropriately identified and analyzed?
3. Have all viable alternatives to this proposal been appropriately identified and analyzed?

Eight Questions

4. Are staff and the outside expert (where applicable) in agreement on the recommended course of action?
   - If not, are the bases for disagreement adequately explained?
   - Are both recommendations reasonable (so that I can reasonably choose/decide between them), or do we need to seek another opinion?
5. Were any questions that we had before and during the discussion of the item sufficiently addressed?

Eight Questions

6. Do I have any actual or potential conflicts of interest that prevent me from participating in this decision or make it advisable for me not to do so?
7. Does my intended vote reflect what I feel to be in the best interests of the System's members, beneficiaries and retirees as a whole, without regard to the interests of any constituency or appointing power responsible for my position as a Board member?
8. Will the results of the Board's decision favor the interests of one group of the System's members, beneficiaries or retirees over those of another group?

QUESTIONS?

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Investing in Private Equity

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What is Private Equity?

Investing in companies that are not publicly traded, employing cash and borrowed funds

These are private deals done by highly skilled managers seeking high returns on investment; therefore, fees are high

Private equity funds typically have a ten-year life and are not liquid

Private equity is subject to a number of risks

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Who Should Invest in Private Equity?

Typically, only open to Qualified Purchasers

- defined by the SEC as having at least $5 million in liquid assets
- or institutional investors such as pension plans and endowments/foundations

Investors seeking higher net returns and diversification away from public markets

Investors who are able to accept the risks and illiquidity

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Why Invest in Private Equity?

Higher expected returns

Attractive prices

- Negotiated transactions
- market inefficiencies
- excellent access to information

Attractive tax treatment generally for long-term capital gains

Significant strategic & operating control

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Considerations When Investing in Private Equity

Private Equity investments have a long investing cycle

They tend to have low liquidity

Tax Reporting is delayed compared to traditional investments and investors need to extend their tax returns every year

Management fees are high compared to traditional investments

Investing in private companies may come with higher risk

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Why Private Equity?

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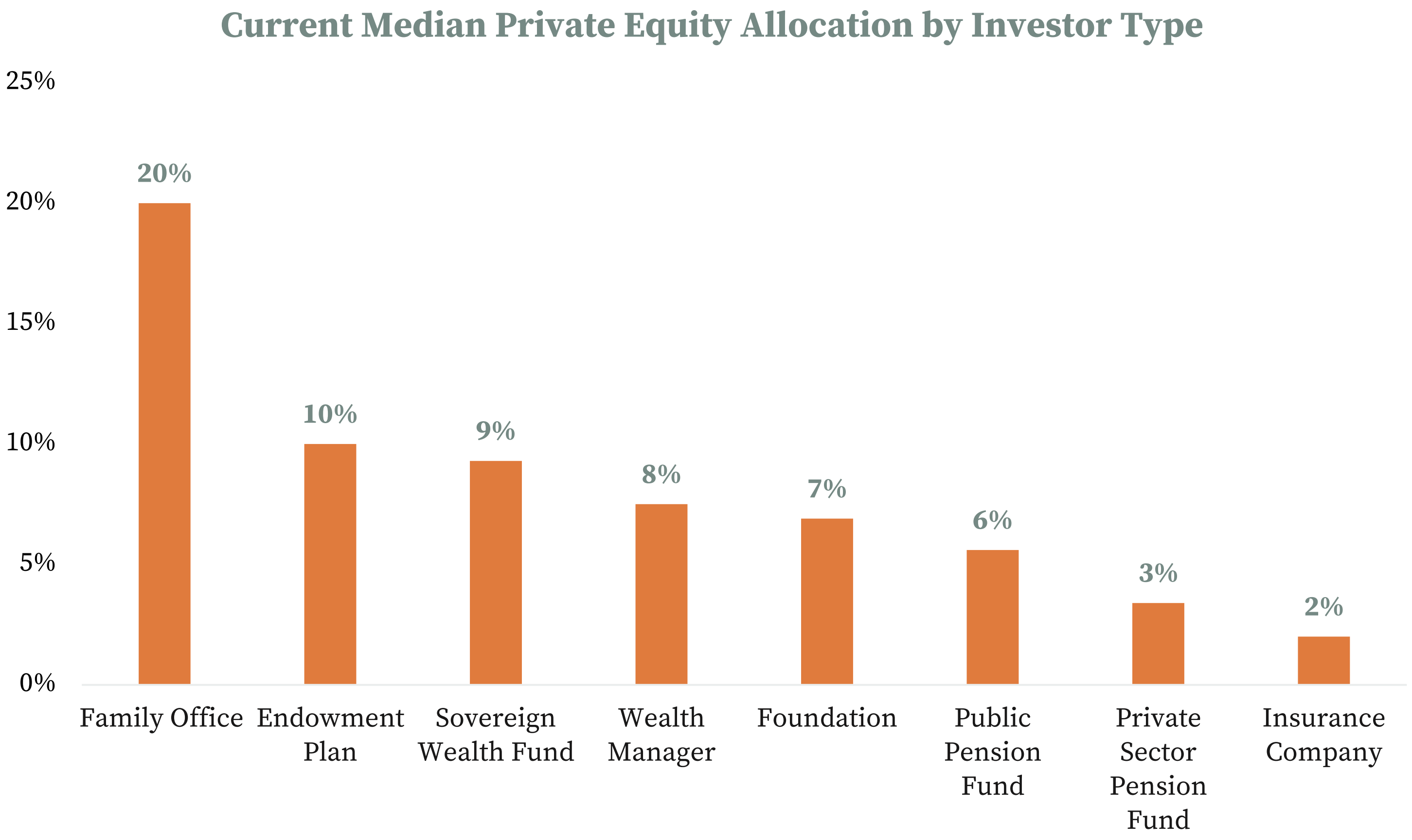
Private Equity
Who's Investing and Why?



As illustrated in the chart, a broad range of institutions, including family offices, endowments, foundations, pension plans, and other investors invest in private equity

Source: Preqin Ltd., Preqin Private Equity Online and 2021 Preqin Global Private Equity & Venture Capital Report.

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Private Equity is Growing

Private Equity is becoming an increasingly large part of the overall economy

Global private equity and venture capital AUM has reached $4.7 trillion as of June 2020

Compared to **$576 billion** in 2000

Source: Preqin Ltd., 2021 Preqin Global Private Equity & Venture Capital Report (www.preqin.com)

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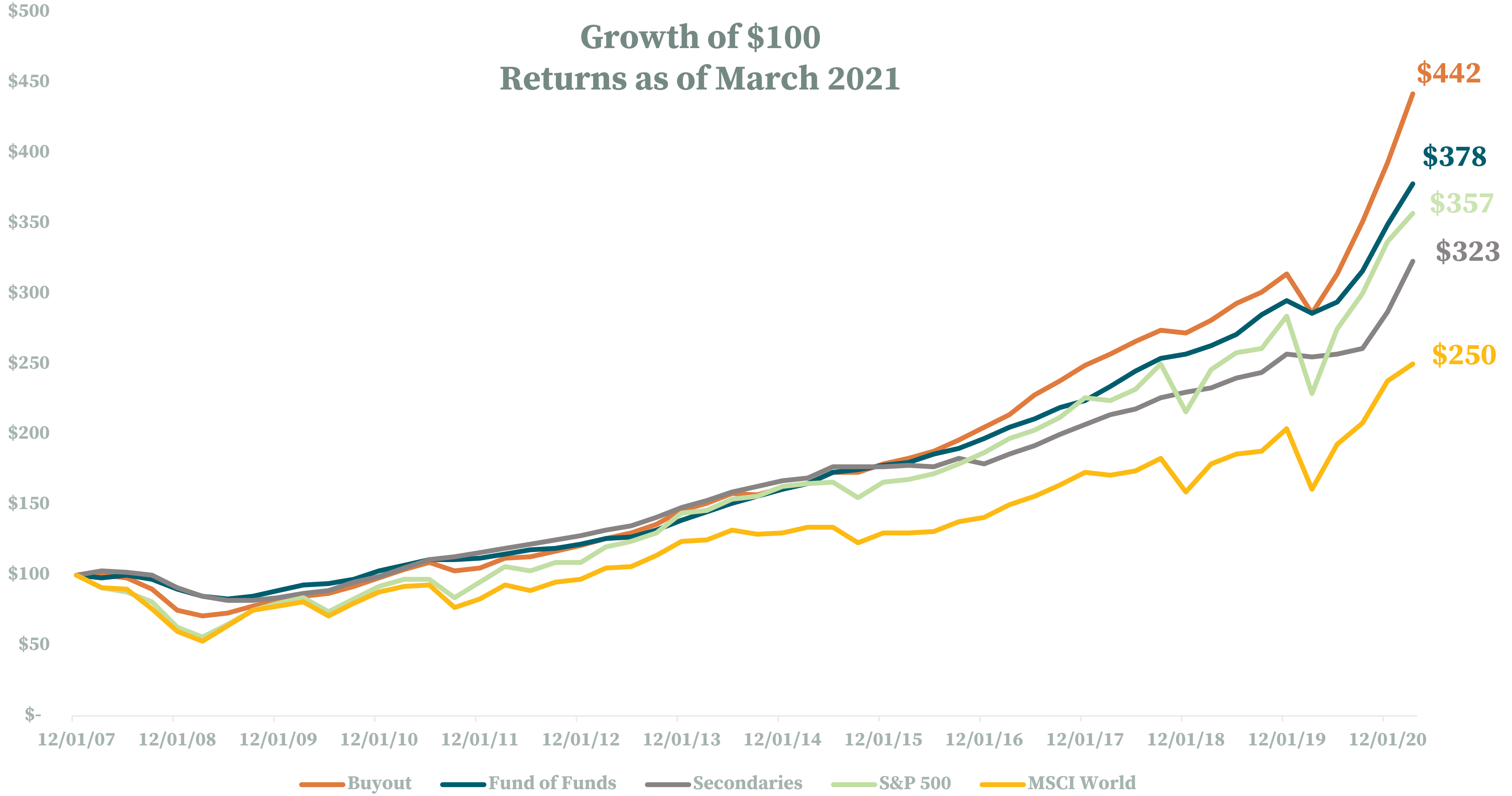
Private Equity
A potential return enhancer for diversified portfolios



Private equity returns have generally been better than the returns on public equities, driving increased demand and interest among more investors

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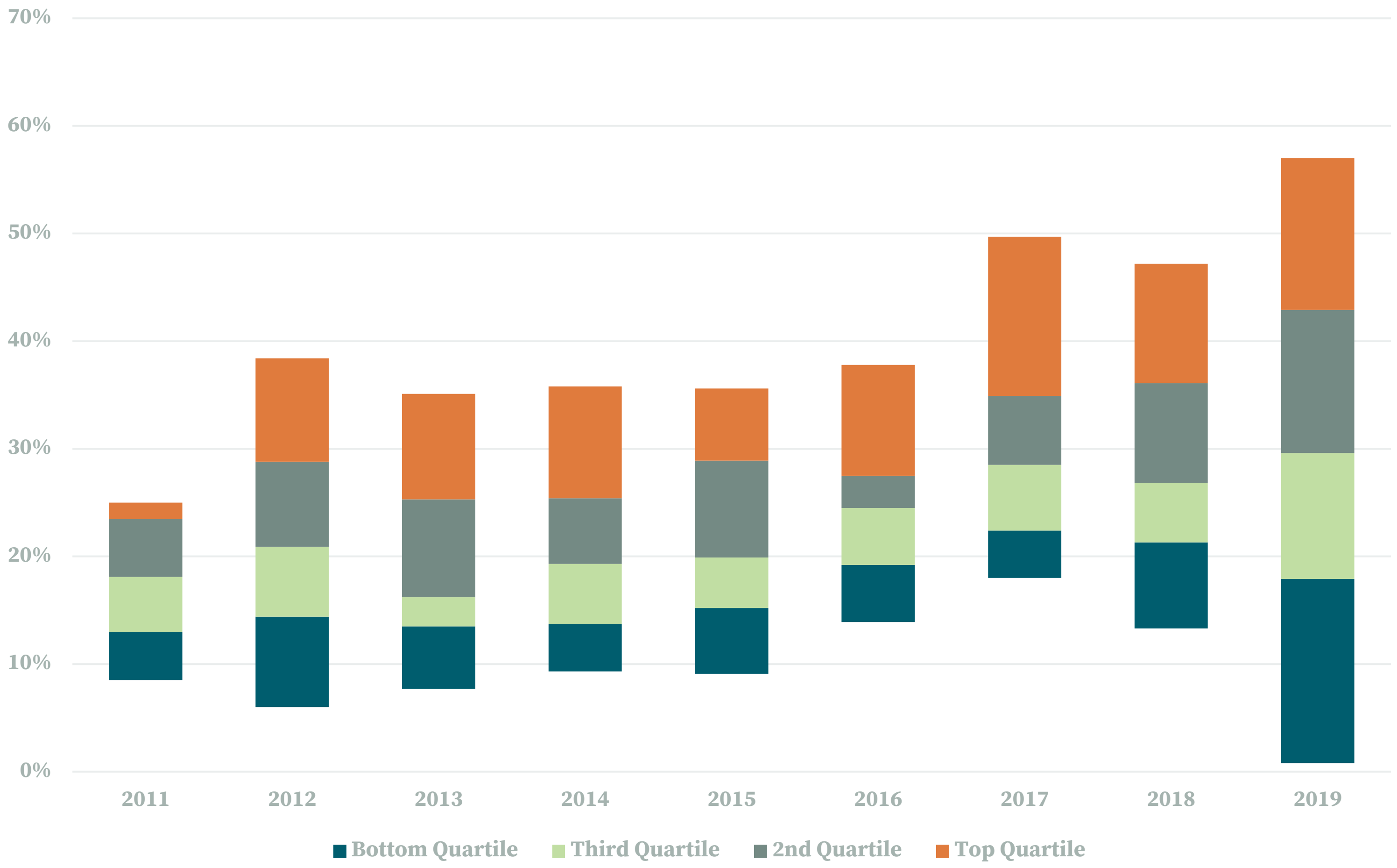
Source: Preqin Ltd., Preqin Private Equity Online and 2021 Preqin Global Private Equity & Venture Capital Report.

The Best Private Equity Managers Tend to Have Excellent Performance Versus Their Peers

Net IRR by Vintage Year, buyout strategies



Manager selection is **critical**

Top-tier managers have historically **outperformed** their peer groups

Goal is to invest with top-quartile managers

In public equities managers seldom produce consistent long-term outperformance, but in private equity the best managers seem to have **sustainable advantages**

10 Source: Preqin Ltd. Preqin Pro. Data as of 3/31/22. Shows quartile rankings by net IRR for all buyout strategies by vintage year. Top and bottom 10% of constituents excluded.

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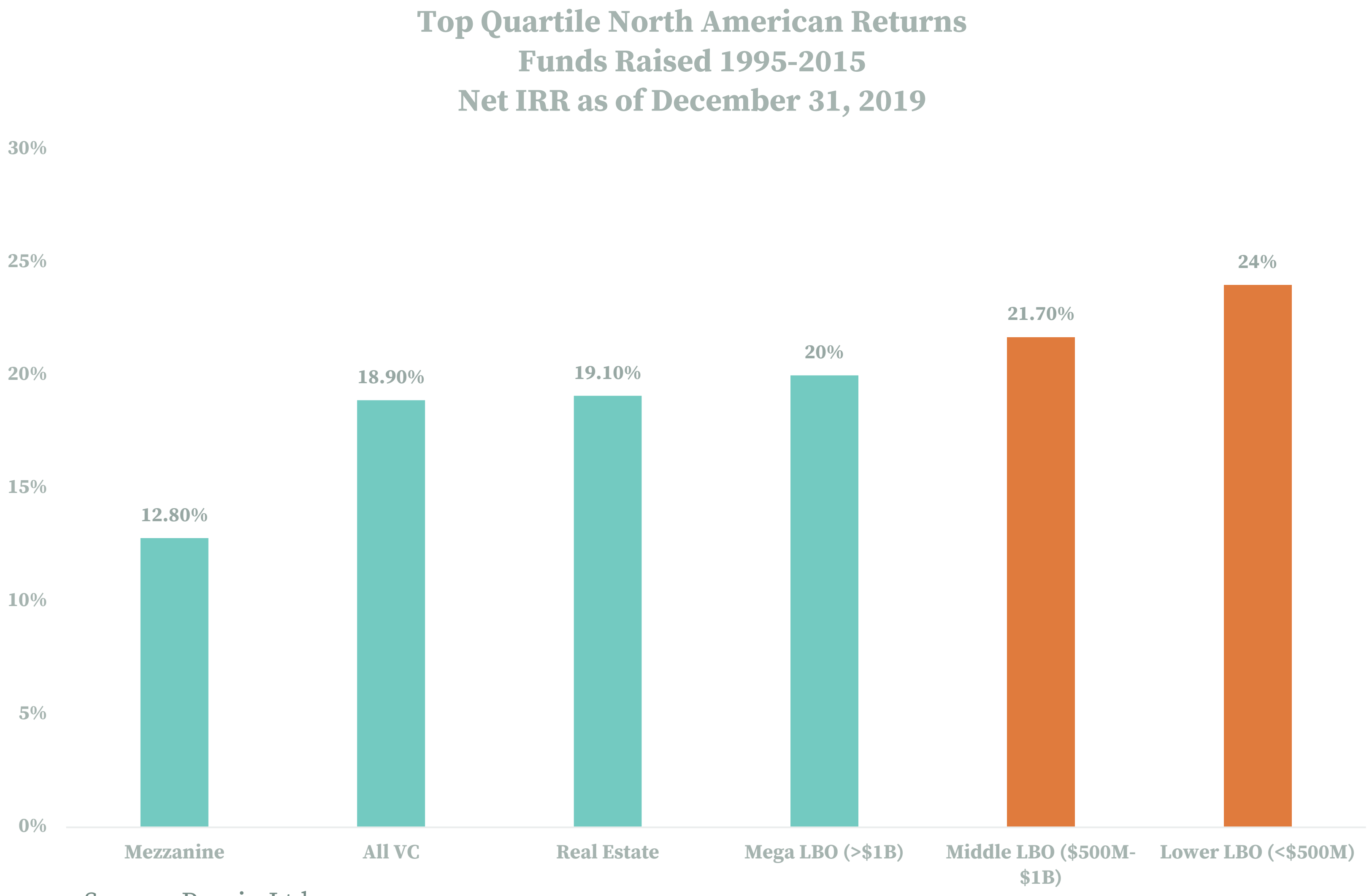
Lower-middle market buyouts
Historical outperformance



Source: Preqin Ltd.

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Private Equity Strategies

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Major Private Equity Strategies

Leveraged Buyout

Acquire controlling positions in mature businesses that typically have established markets, products and offerings

Venture Capital

Acquire minority interests in startup businesses or ideas with growth potential, typically in the technology, consumer or healthcare sectors

Private Energy

Acquire interests in growing or mature energy-related businesses, typically oil & gas companies

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Leveraged Buyouts (LBOs)

The leveraged buyout strategy makes up the largest part of the private equity universe

Fund managers take control of established companies utilizing equity and debt

Smaller investors may have better access to the more attractive parts of the leveraged buyout market

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More on Leveraged Buyouts

Leveraged buyouts generally focus on companies that are established but can be improved in some way

Improvements can take many forms – such as transformational change or going public

This can occur across many industry sectors – allowing for diversification

LBOs can be further defined by fund size and the size of companies they target	
Sub-Sector	Definition
Small Market Buyout	**$0 to $250 million**
Middle Market Buyout	**$250 million to $1 billion**
Large Market Buyout	$1 billion to $2 billion
Mega Market Buyout	North of $2 billion

Our Focus

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Venture Capital

Venture capital funds are typically involved in the early stages of funding for startup companies

They are generally considered riskier than leveraged buyouts and often have a longer investment cycle

We generally do not allocate much to venture capital funds.

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More on Venture Capital

Venture capital is more focused on funding ideas and concepts, compared to leveraged buyouts

Is generally dominated by technology segment of the market

Long time horizon before realization; typically 5-12 years

Venture Capital Investing can be defined further by company stage
Seed Stage – Companies which have not yet fully established commercial operation
Early Stage – Companies in product development stage and initial marketing, manufacturing and sales activities
Later Stage – Companies in need of additional financing for the expansion of its producing, shipping and sales volume
Balanced – Investing across a variety of stages of development

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Private Equity Structures

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Private Equity Fund Structures

Primary Fund of Funds	Secondary Fund of Funds	Co-Investments
Investing in private equity funds that are making new investments	Investing in a private equity funds that acquire interests in existing PE funds in the secondary market	Investing directly in companies, generally alongside one of the private equity funds in a primary fund of fund commitment.

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Fund of Funds Solutions

FoFs affords access, professional due diligence and management in one fund with lower minimum investments

Funds of funds enable an investor to start with as little as $250,000 and achieve significant diversification

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Benefits of Funds of Funds

Turnkey investment solution providing

- **Broad access** to the PE asset class in one vehicle
- **Specialized** research and selection skills/processes
- Better **diversification** through one investment
- **Administrative Efficiency** of portfolio management, reporting, and back office functions over the life of the investment
- **Scale** – Reduces minimum requirements
- Underlying General Partner **preferences/benefits**

Source: RCP Advisors. Introduction to Private Equity. May 2014

Advantages of a Secondary Fund

Mitigates blind pool risk

Typically, faster investment and generation of returns

Generally, more immediate exposure to private equity

Diversification

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Private Equity Considerations

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Logistical Considerations

Typically, 3-5 years before commitment is fully called

Capital calls

Fund valuation growth takes time, often declines in NAV seen in first couple years, usually turn positive by years 3-5.

J-Curve

Typical fund will invest in various underlying companies over a 3-year time frame

Vintage year diversification

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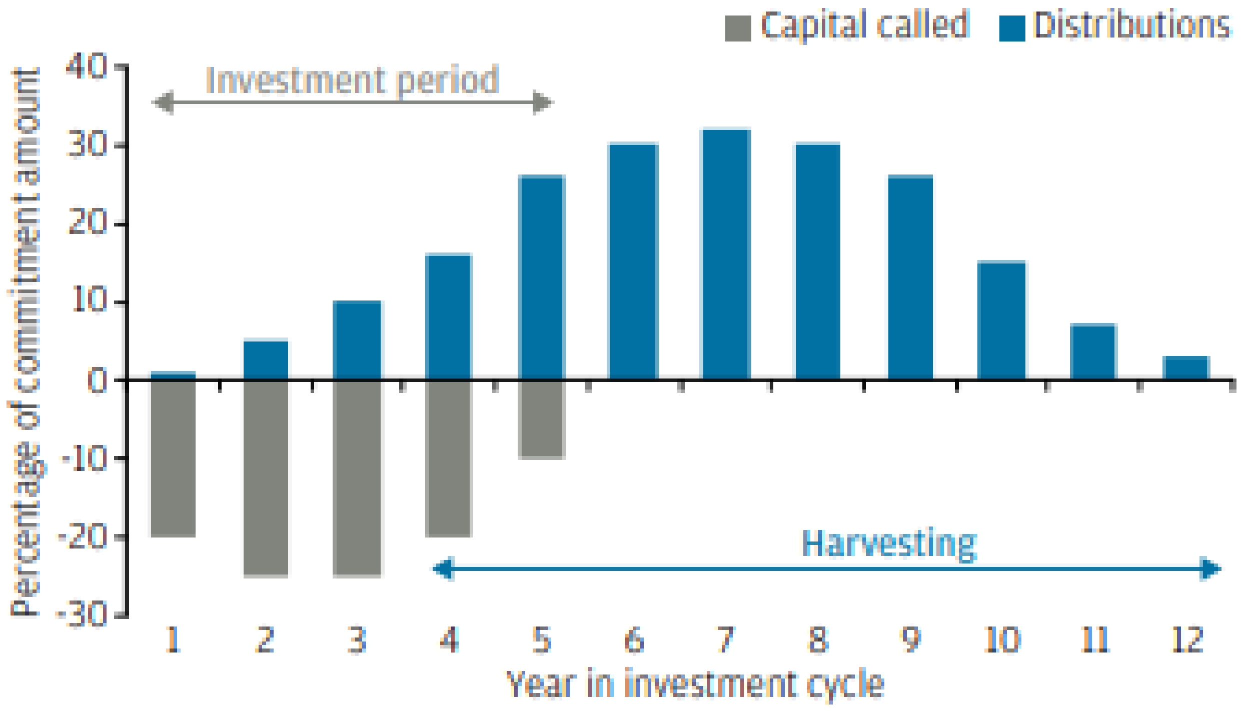
Private Equity Program Should Be Implemented Over Time

Typical Annual Cash Flows of a Single Private Equity Fund



Investment programs are generally built over a 5-7 year period

Performance measurements are generally not meaningful until later in the partnership term

Investments are not liquid. Allocation levels are best managed through the commitment process

New Commitments are necessary to maintain a target allocation of net invested assets

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Source: JP Morgan Asset Management, Private Equity Group

Questions?

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Important Disclosures

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This document does not constitute an offering of any fund which can only be made to qualified purchasers. Anyone considering an investment in one of the funds, as listed in this document, will be provided with an offering memorandum, limited partnership agreement, and subscription agreement (the "Fund Documents") by the appropriate fund adviser. Investors should review the Fund Documents, which contain a complete description of the investment program and its risks, in their entirety before investing.

An investment in a private fund is speculative and involves a high degree of risk. A fund is not intended to be a complete investment program. A fund's performance may be volatile and there is no assurance that any fund will achieve its investment objectives. The fees and expenses charged in connection with an investment in the Fund may be higher than those charged in connection with other investments, and in some market conditions, may offset their trading profits. All fund investments involve risk including the loss of principal.
An investment in a fund is suitable only for certain sophisticated investors who have no need for immediate liquidity in their investment. Such an investment provides limited liquidity because interests in a fund are not freely transferable and may be withdrawn only under the limited circumstances set forth in the Fund Documents. Investors in private equity funds will generally need to make contributions over three to five years to satisfy the terms of the agreement.

Investors must be considered "Qualified Purchasers" to be considered for investing in Private Equity. A Qualified Purchaser is one with more than $5 million in investable assets. There are different Private Equity structures to consider when investing. Each structure has advantages and disadvantages to weigh. Primary and secondary funds of funds typically form the building blocks of a client's private equity program.

Advisors should work with clients to determine the appropriate amount to allocate and commit to private equity. Factors to consider include: the elevated risk and characteristics of the asset class, portfolio size and fund minimums as a percentage of total portfolio value (many funds have $250,000 minimums, which would set a floor on the allocation resulting in larger accounts possibly being able to have a larger and more diversified allocation), testing proposed allocations to determine impact of adding private equity on expected return and risk of a portfolio.
Except where expressly noted otherwise, the information contained in this presentation has been compiled by Team Hewins utilizing data and information provided by sources that Team Hewins deems reliable. The information has not been audited or independently verified. The standard information contained herein is for general educational purposes only and should not be construed as, or as a substitute for, investment, financial or other professional advice. To the extent you have any questions regarding the applicability of any specific issue discussed in the presentation, you are encouraged to professionally engage Team Hewins' advisors.

Index Definitions:
MSCI World: The MSCI World Index is a broad global equity index that represents large and mid-cap equity performance across all 23 developed markets countries. It covers approximately 85% of the free float-adjusted market capitalization in each country.

S&P 500: The S&P 500 measures the performance of large capitalization U.S. stocks. The S&P 500 is a market-value-weighted index of 500 stocks. The weightings make each company's influence on the Index performance directly proportional to that company's market value.

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