

March 18, 2021

Ed Bernard  
Chair, Asset Management Advisory Committee  
c/o T. Rowe Price Group  
100 East Pratt Street  
Baltimore, Maryland 21202

Rama Subramaniam  
Chair, AMAC Private Investments Subcommittee  
c/o GTS  
545 Madison Ave.  
New York, NY 10022

Re: File No. 265-33: Further Information on Registered Funds of Private Funds

Dear Mr. Bernard and Mr. Subramaniam:

On January 13, 2021, the Committee on Capital Markets Regulation (the “**Committee**”) submitted a letter to the Asset Management Advisory Committee (“**AMAC**”) and its Private Investments Subcommittee regarding the public offering of registered closed-end funds of private equity funds.<sup>1</sup>

As we noted in our letter, SEC staff have taken the position in the registration statement disclosure review process that certain registered funds of private funds must limit their offerings to accredited investors.<sup>2</sup> The Committee believes that the SEC staff should rescind this informal position, because doing so would expand the ability of retail investors to access private equity funds that make investments in private companies without compromising core investor protections.<sup>3</sup>

The Committee continues to consider how registered funds of private equity funds can be made accessible to retail investors, and we are submitting this letter to provide AMAC with additional information regarding how these registered closed-end funds could be listed on an exchange. As noted in **EXHIBIT A** attached hereto, there are three potential structures by which registered closed-end funds of private equity funds could list on a U.S. exchange: (1) an initial public offering as a typical closed-end fund, (2) direct listing, and (3) a warehousing approach.

The Committee believes that warehousing is the best approach for listing closed-end funds of private equity funds on a U.S. stock exchange. As demonstrated by **EXHIBIT A**, warehousing would involve a registered closed-end fund investing in an existing, diversified portfolio of interests in private equity funds from a third-party at fair market value. Such a structure would ensure that retail investor capital could be quickly deployed. It would also ensure that owners of

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<sup>1</sup> COMMITTEE ON CAPITAL MARKETS REGULATION, *Committee Submits Letter to AMAC on Retail Investor Access to Registered Funds of Private Equity Funds* (Jan. 13, 2021), <https://www.capmksreg.org/2021/01/13/committee-submits-letter-to-amac-on-retail-investor-access-to-registered-funds-of-private-equity-funds/>.

<sup>2</sup> Committee Letter (Jan. 2021), *supra* note 1, at 2.

<sup>3</sup> Committee Letter (Jan. 2021), *supra* note 1, at 2.

# COMMITTEE ON CAPITAL MARKETS REGULATION

the private equity portfolio would receive fair market value for their assets when they are sold to retail investors.

Thank you very much for your consideration of the Committee's position. Should you have any questions or concerns, please do not hesitate to contact the Committee's President, Professor Hal S. Scott ([hscott@law.harvard.edu](mailto:hscott@law.harvard.edu)), or Executive Director, John Gulliver ([jgulliver@capmksreg.org](mailto:jgulliver@capmksreg.org)), at your convenience.



Hal S. Scott  
PRESIDENT

cc: Rajib Chanda, Simpson Thacher & Bartlett LLP

**EXHIBIT A**

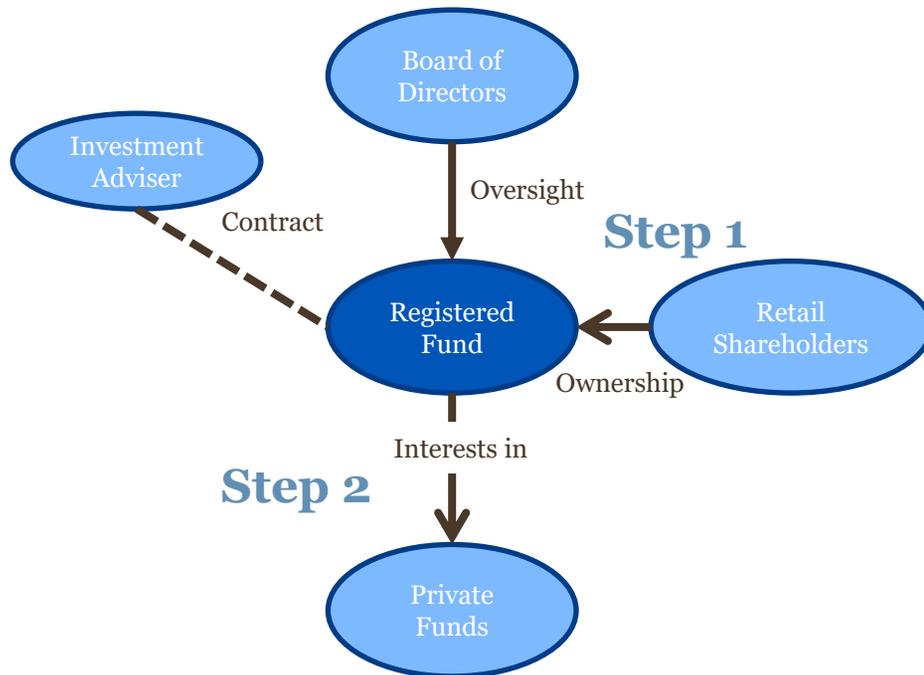
**LISTED REGISTERED FUNDS OF PRIVATE FUNDS**

# Listed Registered Funds of Private Funds

Overview of Potential Structures

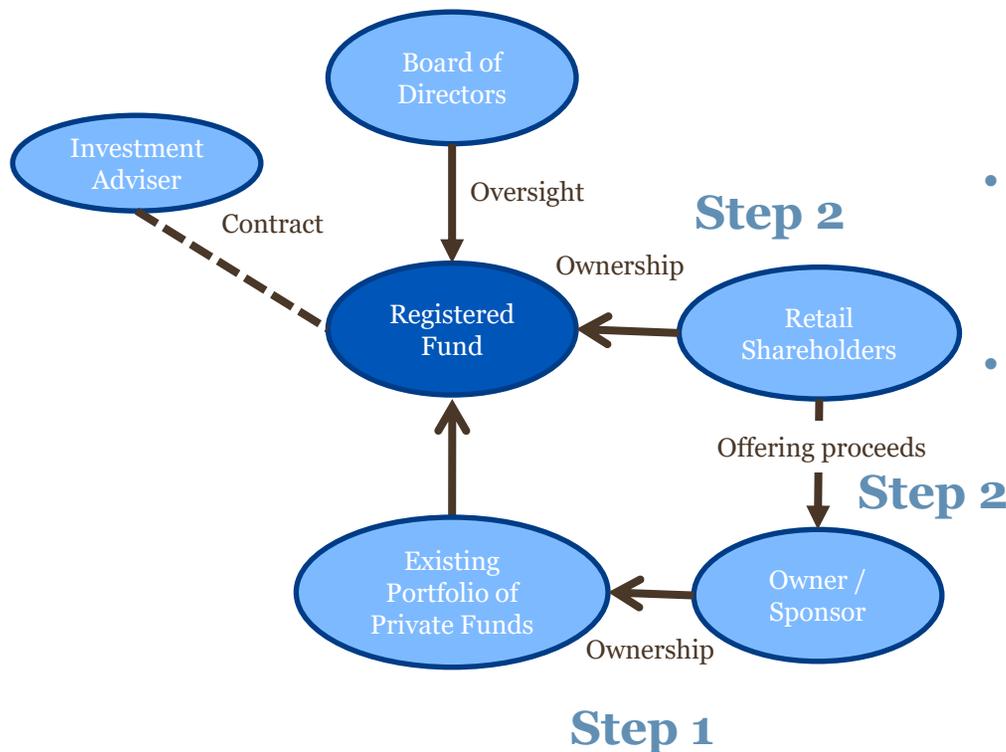
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# Option #1: Typical Listed Closed-Fund Structure



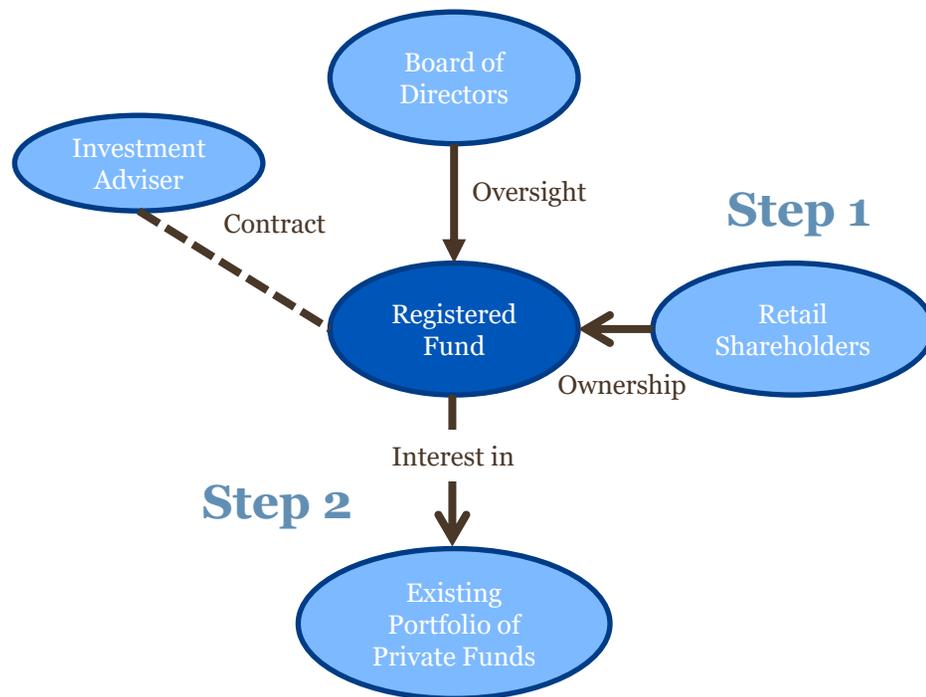
- **Step 1:** Offer shares in registered fund to retail investors via IPO and then list shares on an exchange
- **Step 2:** Invest proceeds of IPO in interests of private funds
- **Potential Issues:** J-curve and cash drag issues in deploying registered fund's assets in private funds over time
- Unlike private funds where subscriptions can be drawn down over time, investors in a listed registered fund would fully "commit" at the outset

# Option #2: Direct Listing Structure



- **Step 1:** Owner/sponsor of existing portfolio of diversified interests in private funds transfers the portfolio of interests to a new registered fund
- **Step 2:** Shares of the registered fund are listed on an exchange and purchased by retail investors
- **Potential Issues:** Since the owner/sponsor of the existing portfolio is using the listing as a liquidity event, if the registered fund trades at a discount to NAV (which is fairly common for listed closed-end funds), the owner will prefer other exit opportunities that would offer fair market value over listing

# Option #3: Warehouse Structure



- **Step 1:** Offer shares in registered fund to retail investors via IPO and then list shares on an exchange
- **Step 2:** Use proceeds of IPO to purchase an existing, diversified portfolio of interests in private funds from a third-party at fair market value
- This structure solves for, or minimizes, the major issues in Options #1 and #2
  - No J-curve issue as an existing portfolio is purchased at the outset
  - Owner of portfolio is willing to dispose of assets as purchase is made at FMV
  - Minimizes likelihood that registered fund sells at a discount because the fair valuation of existing portfolio would validate pricing for the market