



Via email: ilpaprinciples@ilpa.org

December 11, 2015

Mr. Peter Freire
Institutional Limited Partners Association
1200 – 55 York Street
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ILPA FEE REPORTING TEMPLATE

Dear Mr. Freire:

The Private Equity Growth Capital Council (the “PEGCC”) appreciates the opportunity to provide comments to the Institutional Limited Partners Association (the “ILPA”) on its draft fee reporting template (the “Proposed Template”).

The PEGCC is an advocacy, communications and research organization and resource center established to develop, analyze and distribute information about the private equity and growth capital investment industry and its contributions to the national and global economy. Established in 2007 and formerly known as the Private Equity Council, the PEGCC is based in Washington, D.C. The members of the PEGCC are among the world’s leading private equity and growth capital firms united by their commitment to growing and strengthening the businesses in which they invest.

Members of the PEGCC are proud of their partnerships with ILPA members in enhancing retirement security for millions of hard working citizens. Our partnerships have enabled private equity to be the best performing asset class for public pension funds over the long-term. The PEGCC’s Annual Pension Study, released December 10, 2015, found that private equity delivered a 12.1% annualized return to the median public pension over the last 10 years, higher than any other asset class.¹ Our members are committed to continuing our work together in building better companies to benefit all stakeholders, including retirees.

The PEGCC strongly supports efforts to improve reporting and enhance transparency to investors (“LPs”) in the funds managed by our members and other private equity and growth capital firms (“GPs”). In fact, our members and other GPs have worked with LPs for many years on complex reporting and transparency issues. The detail and volume of reporting to LPs has increased dramatically year by year, as the needs and requests of LPs, as well as regulatory requirements, have evolved. We commend your efforts to continuously improve this process.

¹ PEGCC Public Pension Fund Study, 2015, available at www.pegcc.org.

The PEGCC also supports the ILPA’s goals of reducing the compliance burden on GPs and providing LPs with “an improved baseline of information, that lends itself to more streamlined analysis and informed decision making...” presumably through broad adoption of the standard reporting template by LPs and GPs.

We offer the following suggestions in the hope that they can advance these critical goals. We hope that our comments can be part of the continuing conversation to enhance transparency and encourage more uniform and efficient reporting. We look forward to a continuing discussion on these important topics.

1. The Value of Broad Acceptance of Standardized Reporting

The PEGCC would welcome the opportunity to engage with the ILPA, its members and other industry participants (including auditors, outside counsel and consultants) to explore whether and how the Proposed Template might be modified to encourage its broad adoption by the industry.

If all (or most) LPs were to adopt the ILPA reporting template in its final form in lieu of the many different reporting formats required and information requests currently made by LPs, then LPs would receive more useful data, fund expenses would be lower and the burden on GPs would be reduced.

The PEGCC is concerned, however, that absent broader adoption of a uniform reporting template by the LP community, the Proposed Template could increase burdens on GPs and fund operating expenses without providing more transparency or relevant information to LPs. The PEGCC anticipates that many (perhaps most) LPs will continue to require GPs to report fee, expense and carried interest information in accordance with such LPs’ own reporting templates, if for no other reason than for the sake of consistent historical tracking of their investments or because they have developed internal reporting systems that are inconsistent with the approach taken by the Proposed Template.²

2. Flexibility in Working Toward Standardized Reporting

Standardized reporting is an important goal that could have significant benefits to LPs. It will be important, however, for LPs to provide GPs with flexibility in adapting to a new reporting framework.

For example, some GPs simply may be unable to provide all of the detail called for by the Proposed Template with respect to older funds and their portfolio companies, because such data may not have been tracked in the past or may not have been retained.

² In addition, the PEGCC believes that even if some LPs adopt the Proposed Template, those LPs will modify the Proposed Template, ask that it be supplemented, or request that it be provided in addition to all other reporting being provided by GPs. Even before the Proposed Template has been adopted, a number of LPs have sent the template to certain of our members to be “filled in”, and we are aware of at least one LP that has already modified the Proposed Template and sent it to GPs to be completed.

More generally, private equity and growth capital firms differ significantly in their sizes, business lines, structures and operations. They employ a wide range of business practices, accounting standards and economic models. Different accounting standards may apply to different funds, and certain fees and expenses may not be tracked in the same manner from fund to fund. Some funds are structured with multiple layers of feeder funds and blocker vehicles, or invest side by side with parallel funds, and some funds draw capital from investors, invest and make distributions in multiple currencies. For these reasons, rigid adherence to the Proposed Template will not be practical or possible for every GP.

3. Definitional Recommendations

We believe that the definitions included in the Proposed Template need further review and clarification. Clarifying definitions would, we hope, improve the template for both LPs and GPs.

First, we recommend that the Proposed Template be modified so that it does not incorrectly describe carried interest as incentive compensation or a fee, but instead uses the broadly understood term “carried interest” throughout. As you know, carried interest is not a fee but, rather, a contractually-agreed sharing of profits calculated with respect to the capital provided by LPs.

Second, the Proposed Template should be modified so that it refers to traditionally recognized expenses, such as travel and entertainment, as expenses and not compensation.

Third, certain terms used in the Proposed Template are subject to differing (and perhaps conflicting) interpretations from different GPs and across jurisdictions. This lack of clarity could minimize the Proposed Template’s usefulness as a tool for meaningful analysis by LPs. Insofar as is possible, terms should be defined so that information is reported on an apples-to-apples basis.

Fourth, to the extent that the Proposed Template asks GPs to report using terminology that differs from the relevant fund governing documents (*e.g.*, partnership agreements), GPs are effectively being asked to provide two sets of reports of the same data: one set of reports pursuant to the relevant fund governing documents (which GPs are contractually obligated to follow) and another set pursuant to the Proposed Template. The Proposed Template should make clear that GPs are expected to report within that framework only to the extent this is possible consistent with the requirements of the relevant fund governing documents and applicable accounting standards.

Finally, the Proposed Template’s characterization of partnership expenses between “overhead” and “non-overhead” may not garner meaningful information because of the broad nature of those categories and the potential difference of treatment among reporting GPs. We recommend, instead, that the Proposed Template substitute more functional category headings (perhaps by reference to the main captions typically included within a fund’s income statement).

4. Timing Recommendations

GPs will need a reasonable amount of time initially to collect and provide the large amount of data and detail required by the template that is finally adopted. The PEGCC recommends that GPs not be requested to report using the template for any quarter earlier than the third quarter after the final template is adopted. In addition, we recommend that reports pursuant to the final template be delivered within the same time frames that other reports are provided to LPs pursuant to the relevant fund documents, generally 60 to 90 days after the end of a quarter (or 120 days after a fiscal year-end). These two recommendations would mean that, if the template is adopted in early 2016 as expected, the template package would call for the first GP report in that format to be delivered together with other LP reports for the fourth quarter of 2016.

5. Other Implementation Recommendations

The PEGCC recommends that the ILPA present the template as a recommended form of report to be delivered by GPs to LPs. We believe it would be unwise if the ILPA and LPs seek to require GPs to input data into each LP's individual (and most likely, over time, customized) spreadsheet. The former approach is preferable, we believe, because it allows GPs to include appropriate explanatory footnotes (*e.g.*, where necessary to address the issues we outline in paragraphs 1 and 2 above) and additional disclosure that GPs believe is necessary and appropriate. In addition, we believe that this approach is likely to advance the goal of standardizing reporting.

In addition, we recommend that an accepted (and perhaps the preferred) format for the information in the template to be provided to LPs would be adding it as a supplemental page to the existing quarterly capital account statement reports. This would ensure that the fee, expense and carried interest reporting data would be produced from the same data and systems on the same timeline as the traditional quarterly reporting and be subject to the same internal quality controls as existing reporting.

Furthermore, according to the ILPA website, we understand that the ILPA is preparing additional materials to be released together with the final template in February of next year. Since we believe that active and early engagement on a project of this kind by key constituencies is more likely to lead to broader industry acceptance of the final work product, we would welcome the opportunity to review and comment on, or discuss with you, those additional materials.

6. Additional Recommendations

We have several additional recommendations, which are set forth in Annex A to this letter.

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The PEGCC appreciates the opportunity to share our views on the Proposed Template. We would be pleased to answer any questions you might have regarding our comments and recommendations above, and to participate in the consultation process going forward if that would be helpful and appropriate.

Respectfully submitted,



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Private Equity Growth Capital Council



Bronwyn Bailey
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Annex A

- A. It is not clear how certain items, such as fees charged to portfolio companies and expenses reimbursed by portfolio companies, should be reported on an LP-by-LP basis. We can imagine several approaches for determining an LP's "share" of any indirect fee and expense burden (or benefit). The method for allocating fees could vary depending on the manner and extent to which such amounts are applied to reduce the management fee, the percentage of a portfolio company held by a fund and other factors. Allocations based on capital commitments, as suggested by question 11 of your FAQs, may not be appropriate in many circumstances. Fund managers should be permitted to calculate and report in a manner that is most sensible for the fund and the LPs in question, so long as they indicate on their reports pursuant to the Proposed Template the method of calculation.
- B. Given the costs and burden of preparing the reporting at the detailed level contemplated by the Proposed Template, we recommend that it be done on an annual basis, rather than quarterly. Further, we ask ILPA to acknowledge that certain fees and expenses may be reclassified and adjusted over time and between reporting periods, as required by GAAP or as facts become clearer.
- C. The trailing 12-month (TTM) calculation should not be required. We do not see how this will necessarily be relevant for every LP, but providing this information will require significant accounting and systems changes for many GPs.
- D. Reports pursuant to the Proposed Template for main fund investments and co-investments may need to be separate reports, as co-investments may be made at different times as the main fund's investment and may be subject to different economic provisions (*e.g.*, lower management fees and/or carried interest arrangements).
- E. Fund managers should not be required to engage independent valuation firms to assist it in valuing portfolio investments. More generally, we note that there is currently no indication in the Proposed Template whether reports would be subject to any additional third-party testing or auditing requirements on the part of the GP. We strongly recommend that this not be required.
- F. Funds of funds generally report their fee, expense and carried interest information to their LPs, and may pass along to their LPs reports received from investee funds (when doing so is permitted); but generally funds of funds are not required to report fees and expense payments and carried interest distributions made by investee funds to the GPs (and affiliates) of the investee funds. This reporting is not done for many reasons, not least because (1) of confidentiality restrictions imposed by the investee funds, (2) obtaining and reporting such information with respect to unaffiliated funds would be extremely time-consuming and burdensome and (3) the information may not be able to be obtained in a timely fashion, if at all.
- G. As we have stated, the PEGCC and its members support enhanced transparency to LPs, as one important aspect of the partnership between LPs and GPs. At the same time, we also recognize that many LPs are subject to state FOIA and other public disclosure statutes that might, in some cases, allow for inappropriately broad dissemination of the highly detailed business

information called for by the Proposed Template. We would like to discuss with the ILPA how misuse and misunderstanding by third parties of the commercial information shared by GPs and LPs can be mitigated.