

Key Takeaways from Seward & Kissel's



E L E V E N T H A N N U A L

PRIVATE FUNDS FORUM

Recently, Seward & Kissel held its annual Private Funds Forum, where our panelists discussed the latest trends impacting the private funds community. Set forth below are key takeaways from the various panels:

I. Artificial Intelligence

💡 Artificial intelligence (AI) presents unprecedented opportunities for private investment funds, from enhanced decision-making to operational efficiencies. Yet, these benefits come with significant uncertainties, including regulatory ambiguity, ethical concerns, and the risk of overreliance on emerging technologies.

💡 AI has already permeated nearly every aspect of business and daily life, often invisibly. From email filtering to predictive analytics, its presence is ubiquitous—even among those who may not consciously recognize its role.

💡 The trajectory of AI adoption is clear: it will continue to expand across industries. The real debate lies in the pace of this growth and the specific applications that will define the next wave of innovation.

💡 AI is evolving from broad, general-purpose tools to highly specialized solutions tailored to niche tasks and industries. These targeted applications have already demonstrated measurable success, signaling a shift toward more personalized and efficient AI deployments.

II. Digital Assets

💡 The positive US regulatory shift on digital assets is welcome news to market participants, but regulatory uncertainty remains. SEC staff guidance, no-action letters, speeches and related pronouncements by US regulators are helpful and point to a desire to create clear rules of the road for digital asset activities. However, more permanent rules are just being considered and will likely take some time to be adopted. Managers should carefully examine their obligations when investing in digital assets.

💡 Investing in digital assets can take many forms, from direct investing to investing in regulated wrappers such as exchange-traded products (ETPs) and public companies with a digital asset treasury strategy (DATs). Direct investing requires bespoke considerations (e.g., 24/7 markets and related valuation considerations, sufficient expertise to evaluate counterparties providing custodial and other solutions). Investing through regulated wrappers provides easier exposure to digital assets without many of the operational constraints, but subjects the investments to the limitations of traditional markets. In the case of ETPs, the full economic benefits provided by the underlying digital asset may not be accurately captured (e.g., staking limitations) or be limited due to fees and other factors. In the case of DATs, their ability to serve as a proxy for exposure to the underlying digital asset will be subject to many considerations, in particular, whether the management team is able to execute on the strategy in a way that the market perceives as valuable.

💡 Expect continued significant ramp-ups in partnerships and corporate transactions between digital asset-native companies and traditional finance (and vice versa) as traditional finance works to incorporate blockchain technology into its foundational layer for quicker, more efficient and more cost-effective transactions.

III. Strategic Transactions

💡 Succession planning in the private funds space should begin well before any triggering event—such as retirement, illness, or market disruption—to ensure continuity and preserve firm value. Proactive planning allows firms to align leadership transitions with strategic goals and investor expectations, minimizing disruption and reputational risk.

💡 A majority of the top 100 asset managers have entered into some form of strategic capital arrangement. This seems to reflect a growing comfort among allocators with such structures, signaling a shift toward broader industry acceptance and a recognition of their role in supporting growth, succession, and long-term stability.

IV. Placement Agents

💡 Placement agent engagement requires strategic alignment and mutual confidence. Placement agents typically operate on a success-fee basis, so they are selective about the managers and strategies they represent. Before committing, they assess whether they can realistically raise meaningful capital for the fund, whether the economics justify their involvement, and whether there are any conflicts or overlaps with other mandates they're handling. Most agents prefer an exclusive global mandate to streamline outreach and avoid confusion in the market, although exceptions exist depending on geography or fund type.

💡 Fundraising remains difficult for all but the largest, most established managers, prompting increased flexibility in fund structuring. To attract institutional capital, many managers are adapting their offerings to meet investor preferences. This includes exploring evergreen and quasi-evergreen structures, customized separately managed accounts, and offering co-investment opportunities that allow investors to deploy more capital while reducing their effective fee load.

💡 There are no geographic shortcuts to successful fundraising, despite headline interest in regions like the Middle East. While certain markets may appear promising, securing commitments from investors in these regions requires significant time, relationship-building, and long-term engagement. Even with placement agent introductions, managers must invest in developing trust and demonstrating sustained presence. Similar dynamics apply in other foreign jurisdictions such as Asia, where cultural nuances and regulatory considerations further underscore the need for patience and strategic outreach.

💡 Despite headwinds, small and mid-sized firms continue to raise capital, though timelines are significantly extended. Managers should be prepared for fundraising processes that stretch 18 months or longer, reflecting cautious investor sentiment and increased diligence. Persistence, adaptability, and clear communication with prospective LPs are key to navigating this environment. While the path may be slower, firms are finding success by staying focused, leveraging strategic relationships, and offering compelling investment propositions.

V. Regulatory Update

💡 Enhanced privacy rules under Reg S-P, including strict incident notification requirements and service provider monitoring, go into effect on December 3, 2025 for SEC-registered investment advisers (RIAs) with greater than \$1.5 Billion AUM and on June 3, 2026 for RIAs with less than \$1.5 Billion AUM.

💡 As cyber threats grow in sophistication and frequency, cybersecurity continues to be a global concern for all CCOs – internal controls and training are necessary to avoid breach, comply with notice rules and to avoid lawsuits from regulators and investors. CCOs must work closely with IT, legal, and risk management teams to foster a culture of security awareness and resilience throughout the organization.

💡 Trade sanctions compliance has become a top priority for private investment fund CCOs in today's volatile geopolitical landscape. Private funds are particularly vulnerable due to their global investor base, cross-border transactions, and exposure to complex ownership structures. New national security-focused regulations have also been implemented that require careful review of transactions and other activities that touch certain countries or sectors of concern. For CCOs, this means implementing rigorous internal controls, automated screening tools where possible, and frequent training to ensure that all fund activities are fully compliant.

💡 The UK government has proposed the Leeds Reforms to reduce unnecessary regulation and stimulate growth in the financial services sector. A key focus is on reforming the Senior Managers and Certification Regime. The certification regime, which currently requires firms to assess whether certain individuals are “fit and proper” for their roles, may be replaced. In addition, the number of senior managers requiring pre-approval by the UK's Financial Conduct Authority could be reduced.

💡 The EU's AIFMD 2 legislation is set to take effect in April 2026, amending the existing Alternative Investment Fund Managers Directive (AIFMD). This will update the legal framework for managing and marketing alternative investment funds across Europe.

VI. Reputational Risk Management

💡 Before responding to any reputational threat—whether it's a media inquiry, investor concern, or legal issue—it's critical to gather a complete and accurate understanding of the facts. Acting prematurely or based on incomplete information can escalate the situation or lead to missteps that damage credibility. A disciplined fact-finding process will help ensure that your response is grounded, defensible, and aligned with both legal and fiduciary responsibilities.

💡 Litigation, once public, becomes part of the narrative—so timing and messaging are important. While there may be a natural instinct to respond immediately, it's important to weigh the benefits of speed against the need for strategic clarity. A well-crafted response can serve not only as a legal positioning tool but also as a reputational one, helping to reassure investors, regulators, and the public. Consider how your message will be received across different channels and stakeholders, and use the moment to reinforce your values and transparency.

💡 Maintaining investor trust during a reputational crisis requires strict adherence to disclosure obligations. Any material developments—especially those related to litigation or regulatory scrutiny—must be communicated in a way that ensures fairness and avoids selective disclosure. This means coordinating legal strategy with investor relations and compliance teams to ensure that all investors receive timely, consistent, and accurate information. Failing to do so not only risks regulatory consequences but can also erode the confidence of your investor base.

VII. Fund Liquidity

💡 GP-led secondary transactions continue to show strong momentum across the private funds landscape. LPs are increasingly receptive to these deals, thanks to growing standardization and transparency in the process. GP-led secondaries are gaining traction in the middle market, where sponsors are using GP-leds not just as a tool for distressed exits, but as a strategic means of portfolio management. These transactions often allow GPs to retain high-performing assets—particularly in sectors like artificial intelligence—while providing liquidity options to existing investors. The space is also seeing broader participation from LPs, reflecting a maturing market and deeper understanding of the benefits of these transactions.

💡 Net Asset Value (NAV) lending is also rising in popularity, reshaping fund-level financing strategies. The regional banking crisis accelerated the shift toward non-bank lenders, who now play a more prominent role in providing flexible capital solutions to funds. Both LPs and GPs are becoming more aware of NAV lending's potential, prompting increased scrutiny of fund documentation to ensure clarity around a GP's authority to borrow. As funds seek to optimize liquidity and extend holding periods, NAV lending is emerging as a strategic tool—especially in environments where traditional financing options are constrained.

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✦ If you have a specific follow-up question that you'd like to direct to the Seward & Kissel partner(s) associated with a particular panel, please feel free to reach out as follows:

- **Artificial Intelligence** – Dan Bresler (bresler@sewkis.com)
- **Digital Assets** – Phil Moustakis (moustakis@sewkis.com), Kris Swiatek (swiatek@sewkis.com) and Anthony Tu-Sekine (tu-sekine@sewkis.com)
- **Strategic Transactions** – Gary Anderson (anderson@sewkis.com) and Nick Miller (millern@sewkis.com)
- **Placement Agents** - Jacob Comer (comer@sewkis.com)
- **Regulatory Update** – Casey Jennings (jennings@sewkis.com), Brian Maloney (maloney@sewkis.com) and Dan Viola (viola@sewkis.com)
- **Reputational Risk Management** – Randall Adams (adams@sewkis.com), Russell Johnston (johnston@sewkis.com) and David Mulle (mulle@sewkis.com)
- **Fund Liquidity** – Caroline Lee (leec@sewkis.com) and Kevin Neubauer (neubauer@sewkis.com)



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