



Valuation of Alternative Assets

A SPECIALIST BRIEFING FOR PRIVATE FUND MANAGERS, ADMINISTRATORS, ACCOUNTANTS
AND LEGAL/COMPLIANCE PROFESSIONALS

Agenda

| | |
|-------------|--|
| Welcome | Ian Blance – Voltaire Advisors |
| 0900-0930 | Keynote – Prem Mohan |
| 0930 - 1015 | Panel Session – Private Debt Valuation |
| 1015 - 1030 | Coffee |
| 1030 - 1115 | Panel Session – Private Equity Valuation |
| 1115 - 1200 | Panel Session – Real Estate Valuation |
| 1200 | End of Briefing |

AIFMD II AND BREXIT

Lisa Cawley

Kirkland & Ellis International LLP
London

28 February 2017

Brexit

- Vote on 23 June 2016
- Followed by a lot of uncertainty – Norwegian/Swiss/WTO models ...
- What are we leaving?
 - 28 EU Member States
 - Iceland, Liechtenstein, Norway – EEA
 - Switzerland – bilateral agreement with the EU
 - UK joined EEC in 1973; single market of today established in 1992

Brexit

- “Four Freedoms” = freedom of movement for goods, services, capital and people
- Prime Minister’s speech, 17 January 2017 – bespoke model – UK Government intends to leave the EU single market – “hard Brexit” – but “greatest possible access” to the EU market

“European leaders have said many times that membership means accepting the ‘four freedoms’ of goods, capital, services and people. And being out of the EU but a member of the single market would mean complying with the EU’s rules and regulations that implement those freedoms, without having a vote on what those rules and regulations are. It would mean accepting a role for the European Court of Justice that would see it still having direct legal authority in our country.

It would to all intents and purposes mean not leaving the EU at all. And that is why both sides in the referendum campaign made it clear that a vote to leave the EU would be a vote to leave the single market. So we do not seek membership of the single market. Instead we seek the greatest possible access to it through a new, comprehensive, bold and ambitious free trade agreement (FTA).”

Implications for Asset Management Industry

- Varied statistics:
 - 40 – 50,000 jobs across the UK
 - £4bn a year tax contributions
 - £7bn of assets managed
- House of Lords European Union Committee, December 2016

The existing business models of UK-based financial services rely to a degree on ‘passporting’ rights granted in several pieces of EU legislation, and it has been estimated that around £40 - £50 billion of annual revenues are related to the EU. Were the negotiations to result in the UK being treated in the same manner as any other non-EEA ‘third country’, the UK could find itself seeking equivalence under legislative provisions that are patchy, unreliable and vulnerable to political influence. It has recently been reported that the European Commission is proposing to tighten the equivalence provisions in EU legislation: this highlights the unpredictability of such a regime
- Concluded if passporting not maintained, Government should seek a deal to bolster current equivalence arrangements for third country access, to close gaps in the regime and to ensure continuation of equivalence ...
- But – loss of seat at the negotiating table ... - will equivalence remain practical?

AIFMD now – and what is the “passport”

- Many provisions badly drafted/unclear
- Very little by way of guidance
- Applies differently to different categories of fund managers
 - (i) EU based managers
 - extensive compliance obligations
 - depositary
 - regulatory capital
 - remuneration rules
 - other compliance obligations, including all those applying to non-EU managers
 - upside = marketing “passport” meaning ...

AIFMD now – and what is the “passport” (contd.)

- (ii) Non-EU based managers e.g. US managers; Guernsey/Jersey managers (including those with London advisory offices)
 - can't currently avail of a passport, so national private placement is the only option for marketing in Europe by a non EU manager, meaning ...
 - if they register to market in Europe under national private placement regimes they become subject to a subset of the more extensive obligations that apply to EU managers
 - investor disclosures
 - annual fund report
 - regulatory reporting
 - where relevant, portfolio company provisions
 - if register in Germany and/or Denmark - depositary

Third Country Passport

- What is it?
- Originally intended to be optional in 2015; compulsory for EU marketing in 2018
- Very delayed ... despite there being “no obstacles” for many jurisdictions according to EMSA
- Don’t hold your breath ...

Passport - Brexit

- Loss of managing passport
 - Likely?
 - Post-Brexit, UK would become a third country
 - Alternative venues – Luxembourg, Dublin ...
 - Many firms managing cross-border will have a separate European hub

- Loss of marketing passport
 - Likely?
 - Third country passport – position generally
 - Third country passport – UK equivalence? Pre-emptive equivalence? But would be subject to the third country passport having been made available ...
 - National private placement regimes

Passport - AIFMD

- Threats from Luxembourg and Dublin?
- Impact on advisory offices – MiFID passport
- Recent survey – quarter of asset managers surveyed have started to relocate staff
- FCA: “business as usual”

Broader issues with Brexit:-

- **Free movement of people** – difficulty recruiting/maintaining talent? 284,000 EU citizens immigrated to UK in 2016; 3 million EU born residents in UK in 2014
- House of Lords European Union Committee, December 2016, concluded “the ability to continue to access to highly qualified staff and the ability to transfer them between the UK and the EU is a key issue for the financial services industry”
- **Portfolio companies**
- 8 million employees across Europe
- Staff – 15% of EU born people employed in manufacturing; 12% in wholesale / retail trade; 11% health; 10% hotels / restaurants; 6% financial / insurance
- Loss of “customs union” i.e. common tariff applied to goods entering member states from outside the EU; EU member states unable to negotiate their own free trade deals with non-EU countries; EU tasked with handling WTO negotiations

Broader issues with Brexit:-

- Prime Minister:

“I want Britain to be able to negotiate its own trade agreements. But I also want tariff-free trade with Europe and cross-border trade there to be as frictionless as possible.

That means I do not want Britain to be part of the common commercial policy and I do not want us to be bound by the common external tariff. These are the elements of the customs union that prevent us from striking our own comprehensive trade agreements with other countries. But I do want us to have a customs agreement with the EU.

Whether that means we must reach a completely new customs agreement, become an associate member of the customs union in some way, or remain a signatory to some elements of it, I hold no preconceived position. I have an open mind on how we do it. It is not the means that matter, but the ends.”

- Other legal issues, e.g. contracts, borrowing from UK banks, competition law, litigation, tax ...

AIFMD II

- Why is there an “AIFMD II”?
- When can we expect it?

What might AIFMD II cover?

- Not clear – lots of representations being made
- Things that could be covered include:
 - clarification around “marketing”
 - clarification around the definition of an “AIF”
 - Third country regime – passport; Member State of Reference
 - NPPRs – maintain beyond 2019
 - definition of “professional client” – MiFID definition
 - anti-asset stripping and portfolio company provisions
 - leverage



Partner, Regulatory
30 St. Mary Axe
London EC3A 8AF
t: +44 20 7469 2140
f: +44 20 7469 2001
lisa.cawley@kirkland.com

Lisa Cawley

Lisa Cawley has extensive experience in financial services regulation, gained over more than 20 years. She is recognised in Chambers, which has described her as an “oasis in the desert” when it comes to FCA regulation, and also “very precise and commercial” on AIFMD matters. It distinguishes her team as “the go-to source of counsel on the mutable regulatory landscape”. She is also recognised in Who’s Who Legal: Private Funds and The Legal 500, where she is described as a “master at all things regulatory in Europe” who “knows how to address the regulatory complexities that have come out of the financial crisis”. In the IFLR1000 it is noted that “she is extremely knowledgeable and efficient. A fantastic attorney with extensive knowledge of the law and practical implications of the regulatory environment”.

Lisa speaks, comments and writes regularly on regulatory matters and is an acknowledged authority in her field.

Offices

Beijing

Kirkland & Ellis International LLP
29th Floor, China World Office 2
No. 1 Jian Guo Men Wai Avenue
Beijing 100004
P.R. China
+8610 5737 9300
+8610 5737 9301 fax

Chicago

Kirkland & Ellis LLP
300 North LaSalle
Chicago, IL 60654
+1 312 862 2000
+1 312 862 2200 fax

Hong Kong

Kirkland & Ellis
26th Floor, Gloucester Tower
The Landmark
15 Queen's Road Central
Hong Kong
+852 3761 3300
+852 3761 3301 fax

Houston

Kirkland & Ellis LLP
600 Travis Street
Suite 3300
Houston, TX 77002
+1 713 835 3600
+1 713 835 3601 fax

London

Kirkland & Ellis International LLP
30 St Mary Axe
London EC3A 8AF
+44 20 7469 2000
+44 20 7469 2001 fax

Los Angeles

Kirkland & Ellis LLP
333 South Hope Street
Los Angeles, CA 90071
+1 213 680 8400
+1 213 680 8500 fax

Munich

Kirkland & Ellis International LLP
Maximilianstrasse 11
80539 Munich
+49 89 2030 6000
+49 89 2030 6100 fax

New York

Kirkland & Ellis LLP
601 Lexington Avenue
New York, NY 10022
+1 212 446 4800
+1 212 446 4900 fax

Palo Alto

Kirkland & Ellis LLP
3330 Hillview Avenue
Palo Alto, CA 94304
+1 650 859 7000
+1 650 859 7500 fax

San Francisco

Kirkland & Ellis LLP
555 California Street
San Francisco, CA 94104
+1 415 439 1400
+1 415 439 1500 fax

Shanghai

Kirkland & Ellis International LLP
11th Floor, HSBC Building
Shanghai IFC
8 Century Avenue
Pudong New District
Shanghai 200120
P.R. China
+8621 3857 6300
+8621 3857 6301 fax

Washington, D.C.

Kirkland & Ellis LLP
655 Fifteenth Street, N.W.
Washington, D.C. 20005
+1 202 879 5000
+1 202 879 5200 fax

Private Debt Valuation

Moderator:

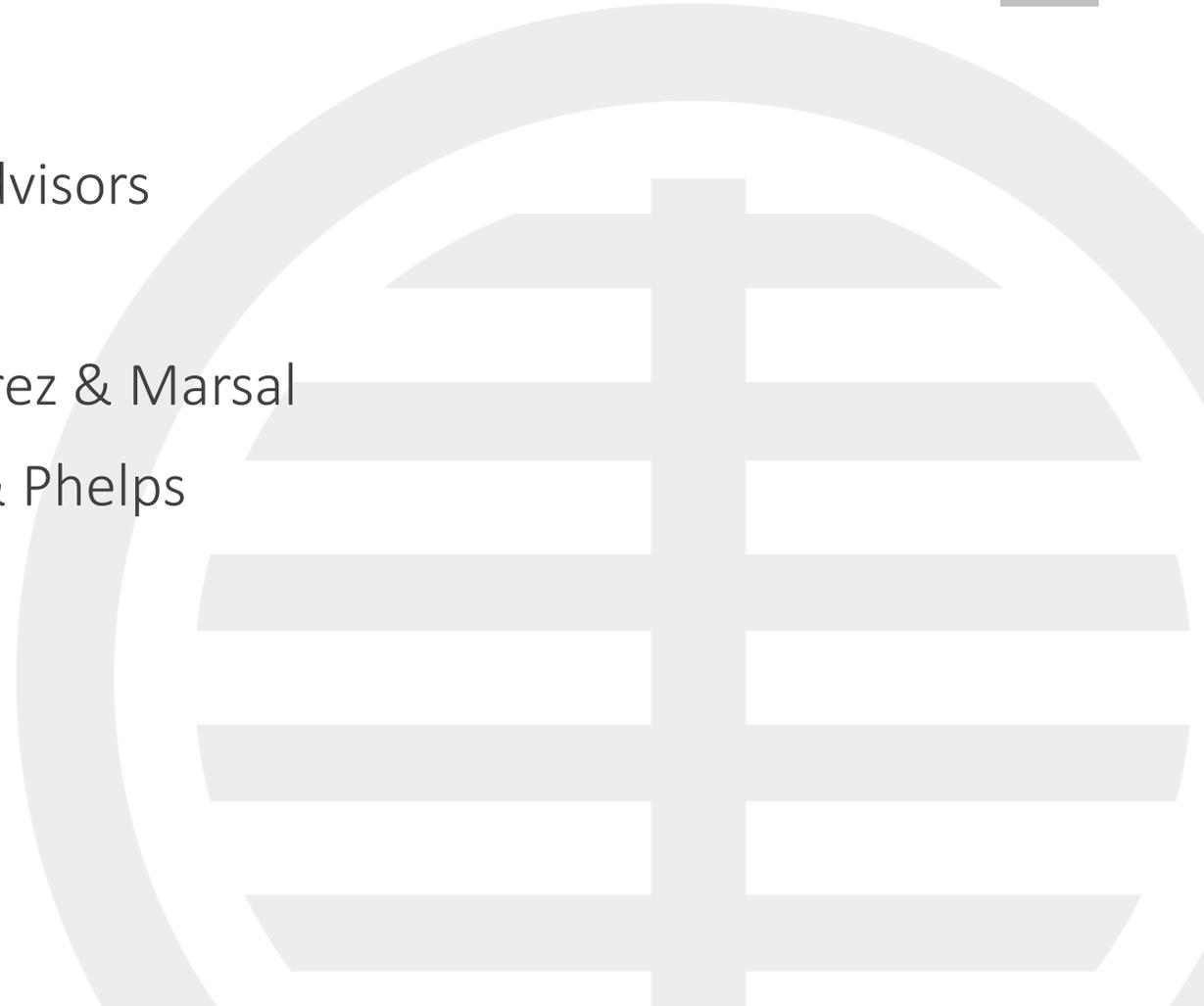
Ian Blance, Managing Director, Voltaire Advisors

Panellists:

Mark McMahon, Managing Director, Alvarez & Marsal

Ryan McNelley, Managing Director, Duff & Phelps

Leon Sinclair, Director, IHS Markit



- What are the main issues when considering intrinsic versus fair value?
- What are the key parameters driving the debt valuation process?
- What methodologies are most commonly applied in this process?
- How much influence should the investor have?
- How should the original transaction and company specific factors feature in the valuation?
- What market data is important to generating ongoing valuations for private debt?
- What are the main considerations when looking at subordinated and distressed debt?
- What role should indices play for valuation purposes?



Valuation of Alternative Assets

A SPECIALIST BRIEFING FOR PRIVATE FUND MANAGERS, ADMINISTRATORS, ACCOUNTANTS
AND LEGAL/COMPLIANCE PROFESSIONALS

Private Equity Valuation

Moderator:

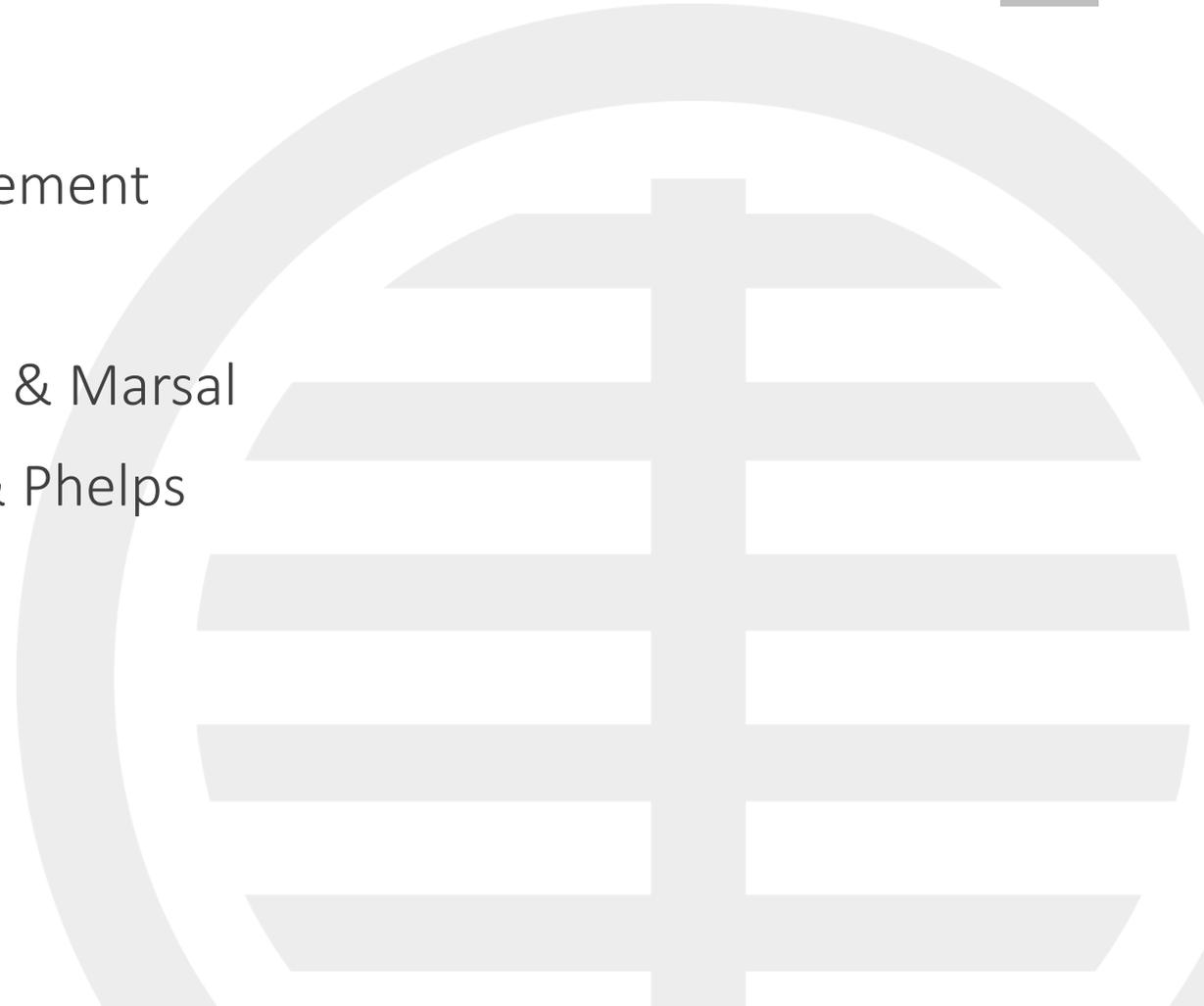
Claire Wilson, Editor, Private Fund Management

Panellists:

Richard Bibby, Managing Director, Alvarez & Marsal

Ryan McNelley, Managing Director, Duff & Phelps

Leon Sinclair, Director, IHS Markit



- What are the key issues to be taken into account for PE fund valuation policies and procedures?
- What are the main considerations when valuing investments in venture/early stage companies?
- What are the main considerations when valuing investments in companies with complex capital structures?
- What are the key calibration metrics in PE valuation? What impact has Brexit had on these?
- How much should a deal team be involved?
- What are the pros and cons of outsourcing valuations tasks? How do you choose an outside valuer?
- How often should valuations be carried out?
- What are the biggest changes you are seeing in the PE valuation market?

Moderator:

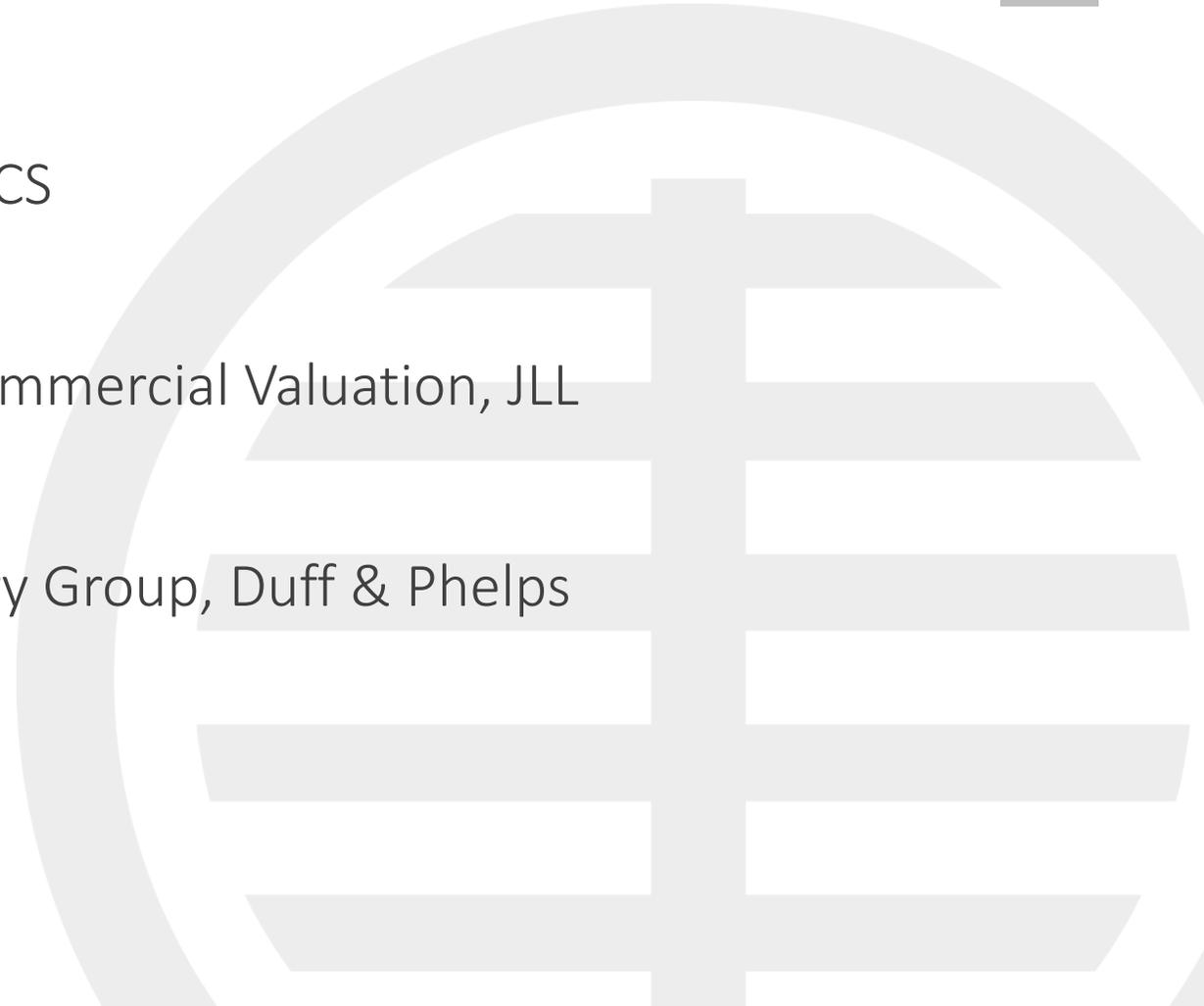
Ben Elder, Global Director of Valuation, RICS

Panellists:

Hugo Raworth, Lead Director - London Commercial Valuation, JLL

Chris Thorne, Director, Valuology

Keenan Vyas, Director, Real Estate Advisory Group, Duff & Phelps



- How is 'professionalism' maintained in such a competitive RE valuation market? What is the role of third-party valuers?
- Do valuers provide the information the clients want/need? What is the feedback from LP's on current approaches?
- What are the main internal challenges for a fund in developing sound valuation policies and procedures? How should the investor be involved in the process?
- How valid is the cost approach to valuation?
- What are the DCF implications of current economic conditions (fiscal stimulus/rising rates/constrained borrowing)?
- How important is documentation and transparency?
- What has been impact of AIFMD on RE funds? What changes would panel like to see to valuation provisions in AIFMD review?
- What is the future for regulatory scrutiny of RE valuation?



Contact Us

Voltaire Advisors LLP

| | |
|--------------|----------------|
| No.1 Poultry | 14 Wall Street |
| London | New York |
| EC2R 8JR | NY 10002 |
| UK | USA |

+44 800 677 1694
info@voltaireadvisors.com
www.voltaireadvisors.com

