10 years LPEA

THE LUXEMBOURG VOICE OF PRIVATE CAPITAL

GUESTS' GEMS

PRECIOUS INSIGHTS FROM CONFINEMENT

March - July 2020

We are delighted to bring you our "Guests' gems", following our successful series of webinars held from the end of March till the middle of July 2020.
It is a compilation of the best quotes from our guest speakers, all high-profile personalities, mostly from the PE world, in Luxembourg and abroad.
This publication should provide you with insights and ideas on what matters to navigate in stormy situations like the one brought about by the COVID-19 pandemic.
We hope that you will find the quotes inspiring to help you manage your own teams and business.

Rajaa Mekouar & Claus Mansfeldt

TABLE OF CONTENTS

OPENING NOTE

Dear Reader,

The LPEA team is proud to share with you the "Best Of" insights from our speakers who we interviewed for our "10-year 10-minute" series, led by our former CEO Rajaa Mekouar, as well as from experts we've invited for the technical webinars moderated by our new CEO Stephane Pesch.

The "10x10" series was inpired by the LPEA's 10th Anniversary in 2020, and hosted 10 VIP guests with extraordinary experience and influence in their fields.

The technical webinars were meant to help our LPEA community get the latest updates, be they regulatory, fiscal or valuation-related.

All together, we hosted 37 speakers across 40 events, which were widely recognised as unique in the industry. Our events gathered over 2,122 participants from Luxembourg (68%), but also abroad.

All interviews and webinars are available online on the LPEA YouTube Channel, and we are proud to share this compiration of the "Guests' Gems" with you in this Special Edition Magazine

* Some photos in this publication were selected by our guests. They represent and reflect the beautiful things that people enjoyed during this unusual period of time

SPONSORS

Thank you!

“10 YEARS, 10 MINUTES”

25.03.2020 & 27.05.2020

MARK TLUSZCZ

Co-Founder & CEO of Mangrove

"COVID-19 will accelerate the digitisation of the economy and provide entrepreneurs with bigger and better opportunities as consumers accept that behaviour shifts are creating a new reality."

Our latest success is a company called Wix. We took the company public on the NASDAQ in 2013, valuing the company at $750 million. Today, I am still the Chairman and our valuation is near $15 billion. It's a good example of being a long term investor. IPOs are just another step in the journey and our responsibility to our shareholders is to maximize returns. This requires being smart and forward looking.....

When the crisis came in March 2020 we told our companies that they needed to make sure they could operate until the end of 2021. By cutting costs or raising money, and the large part of our portfolio managed to do that.

We are not fans of working from home. It is a mirage because employees lose all notion of social interaction and the separation between work time and private time becomes blurred. We have significant concerns for the wellbeing of individuals, and in particular their psychological wellbeing.

COVID-19 will accelerate the digitisation of the economy and provide entrepreneurs with bigger and better opportunities as consumers accept that behaviour shifts are creating a new reality. We are particularly excited for the small and medium sized companies who will see this as an opportunity to go 100% digital

COVID-19 has not changed our view on investments. We have a 10 year-long horizon. We continue to make investments, yet remain cautious that this cycle could last a few years. Even if a second wave of the pandemic becomes a reality, our sense is that it will never be as bad as March/April. We understand the enemy more than ever.

I am super-optimistic about the future. During any crisis it always seems that things will never be the same. It will require some time to get out of this, but I see future in a very optimistic way. The biggest issue is fear and unemployment. The sooner we can fix these issues, the sooner we can look towards the future.

This interview was held on two occasions.
You can find both the 1st edition and the 2nd edition can be replayed on our Youtube page.

LEGAL NOTICE
These insights represent a free transcript of the session's excerpts and are not the verbatim notes of the conversation. For more details please contact LPEA.

31.03.2020 & 18.05.2020

NORBERT BECKER

Entrepreneur, Investor and Board Chairman

"For Private Equity I remain quite optimistic. The investment funds have well diversified portfolios and invest in different industries. In this case everything should be ok."

I think that the dust caused by C-19 will not settle for a long time. I do not believe that we will return to the state we had prior to the crisis. The 2nd and 3rd quarters will be very difficult for many companies. From the strategic point of view many industries will be heavily impacted and we will see a huge rise of unemployment in the next years.

We should rethink the globalisation problem. For example, medical equipment and medication are produced outside of Europe due to EU regulations. The production was moved to poorer countries where pollution regulations, for example, are not yet strict. But this should be changed and a new globalisation should arise. Products and services should change dramatically and be accessible here. And it will bring a lot of new opportunities for the local economy.

I want managers to wake up in the morning and think about what can be changed to take advantage of this situation, so that we can survive, so we have a growth pattern in front of us, so we can continue to employ people. Without this not much will happen. My best idea now is to stay close to my companies and help them to go through this situation. Together we can use the opportunities after this crisis to start a new successful page for our businesses.

For Private Equity I remain quite optimistic. The investment funds have well diversified portfolios and invest in different industries. In this case everything should be ok. That is why I am not in public equity. In PE I can also bring my own experience to the business and help whenever needed.

Concerning the work guidelines within my businesses, people can work from home if they can and they are welcome to go to the office once a week simply not to lose the important social interaction.

This interview was held on two occasions.
Both the 1st edition as well as the 2nd edition can be replayed on our Youtube page.

LEGAL NOTICE

These insights represent a free transcript of the session's excerpts and are not the verbatim notes of the conversation. For more details please contact LPEA.

06.04.2020

NICOLAS MACKEL

CEO of Luxembourg for Finance

"The real crisis is global warming and we have much bigger catastrophes ahead of us if we do not take action."

What we've learnt during this crisis is that we should base our opinions and actions on numbers and statistics and not on speculations. We should always wait for proper numbers and data.

I believe that it is important to support Green Finance. Here again the importance of science and research is very clear. The real crisis is global warming and we have much bigger catastrophes ahead of us if we do not take action.

The main message now is to remain cool-headed and keep our nerves. With a bit of optimism and collective work we can solve this crisis. It is a global problem which requires global efforts.

Banks are very active to help firms to find solutions to survive.

Diversity is very important for our organisation. But for us it is also a very natural process. We are recruiting only based on competence and we have 12 women and 6 men in our team. I think Luxembourg is really becoming more gender-diversified.

Luxembourg supported employment during the C-19 crisis and made it a priority to protect jobs. If we all pull together, we can protect the employees and the financial industry might not even need support from the government.

You can check out Nicolas' interview here.

LEGAL NOTICE
These insights represent a free transcript of the session's excerpts and are not the verbatim notes of the conversation. For more details please contact LPEA.

09.04.2020

LUC FRIEDEN

Partner at EHP and Chairman of the Chamber of Commerce of Luxembourg
Former Finance Minister of Luxembourg

"We need reduction of bureaucracy, reduction of regulation and reduction of taxes."

There are many parallels between the COVID-19 crisis and the financial crisis of 2008: 1) it came in a very sudden manner and globally; 2) national states had to intervene in a quite dramatic manner to support the economy and to save the financial system; and 3) it took a while for the economy to return to normality (6 years).

We are only in the beginning of an economic crisis that affects all the economic sectors. The economy will be hit quite strongly. There will be waves and it will not be over by the time the lockdown finishes.

This time the financial sector is much more resilient. However the first hit now was on the real economy and this will have an impact on the markets, on the funds and later on the banks. I'm not worried about the financial sector but we should not be naïve, the hardest piece will only come in a few months from now or next year.

We should do more to strengthen the economic and monetary union including all aspects of the banking union to make sure that if a further crisis arises we know where the failures are. Many countries will be particularly affected in a very serious manner and will cause additional problems in the Eurozone.

Banks are part of the solution to this crisis. They are now strong but must watch out so they do not become weak by being too relaxed in granting credits.

The existing support package is comparable to the one attributed during the previous crisis but we should not ask too much from the State because the money comes from tax payers and public debt needs to be reimbursed one day. The package so far is an important buffer but the main question is how to relaunch the economy.

We need reduction of bureaucracy, reduction of regulation and reduction of taxes.

I'm not a big fan of Corona bonds because it's giving money to countries which are not in condition to pay back. We need solidarity and need to give some countries direct assistance otherwise they may come to a situation in which they put all other countries at risk.

The European economic and monetary union must become much more of a political union because certain decisions cannot be taken anymore at a national level. Every country is interconnected so the solutions must also be European, especially when it comes to economic issues. The single European Market as of today allows us to grow in a much stronger way but we use it too little.

Europe can be a player in world affairs only if we are united as Europeans.

You can re-watch Luc' interview in full here.

16.04.2020

CLAUS MANSFELDT

Chairman of LPEA & SwanCap

"The winners on the market now are definitely healthcare businesses. I believe it will continue to be a good investment sector. And of course remote communications, electronic services and cloud based software businesses. We have not invested in the most immediately exposed sectors, such as retail or travel, for a long time already"

As SwanCap is a GP responsible for institutional pension money, to start with, we have to stay calm. I must say we are the lucky ones, because we do not suffer from daily volatility like public markets do. But underneath the calmness, there is hard every-day work.

We are trying to stay on top of it and make sure to understand what is going on. We are trying to predict where this all might lead in terms of valuations and cash flows and trying to support our GPs finding new opportunities. Maybe there will be some interesting secondaries opportunities coming up and finally a way to get into some otherwise hard-to-get funds; with some investors absent it may open new windows.

Remembering the previous crisis I can say that our worst vintage had a return of 1.3x money-multiple, so we're relatively confident that our mantra of careful selection and diversification will see us in good stead also in the current crisis.

I spent many years in London and when comparing to Luxembourg I can say that London is obviously a metropolis and also a transactions hub, it is about doing deals, raising funds and transacting at high speed and in big volume. Luxembourg is calmer and has longer-term horizons. The Luxembourg working environment is heavily based on relationships, less transactional than London.

Claus' interview is available here.

LEGAL NOTICE

These insights represent a free transcript of the session's excerpts and are not the verbatim notes of the conversation. For more details please contact LPEA.

17.04.2020

NASIR ZUBAIRI

Co-Founder and CEO of the Luxembourg House of FinTech (LHoFT)

"At the LHoFT, we focused on RegTech as a key strategic pillar from the start and it has become a prominent sector in Luxembourg and is in huge demand."

I think there will be an expansion in an area of Fintech that is well established in Luxembourg: RegTech. Banks have been in trouble for a long time. Their returns have been decreasing all across Europe. They are looking to accelerate cost savings and focus on compliance technology, to report, manage data and monitor their businesses more efficiently. Now, during C-19, banks are finding that that they have difficulty to on-board new clients, because too much still depends on manual processes involving signatures and pieces of paper, but you can't meet anyone. As a result, there is a acceleration in the pace at which technology is now being implemented, with banks deploying tools for digital signatures, video on-boarding and other digital processes which brings new challenges for regulation.

At the LHoFT, we focused on RegTech as a key strategic pillar from the start and it has become a prominent sector in Luxembourg and is in huge demand. These types of companies thrive here and can use Luxembourg to grow their business across the continent.

There were so many excuses before from financial institutions as to why they wouldn't, couldn't or were slow to digitalise. All these excuses have now seemingly dissipated.

Fintech goes hand in hand with venture capital. Finding capital is not the easiest thing. If a start-up is not ready to raise money, we have straightforward conversation with the startup and we help them develop further. But we have now very strong portfolio of start-ups in Luxembourg which I believe are going to be successful. And it will help to attract more venture capital to Luxembourg as a whole, which is in our mutual interest.

We are not out to make Luxembourg number one for fintech, we aim to make sure we have an effective ecosystem. We are collaborating with other European hubs, we have an initiative "the talent route" within which all the European hubs collaborate.

Large companies present in Luxembourg who we collaborate with include Amazon, Alipay, who just moved to our facility and will be their European headquarters, Paypal, Blockchain.com, Lendinvest and more. There is a strong pipeline of companies wanting to come to Luxembourg even during C-19.

Blockchain is driving change, greater efficiency, lowering costs, new products/access to new asset calsses and has huge potential. Though I was not really a big fan of blockchain, I see how it has developed I think companies working with this technology are some of the most exciting in Luxembourg. I would never say this 4 years ago.

Nasir's interview is online here.

LEGAL NOTICE

These insights represent a free transcript of the session's excerpts and are not the verbatim notes of the conversation. For more details please contact LPEA.

23.04.2020

JULIE BECKER

Deputy CEO of Luxembourg Stock Exchange

"As a direct contribution, LuxSE decided to waive the entire listing fee for COVID-19 response bonds."

The Luxembourg Stock Exchange (LuxSE) established the Luxembourg Green Exchange (LGX) in 2016 as a contribution to the UN Sustainable Development Goals and the Paris Climate Agreement. LGX is the world's leading platform for listed sustainable securities and helps reorient capital flows into sustainable investment projects. The role of LGX is to help enhance global wealth, and to make it last!

Investors increasingly want to know where their money is going and what impact their investment will have on future generations. It's about finding a sense of purpose and that's where LGX comes in by providing investors transparency and comfort to invest in sustainable projects that contribute to societal prosperity.

Our role is to provide visibility to issuers of sustainable securities and full transparency around these products to investors, allowing them to make informed investment decisions. As of April 2020, LGX counts around 700 sustainable securities representing more than USD 265 billion.

Since the COVID-19 pandemic hit, we have seen a surge in social bonds issuance. The proceeds from these COVID-19 response bonds are used to finance projects linked to healthcare, education, social housing and food security, for instance. As a direct contribution, LuxSE decided to waive the entire listing fee for COVID-19 response bonds.

A significant amount of funding is needed to ensure the transition into a more sustainable and inclusive economy. Public funding will not be enough; private investments must play an important role in this transition.

Sustainable finance is here to stay, we have no other choice and we must act now!

Julie's intervention is available here.

29.04.2020

REMCO HAAXMAN

Partner at Coller Capital

"We believe that there will be some very interesting opportunities coming to the market in the near future."

With COVID-19 having caused a level of disruption to the global economy and financial markets that had not been seen in years, private equity investors and fund managers alike are now facing a wide range of challenges.

However, it would be dangerous to expect that the COVID-19 downturn will impact the private equity industry in the same way as the Global Financial Crisis – not only because the PE industry today is now almost three times as large than in 2008, but also because Secondaries have now become a mainstream feature of the PE market.

With LPs and GPs alike being far more used to accessing the secondary market than they were in 2008-2009, and today's investors' portfolios being larger and more complex, we believe that there will be some very interesting opportunities coming to the market in the near future.

In fact, after a period of maximum dislocation causing secondary volumes to slow down as buyers and sellers reassess market conditions, we expect transaction activity to pick up again, with mainstream investors beginning to re-shape their portfolios for a post-COVID world.

You can see Remco's interview here.

07.05.2020

HEDDA PAHLSON-MOLLER

CEO of Tiime

"During a time where mindset is scarcity and toilet paper outranked oil in value, we are all being asked to evaluate our intentions to 'build better' and set new standards and expectations for our economy."

Values-based investing encourages evaluation of non-financial risks and returns in our investment strategies. More than our thoughtful social media posts for social justice and environmental awareness and even our consumption habits, it is the capital we mobilize that sends the strongest message to the economy– for the future we want to build.

Negative screening companies/funds that are not aligned to our ethics and values is an important step in addressing global challenges – whether that is divesting from fossil fuels to focus on renewables or avoiding industries that have poor human rights records. Using ESG metrics as an additional filter to seek out investments that are evaluating their impact on people, planet and profit can be both a risk mitigator as well as the opportunity to build a more sustainable and successful outcome.

Impact investing invites you to define which societal issues you prioritize and to invest your capital in contributing to solutions. Whether you are passionate about addressing inequality, access to healthcare, plastics in the water or CO2 emissions, there are available investments across asset classes that address these issues proactively and with measurable outputs – where each investor can choose the risk/return profile and optimize financial and/or impact returns as they deem fit. It is not a zero-sum game on financial vs impact returns, but each investor can choose their own balance and objectives.

During a time where mindset is scarcity and toilet paper outranked oil in value, we are all being asked to evaluate our intentions to 'build better' and set new standards and expectations for our economy. Now is the time more than ever to align your values with your investments and support purpose-driven organizations fueling the new economy towards a more equitable and environmentally responsible future.

Join us on the **#impactimperative** journey @tiimeNOW.

Photo of Cécile Sevrain, Partner of Hedda in Tiime, with Bonnie, born on March 5th just before confinement

You can replay Hedda's interview here.

LEGAL NOTICE

These insights represent a free transcript of the session's excerpts and are not the verbatim notes of the conversation. For more details please contact LPEA.

12.05.2020

CORINNE LAMESCH

Chairperson of ALFI

"(...) in long-term ALFI's priorities do not change. Some of them are sustainable finance and ESG..."

What we experienced over the past months is a major crisis, the most challenging I have experienced in my career. March 2020 saw the wildest market downturn in decades and we are managing the crisis in a BCP environment while all working from home. As an association we have been working closely with our members, we collected all their questions, worked on solutions and engaged with the relevant authorities. We have been looking into topics such as IT, cyber security, liquidity measures, AML, documents signatures, etc.

In the short term we were fully involved in crisis management addressing all the concerns. But in long-term ALFI's priorities do not change. Some of them are sustainable finance and ESG, and I believe they will become even more important. Before we were mostly addressing environmental issues (E), now we see a lot of focus on social aspects (S) such as safeguarding employment and supporting the health system. Studies start to show that Companies with good ESG ratings are managing the crisis better and are performing better.

Another priority of ours is to broaden the access to alternative investments in Luxembourg. Alternative funds are an important tool to channel private funding into the real economy.

In terms of regulations I think hot topics are liquidity and potentially valuations, how to value less liquid assets in times like this. I think we should make sure that current regulations work before making new ones.

We are also working on diversity in our industry together with LPEA. Bringing new and diverse talents to Luxembourg and more women into the industry are among our key priorities.

Corinne's interview is online here.

14.05.2020

SERGE DE GANAY

Chairman of Bemberg Group/IAS

"(...) two months ago cash was trash, now it is king and essential for survival."

I believe that this crisis is accelerating the need to redefine time and space. It's what I call the Einstein effect, the physician that dramatically redefined that relationship. The key actor is the disruptive couple represented by Amazon and Zoom. Take Amazon, which completely changed our relationship with space. Before if you wanted to access the product, you would have to go by foot, by horse or car. Now the product is coming to you. Zoom and Skype changed our relationship with time. We can communicate with everyone, everywhere, at any time.

Through the COVID-19 crisis we strongly experience and learn how to organise ourselves virtually. We now do most of our meetings online. But because it proved to be efficient, time saving and cost saving we think that we will continue to do our job partially online when the pandemic is over.

On the financial dimension, if two months ago cash was trash, now it is king and essential for survival. Managers usually don't like cash, but as family offices we love cash. When you have cash, you survive. When you have it you can do some opportunistic investments. Just look at Blackstone that has now cash of $150 bn. If you consider that a major crisis like this occurs every 10 years, having cash reserves for 24 months puts you into a pretty safe position.

Concerning private equity, I think it will be there no matter what happens. The only problem of the sector now is that it is too attractive.

Finally, if we want to address the post-crisis situation at the corporate level, three questions have to be reinforced:

1. What is your corporate purpose? What is the end-game?
2. Do you have good proper alignments in your company from top to bottom not only inside but also outside?
3. Be attentive to your impact as sustainability is no longer negotiable.

Serge's contribution is available here.

20.05.2020

CLAUDE MARX

General Director at CSSF

"There is easy access to the regulator here and the possibility to discuss things at a very high level from the beginning."

No one was ready for this pandemic. However a couple years ago we already equipped all our employees with mobile tools and laptops, tablets. We also have a good VPN connection. Within the first week we could be 58% off site and 98% by the second week.

In terms of electronic signatures, there has been a law in Luxembourg for a while now that if the electronic signature meets the requirements it is equivalent to the original, it is accepted. It is also a part of our 4.0 strategy. We are communicating more and more through secure e-channels, but once you are identified and logged in our e-desk, we do not require a signature and can communicate freely.

In my entire career I haven't seen regulations to be reduced, and I don't see less regulations coming. But we at CSSF will make sure that it is proportionate and that small firms can also function well.

Luxembourg was the first to introduce the fund regulation and much more. By doing that we started to build a competitive environment and we need to keep this. Luxembourg has a very friendly business environment, but more is centralised and more regulations emerge. There is easy access to the regulator here and the possibility to discuss things at a very high level from the beginning. Therefore

I believe that Luxembourg will remain compatible in future.

We have an initiative to educate people about finance on different levels. From teaching people how to avoid being broke to investor education, because we are still under invested in Luxembourg. This is important for the market and on this subject we should work together.

You can re-watch Claude's interview here.

LEGAL NOTICE

These insights represent a free transcript of the session's excerpts and are not the verbatim notes of the conversation. For more details please contact LPEA.

28.05.2020

JAKOB LINDQUIST

Co-Managing Partner at CORDET Capital

"I believe the business opportunity for alternative credit specialists to be even greater today than a year ago as banks further retrench."

Jakob Lindquist, Co-Managing Partner of alternative credit specialist CORDET, expects to see a continuation of the tremendous growth that alternative asset class Private Debt has experienced since the Global Financial Crisis. Facing increasing regulation and capital requirements, it has become more costly for banks to hold loans on their balance sheets. As a consequence, traditional credit providers have been undergoing a secular deleveraging, leaving a financing gap for many companies.

While larger corporates typically have a wider choice, including the high-yield bond and leveraged loan markets, the main alternative for smaller companies is Private Debt, in particular Direct Lending. Smaller mid-market companies also form the target group of CORDET, currently investing from its second Direct Lending Fund and focusing on firms based in the UK and Ireland, Nordics, DACH, and Benelux, with EBITDA between €2m and €15m. The companies CORDET supports are typically niche market leaders with high revenue visibility that benefit from megatrends, for which CORDET can offer more bespoke and partnership focused loan structures than traditional banks.

For investors, Private Debt remains a stable, defensive asset class that steers clear of mark-to-market volatility without the requirement for regular quarterly adjustments. Compared to the high-yield bond and leveraged loan markets, Private Debt typically also comes with a better security package,

including maintenance covenants. The above aspects, combined with a stable, quarterly yield on the portfolio, makes Private Debt an attractive asset class for many investors.

In the current COVID-19 impacted environment, I believe the business opportunity for alternative credit specialists to be even greater today than a year ago as banks further retrench. Additionally, a shift away from the borrower's market of the past can already be seen with regard to pricing and documentation. At the same time, for managers with portfolio difficulties, there will be a day of reckoning as the long period of benign investment conditions may have come to an end.

Jakob's interview is available here.

03.06.2020

TONIKA HIRDMAN

General Director of Fondation de Luxembourg

"Philanthropy and impact investing go hand in hand."

The Fondation de Luxembourg was created in 2009. It functions as an umbrella foundation, the only one of its kind in Luxembourg, and currently manages over 80 foundations which in turn support charitable causes around the world.

The Fondation de Luxembourg serves as a bridge between two worlds that do not often connect: the financial sector and philanthropists on one side and the charitable sector on the other. Offering a tailor-made approach, our team guides donors as they create their foundation and find causes to support. With extensive knowledge of the charitable sector, a wide network of trustworthy partners and experts worldwide, the Fondation de Luxembourg also benefits from strong government support and the credibility and continuity that it implies.

Private Equity firms wishing to create a foundation may benefit from this as well, not to mention the transparency that comes with setting up a foundation externally. Philanthropy itself benefits from Private Equity firms' engagement as they bring a methodical approach to tackling global issues, along with extensive knowledge, the necessary funds and an entrepreneurial and results-oriented mindset.

A family may also seek to create a foundation, seeing it as a transmission of values to their descendants. Setting up the foundation and choosing causes to support can be a gratifying experience for all involved and can strengthen cross-generational bonds.

Indeed, the same values can also apply to investment strategy. Philanthropy and impact investing go hand in hand. Until now, foundations were doing wonderful work in terms of their philanthropic activity, while ignoring how they invest their endowment capital. We want to change this with a sustainable investment policy that takes these aspects into account. With impact investing, you can further the cause you are supporting.

The Fondation de Luxembourg offers an existing framework and tailor-made support for setting up a foundation, finding a worthy cause and making sure your contribution ends up where it can really make a difference.

Tonika's interview is available online here.

15.06.2020

AUGUSTIN DUHAMEL

Managing Partner at 17Capital

"The recent pandemic has accelerated a long-term trend of the growing acceptance and use of portfolio financing in an ever-maturing industry, with 17Capital's all-weather solution applicable for both defensive and offensive situations."

Building on its pioneering of portfolio financing, 17Capital has grown over the past 12 years in terms of both team and fund size, with more than 50 people and €4bn assets under management today. 17Capital's offering fills a gap in the market for investors seeking liquidity or increased investment capacity, but wishing to retain the upside of their investments. Whereas their only previous options had either been to sell in the secondaries market or to borrow from a bank, 17Capital provides strategic and flexible financing against diversified portfolios of assets either in the form of preferred equity or NAV-based lending.

When 17Capital first started investing following the 2008 global financial crisis, most deals were with LPs seeking liquidity without wanting to sell their portfolios. As the cycle turned, 17Capital shifted to financing funds themselves that were looking to capitalise on opportunities. The recent pandemic has accelerated a long-term trend of the growing acceptance and use of portfolio financing in an ever-maturing industry, with 17Capital's all-weather solution applicable for both defensive and offensive situations.

Augustin's interview is online here.

19.06.2020

JURGEN VANHOENACKER

Executive Director - Sales, Marketing & Wealth Structuring at Lombard International Assurance

"(...) in times of high market volatility, NTAs have grown in popularity (...)"

At Lombard International Assurance, we have been integrating non-traditional assets (NTAs), including private equity (PE), into unit linked life insurance portfolios for over 2 decades. As the leading provider of global wealth and succession planning solutions, with NTAs counting for more than 10% of our €48bn+ assets under administration, along with a dedicated NTA team of 12+ people, we work closely with our business partners to support them and their clients' in explaining how to utilise this asset class within our offering.

Whilst HNW Individuals are traditionally focused on protecting and passing on their assets, in an increasingly uncertain and complex world, they are considering insurance-based wealth planning solutions more and more for the flexibility, portability and expert structuring design these offer. Furthermore, in a permanent low interest rate environment, HNW investors' appetite for yield has led to increasing attention in alternative asset classes such as PE.

Luxembourg's unique investment regime enables the integration of NTAs into life insurance policies, beyond traditional equities and bonds. Through the years, and especially in times of high market volatility, NTAs have grown in popularity and we see an increasing number of HNW individuals and families integrating PE as part of their long term wealth and asset planning strategy. This current trend is set to continue and we are committed to helping our clients in getting the best outcomes from their diversified investment portfolios as part of their broader wealth planning strategy.

Find Jurgen's interview is online here.

WEBINARS

WEBINAR

DAVID CAPOCCI

Partner, Head of Alternative Investments at KPMG Luxembourg

"(...) we have seen certain booming areas (...) we experience growth and come up with new opportunities."

The crucial importance of communication (especially the virtual kind) became evident during the COVID-19 crisis — and LPEA's weekly webinars were the perfect way for Luxembourg's PE and VC markets to maintain an ongoing dialogue. I am glad to have participated to the "Big 4" webinars discussing the impact of COVID-19 and sharing my views.

Exceptional months lie behind us, yet COVID-19 did not only bring unfavorable developments but innovative and positive ones too. For me, the lockdown, and implementing remote working methods, showed us that all staff were able to work from home successfully and efficiently. We at KPMG Luxembourg are convinced of the benefits of establishing and maintaining an ongoing "new way of working" model.

From a business perspective, at the start of the lockdown we noticed a caution towards new deals. Furthermore, the exit activity in the private equity market continued its downward trend from 2019. The markets that suffered particularly are currently in a "comeback" mode, adjusting their strategies and focusing on a future in which COVID-19 will continue to exist. Nevertheless, we have seen certain booming areas (e.g. hedge funds, streaming and IT business), we experience growth and come up with new opportunities. We see a high demand for setting up Luxembourg private debt funds as well as venture capital funds. I am both positive and curious for the second half of 2020, which I expect will unveil a lot of opportunities for the Luxembourg PE and VC markets to keep us busy!

David was one of the speakers at the " COVID-19 Impact on Private Equity – the view from the Big4" webinar.
This is a member's only webinar. To access the video, please send a request to events@lpea.lu

WEBINAR

LAURENT CAPOLAGHI

Private Equity Partner at EY Luxembourg

"Government has done a great job in providing quick and efficient local financial stimulus. Considering the lack of talents in our eco-system, it is however key not to close Luxembourg to foreign talents."

We have seen a couple of GPs who asked for their LPs to either expand the geography of the Fund to avoid capital overallocation in certain areas or extent the terms of the initial LPA to take benefit of the current environment.

The crisis has created two distinct buckets across sectors. On one hand, the companies that were already online and those that managed to shift business from offline to online quickly after the lockdown and on the other hand the companies had to stick to offline businesses or struggled to adapt quickly. Our industry has played a key role here and participated greatly to the turn-around.

Some of the portfolio company won't sustain post lockdown. The funds will be impacted very differently depending on their asset allocation, all-in-all I won't be surprised to see a 25% drop for Q1 valuation.

Government has done a great job in providing quick and efficient local financial stimulus. Considering the lack of talents in our eco-system, it is however key not to close Luxembourg to foreign talents. The country needs them and we will continue to bring professionals and hire.

Economists are trying to predict whether the recovery will be a "U" curve or "V" curve. As it stands now, cash is king and vital to sustain, regardless of the shape of the upcoming curve.

Venture Capital and start-ups need constant financial support as most of the businesses are not profitable yet. This crisis is very different from the 2008 financial crisis and it is likely that the early government support will play a role here to temporary support the eco-system but obviously times matters. The longer we keep the lockdown the harder it will be to resume.

Very few GPs have digital platforms to analyse the reporting of their underlying companies. C19 is likely to accelerate the digitalisation of the Finance functions and our industry should also embrace this trend for the benefits of the investors.

This is a member's only webinar. To access the video, please send a request to events@lpea.lu

LEGAL NOTICE

These insights represent a free transcript of the session's excerpts and are not the verbatim notes of the conversation. For more details please contact LPEA.

WEBINAR

NICK TABONE

Partner at Deloitte

"We were able to switch to 'work from home' very quickly and I think the way we work will change a lot in the future"

To remind everyone, this was beginning of April and the world has changed a lot since.

We were able to switch to work from home very quickly and I think the way we work will change a lot in the future.

During the confinement period, I spoke to all my clients and with most of them we communicate on a regular basis. Traditional PE, like buyouts are probably not performing well at the moment as a lot of valuations are based on earnings and these are down now.

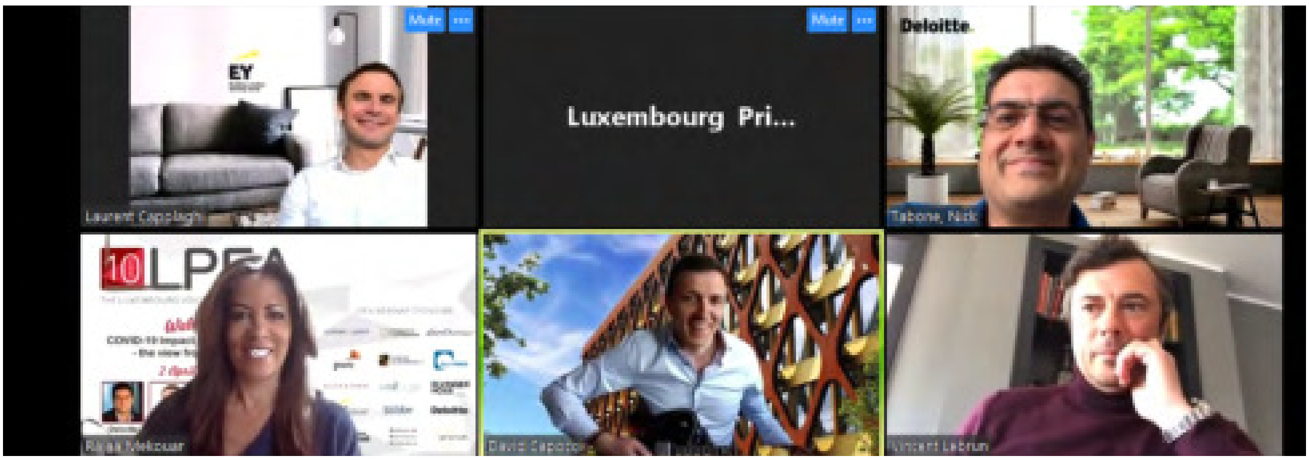
Digitalisation will be a point of focus and there will be a lot of investments internally within PE houses as well for their portfolio companies in order to transform how they operate and report to their investors.

China is of course a country to look at and see how the economy is going back to normal as it was the first country to go into lockdown and is the first to start coming out of it.

This is a member's only webinar. To access the video, please send a request to events@lpea.lu

LEGAL NOTICE

These insights represent a free transcript of the session's excerpts and are not the verbatim notes of the conversation. For more details please contact LPEA.



WEBINAR

LEE GODFREY

Managing Director Western Europe at Intertrust

"A new world for us all"

This is a member's only webinar. To access the video, please send a request to events@lpea.lu

During the lockdown, I've been digitally connected with my colleagues to share advice to improve their well-being while staying at home and thanking them for their exceptional work and resilience; with my management team on a daily basis to ensure we continue to deliver high standard services, and with Intertrust clients to support their evolving needs during this period, as we adapted to change and kept ourselves healthy. I will endeavour to continue on this path and learn from this experience.

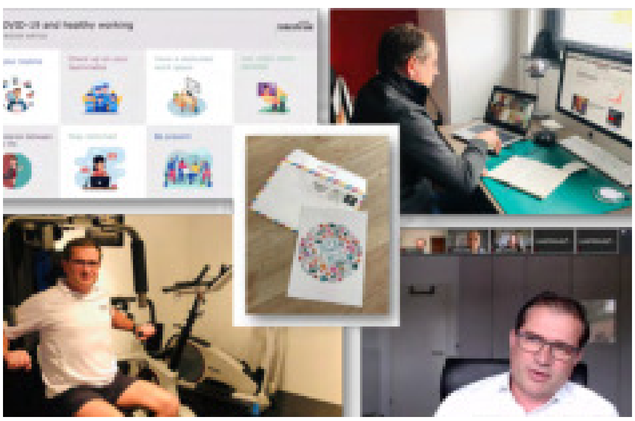
As we will all be soon enjoying a well-deserved summer break, it is a good time to reflect on the pandemic and how it has challenged the *status quo* in many ways.

In Intertrust Global Private Equity Outlook 2020, we explore the main challenges that private equity managers are facing in the next 12-24 months and also where the opportunities lie for private equity firms in order to navigate the 'new world' of private equity following these unprecedented times. Back in April, we interviewed around 150 private equity fund managers based in North America, EMEA and Asia.

There are three clear trends we can distil from our survey. Firstly, that Environmental, Social and Governance (ESG) considerations will escalate in importance, in terms of how firms run themselves and the companies they invest in. COVID-19 is widely seen as catalysing this shift as the world moves towards a 'green is good' mentality. Some 88% of our respondents expect private equity firms to change the focus of portfolio companies with regards to ESG considerations over the next 12- 24 months. Secondly, that the drive for greater transparency remains an absolute priority for firms and their stakeholders, particularly regarding portfolio performance. And thirdly, that smarter technologies and digitisation will drive operational efficiencies and support the push for greater transparency – as well as investment opportunities.

The vast majority of our respondents (84%) said they're optimistic that they'll benefit from digitisation over the next 12-24 months.

Learn more about Intertrust Global Private Equity Outlook 2020 key findings here.



During the lockdown, I've been digitally connected with my colleagues to share advice to improve their well-being while staying at home and thank them for their exceptional work and resilience; with my management team on a daily basis to ensure we continue to deliver high standard services, and with Intertrust clients to support their evolving needs during this period, as we adapted to change and kept ourselves healthy. I will endeavour to continue on this path and learn from this experience.

WEBINAR

DANIEL ENGEL

This is a member's only webinar. To access the video, please send a request to events@lpea.lu

Senior Vice President - Relationship Management at Brown Brothers Harriman

"We shouldn't only focus on process optimisation but should also embrace technology to streamline certain manual processes."

It is inevitable that we will have to embrace digitisation and this trend will increase further in the coming years. The PE sector is facing multiple challenges, including regulatory developments and an increase in data requests from both GPs and LPs. At BBH we have a strong focus on the overall investor experience and our infrastructure gives them direct access to the required information. This is very much in line with our data strategy.

I think we will not go back to the old style of working after the pandemic and we will see an increase in flexible working arrangements, including work from home. I believe that certain business practices that have increased during COVID will be upheld, as for example virtual meetings. This may also include board meetings.

We shouldn't only focus on process optimization but should also embrace technology to streamline certain manual processes.

Overall, I believe that COVD will have a long lasting impact, and we should maximise on the opportunities that COVID has sparked, especially in further enhancing data access and flexible systems.

KAI BRAUN

Partner at PwC

"We have to change from the age of information to the age of intelligence (...)"

When I think about digitalisation, what might cause a real disruption is tokenisation; from both asset perspective and investor perspective.

There is a lot of room for automation bringing efficiency. Now PE is still very much manual. If we implement artificial intelligence and bring new programs to read documents and sort data, investors will have a better access to relevant information. We have to change from the age of information to the age of intelligence which can only happen if information is well sorted and delivered to people.

We are still used to sending a 100 emails per day and produce endless excel sheets to circulate them around. Bringing something like Slack or other communication tools instead of emails already changes the work completely. Ticketing systems for onboarding clients lets us going back easily to our decisions in the past, as it is not stored somewhere in a big pile of folders.

C-19 gave a huge push to our digitalisation process but this is a long process, which cannot be completed overnight.

LEGAL NOTICE

These insights represent a free transcript of the session's excerpts and are not the verbatim notes of the conversation.
For more details please contact LPEA.

WEBINAR

HANS-JÜRGEN SCHMITZ

Managing Partner at Mangrove Capital Partners

"One thing that is similar between the EIF and family offices is when you perform and get their trust they are very long term loyal investors"

Family offices have been part of our investment base from the beginning. Initially they were regional and then became more international over the last 15 years. That is an underlying resource of investors of our funds and we see a rising presence.

We have seen that a lot of technology entrepreneurs have made their own money and were the first ones to reinvest that money into similar investment opportunities. That is across Europe but probably global too.

One thing that is similar between the EIF and family offices is when you perform and get their trust they are very long term loyal investors.

Investment strategies of institutional investors tend to change more often.

Back in 2003, when we invested in Skype, we exposed the opportunity to our LPs and none of them wanted to co-invest. There is a lot of creativity required and a crystal ball to imagine what some technology like Skype could leverage.

Most of our family offices come from Luxembourg and France. The ecosystem is not as big as in the US. What we see, there is a lot coming from Israel and Asia. Most wealth having been created by technology entrepreneurs which are now reinvesting and diversifying their portfolios.

For us it's also a matter of getting access to those markets for our portfolio companies.

In VC you are in for the long run, funds that last 10-12 years. Despite the magnitude of the crisis, from a venture cycle perspective, it is a blip to some extent.

Our assets are largely safe. Those which are worthy and savvy and have substance need to make sure they can survive the next 12, 18 months and from then on it will be a path to growth again.

This webinar is available on our Youtube Channel here.

WEBINAR

JOHN HOLLOWAY

Independent Director, Advisor at AMUF and LPEA

"The whole question of sustainability and ESG is absolutely mainstream now (...)"

The previous crisis in 2008 was bad for the business but actually the vintage years which came a couple of years after the crisis were the best that we saw at all. So there is good which comes out of bad.

I see a lot of similarity in philosophy between EIF and the family offices. They are necessarily just not trying to find a participation in the top quartile VC firms, but there is something more than that. There is a development angle that marries with the commercial angle, which is paramount.

The best returning sector in the EIF's portfolio post 2008-2009 has so far been early stage biotech.

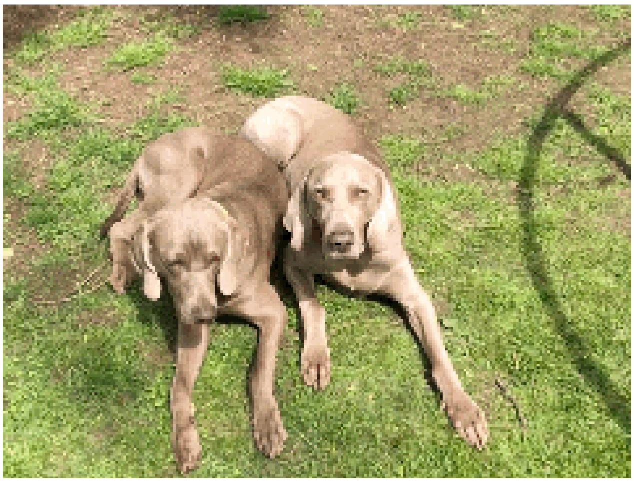
That is when a lot of people working in corporates found themselves without a job, teamed together and became first time teams and were able to attract sufficient investment support.

The quality of the VC sector in Europe today is absolutely brilliant, having come a very long way since 2000.

Right now, with all the worries caused by Covid-19, new first time teams will suffer another difficult time to raise money as institutional investors will move away from first time teams.

Family offices were nowhere by the time of the last crisis and it's quite remarkable what they are doing today. They come with investment decisions quite fast, a lot of them are tech money driven and are suited to go into areas that they actually understand quite well as many did their money in those same tech areas.

The whole question of sustainability and ESG is absolutely mainstream now, it's as important as your business plan. The sensitivity to ESG has become massive up to the point that it is part of the due diligence process and a fund manager has to demonstrate an ability to fall in line with the requirements in this particular subject. There are some investors who even if they see a fantastic team will not sign up in the absence of a satisfactory approach to ESG. For me it's the single biggest change in LP attitude in the last four years.



This webinar is available on our Youtube Channel here.

Confinement for me and my wife meant not having the freedom of seeing our sons and grandkids as much as we would have wanted. However, and hence the photo of Wilbur and Mungo, the importance of our two Weimaraners and the need to go outside in the woods with them every day was a huge help.

WEBINAR

KEN PENTIMONTI

Paladin Capital Group

"This crisis hasn't stopped us from continuing to look into new opportunities."

While the Luxembourg Future Fund is a major reason why Paladin initially located in the country, we believe that having a presence in Luxembourg offers many benefits, including access to interesting investment opportunities, a significant financial services infrastructure and top tier technical talent for our portfolio companies.

Families are often looking for specific funds or sectors that complement their experience and knowledge base. For instance, we are a cyber security and deep tech investor. Many of the family offices that invest in us have a background with technology companies.

Regarding co-investments, we help family offices to come through us (to invest via our Funds) as it's more straightforward for the companies that we invest in and allows for a streamlined governance and voting structure.

We have some family offices that are very active and dive deeply into each of our companies. Others are more passive and rely on our expertise. Some can also be strategic coming with very useful relationships we try to leverage for the portfolio.

We have a very global LP base coming from the US, Europe and Asia. Family offices can be a great source of in-roads into markets and helpful with deal flow.

We spend a lot of time interacting with our LPs and engage them as much as we possibly can.

Our access to family offices mostly comes from previous experiences, people with whom we've co-invested or know from the industry.

There is still a significant amount of capital out there waiting to be invested. This crisis hasn't stopped us from continuing to look into new opportunities. While the pandemic has, in some cases, limited short-term visibility on budgets and spending, we are still bullish on the longer-term outlook for cybersecurity-related technologies.

They will continue to be a "need to have" and not a "nice to have". People will continue to invest even if budgets are slightly constrained.

This webinar is available on our Youtube Channel here.

TECHNICAL WORKSHOPS

WEBINAR

AMBROISE FOERSTER

Counsel at DLA Piper

"Mid-term loans might benefit from a state guarantee for up to 85% of the principal amount that is borrowed."

We received a lot of queries relating to the incapacity to deal with contractual obligations. We have also seen withdrawal as defensive attitude from some lenders who tried to exit financing when not legally bound. We also received many questions on corporate governance, substance considerations and board's responsibility matters.

There are two main categories of state support in Luxembourg: the state-backed loan (draft bill 7545) and the direct state aid. While these two measures might not be available for holding portfolio companies located in Luxembourg, similar regimes are available in other countries.

Mid-term loans might benefit from a state guarantee for up to 85% of the principal amount that is borrowed. It is important to note that this guarantee isn't free; you will have to pay a remuneration to the state which depends on the duration of the loan and on the size of the company – it's cheaper for SMEs.

Last but not least, it is not open to all entities. This scheme is not available for holding companies, but just for operating entities with a business license carrying out a commercial activity and for self-employed workers.

This is a member's only webinar. To access the video, please send a request to events@lpea.lu

LEGAL NOTICE

These insights represent a free transcript of the session's excerpts and are not the verbatim notes of the conversation. For more details please contact LPEA.

WEBINAR

GILLES DUSEMON

This is a member's only webinar. To access the video, please send a request to events@lpea.lu

Partner at Arendt & Medernach

"We cannot yet say that we see defaults in the PE space in Luxembourg but we are going into a longer fundraising process."

It's not business as usual but business continuity planning activation. The main topics are of course the completion of closings that were underway.

We do see a lot of liquidity measures, planning and cash preservation actions. But we do see also many questions on how the fund product can be launched during the current environment.

We cannot yet say that we see defaults in the PE space in Luxembourg but we are going into a longer fundraising process. We also see more questions and appetite for legal advice on how managers should react to defaults and what the default consequences could be. A default in a PE fund can have drastic consequences, so it's important to understand the collateral impact also for the other investors.

Furthermore we may see material funding mismatches in the current environment because certain funds that are fully invested may now not offload certain of their portfolio companies.

Now these delays may have an impact on the cash management for of the fund. In addition these portfolio companies may need additional cash which may accentuate or accelerate certain liquidity shortfalls.

ANNA GASSNER

Senior Associate at Luther S.A

"Will the banks agree not to apply the contractual penalties (eg. higher interest rates) that is the real question today (...)"

The transactional process is complicated in particular with the lockdown measures because it is more difficult to make the necessary documentation available and because it takes longer due to remote work. There are new risks to take into account and potential consequences for the target companies.

All the covenants initially negotiated under existing loan agreements will have to be reviewed with the bank. Will the banks agree not to apply the contractual penalties (eg. higher interest rates) that is the real question today; when the activity, companies will not be able to respect the committed business plans anymore. What consequences the banks might draw from this, no one knows today. Moreover with respect to the new lendings put in place by governments, companies and LBOs are already quite leveraged, it's an additional debt that will have to be repaid on top of the existing debt.

WEBINAR

PETER MYNERS

Corporate/M&A/Alternative Investment partner at Allen & Overy

"Boards need to be very careful in distributing cash right now and forecasting cash requirements."

Luxembourg's government has been very quick to react in the shape of emergency regulation that came out to help companies organise their board and shareholder meetings.
The boards should be doing contingency planning: checking if there are key contracts at risk of termination, if there is key personnel risk, if there is a possible bank covenant issue, what is the general relation with the banks, how is liquidity, if the companies can apply to state aid, how do you manage capital expenditures, etc.
There will be a lot of focus on distributions and wrongful distributions. We saw it in the 2009 crisis and now the volume has increased dramatically. Boards need to be very careful in distributing cash right now and forecasting cash requirements.

This is a member's only webinar. To access the video, please send a request to events@lpea.lu

LEGAL NOTICE
These insights represent a free transcript of the session's excerpts and are not the verbatim notes of the conversation. For more details please contact LPEA.

WEBINAR

ALEXIS WOLF

This is a member's only webinar. To access the video, please send a request to events@lpea.lu

Partner at KPMG Luxembourg

"Adjust business plans, cash flows and discount rates for additional risks not already considered in your valuation"

The COVID-19 outbreak and subsequent lockdowns have significantly impacted global markets, causing increased volatility and business disruption worldwide. While it is difficult to predict the economic impact of the crisis with any degree of certainty, the right application of valuation techniques and sound professional judgment should allow practitioners to conclude valuations on a fair value basis.

When applying professional judgment during such a crisis, one should ask:

- What is the impact on the subject business? How much riskier is the future performance of the valuation subject?
- What are the short-, medium- and long-term impacts of the crisis? Is the observed market disruption temporary?
- Is there a going-concern issue? How do the short-term cash flows and liquidity requirements look?

In applying different valuation approaches, the following should be taken into consideration:

- Income approach:
  - Adjust business plans, cash flows and discount rates for additional risks not already considered in your valuation;
  - Avoid the double counting of risk in both cash flows and discount rates.
- Market approach:
  - Consider maintainable earnings in your market approach by, for example, excluding one-off items;
  - Ensure the multiple is congruent with the metric to which it is applied;
  - Avoid the double counting of impacts on metrics and multiples.

Lastly, in line with IPEV's special guidance issued in March 2020, it is important to remember that fair value is not a fire-sale value. Therefore, the valuation process should not translate into calculating a liquidation value but rather should focus on long-term value creation.

WEBINAR

HIND EL GAIDI

Head of Financial Information & Valuation at Astorg

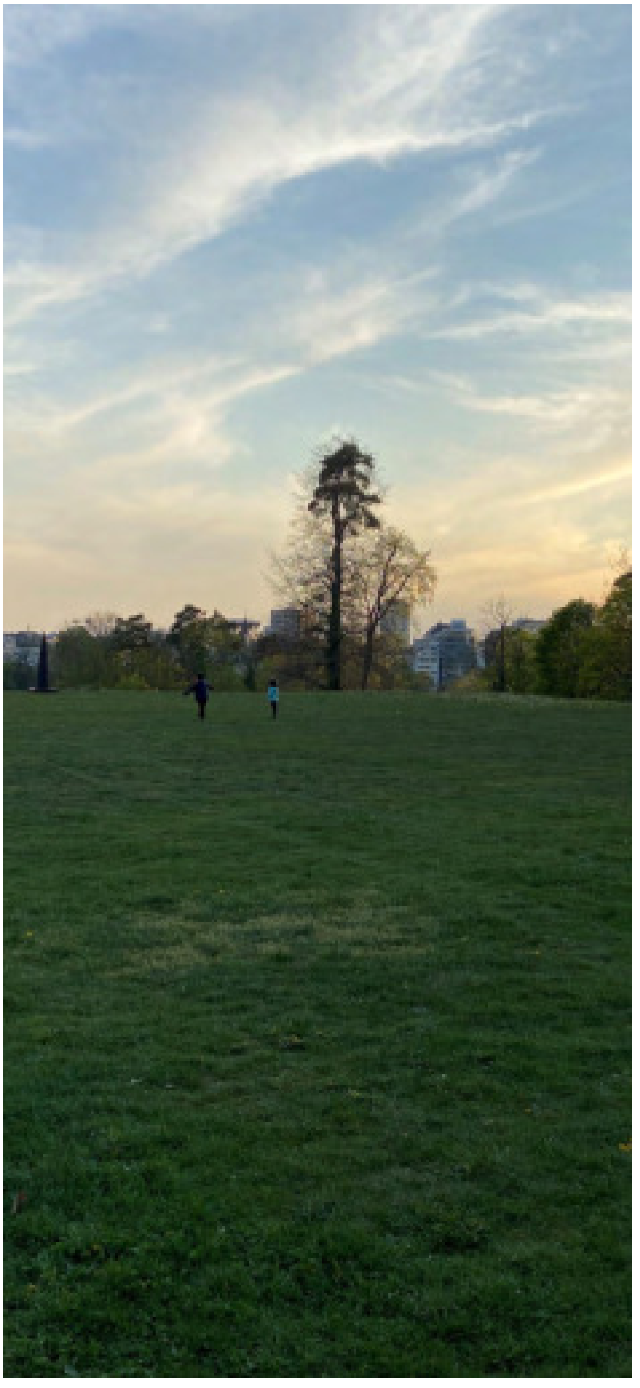
"At this stage, it remains important for all institutional investors to understand whether there is a liquidity crunch in the short term."

We maintain the market approach with some variances in the applicable metrics. There were a couple of novelties this time such as the alignment of certain assumptions (eg. Length of lockdown or shape of the recovery).

We have also focused on a portfolio approach when communicating to our LPs. At this stage, it remains important for all institutional investors to understand whether there is a liquidity crunch in the short term. Next to that, what would be the expected return taking into account the current market turbulences.

The fact that certain sectors and companies nearly stopped for a few weeks doesn't mean that the market or the demand don't exist anymore. However, it may mean that the business model post crisis may be slightly or largely adjusted. Therefore there is a need to take a deep look at the value drivers.

Going into the micro level which is company specific. Monitoring the portfolio company, working hand in hand with the management to put in place actions to protect the value (short term actions such as state aid, subsidies, increased liquidity...) and to enhance the value (long term) through a completely renewed view of strategic actions, business model and other opportunities to cope with the paradigm shit.



This is a member's only webinar. To access the video, please send a request to events@lpea.lu

LEGAL NOTICE

These insights represent a free transcript of the session's excerpts and are not the verbatim notes of the conversation. For more details please contact LPEA.

WEBINAR

OLIVER HOOR

Tax Partner, Atoz Tax Advisers

"Considering the benefits of the main benefit test (MBT)"

The mandatory disclosure regime (MDR) will enter into force on the 1st of July 2020 (likely with some 6-month delay of reporting deadlines due to the COVID-19 situation) and may require the reporting of cross-border arrangements implemented since 25 June 2018.

The MDR operates through a system of hallmarks that may trigger reporting obligations and the MBT that functions as a threshold requirement for many of these hallmarks. As such, the MBT should filter out irrelevant reporting and enhance the usefulness of the information collected because the focus will be on arrangements that have a higher probability of truly presenting a risk of tax avoidance.

The MDR introduces some vague definitions and concepts that can, at times, make it difficult for practitioners to determine as to whether or not a specific cross-border arrangement is reportable. However, hallmarks that may be relevant in the context of Private Equity investments are generally subject to the MBT which should be systematically tested.

The MBT sets a fairly high threshold for reporting under the MDR. Here, the analysis of a number of relevant questions should help intermediaries and taxpayers to arrive at reasonable conclusions that mitigate the risk of over-reporting and potential penalties (Are the commercial and other benefits more significant than the tax benefits? Could the arrangement be challenged under anti-abuse legislation? Is the tax treatment consistent with the intent of the legislator?, etc.). During the LPEA webinar on DAC 6, the practical relevance of the MBT has been discussed.

This is a member's only webinar. To access the video, please send a request to events@lpea.lu

LEGAL NOTICE

These insights represent a free transcript of the session's excerpts and are not the verbatim notes of the conversation. For more details please contact LPEA.

WEBINAR

ADRIAN ALDINGER

Partner - Arendt & Medernach

"NAV-based facilities promise quick relief for urgent funding needs (...)"

Mature private equity funds often need to consider increased funding needs for existing portfolio companies due to the current environment. This creates some practical challenges regarding cash flow and realization potential to which the market is responding in a number of ways. Some options include extending the investment period or the fund term, entering into NAV-based facilities, partnering with preferred equity providers and raising so-called top-up or annex funds.

Whilst the extension of the investment period and term will require the least amount of drafting effort, it will require investor consent and will only be viable in case of limited (follow-on) funding needs and the existence of uncalled capital. NAV-based facilities promise quick relief for urgent funding needs, but will regularly entail regulatory filings, if the change in borrowing profile is considered material. Further practical issues are that such facilities may not be easily accessible to first-time borrowers and that the valuation/determination of the borrowing base may result in less favorable terms for the borrower. Partnering with preferred equity providers has the advantage of being less restrictive than traditional financing methods and generally requires little changes to the existing fund structure, but also comes at a higher borrowing cost. The last option consists of raising a new fund with an identical investment strategy and overall terms to enable the injection of fresh capital into existing portfolio companies allowing investors to benefit from preferred financial terms – that being said, the setting up of the new structure will take some time.

Lockdown offered opportunity for growth! Upon returning to my office after months of working at home, I found that my office plant had almost doubled in size since I had last seen it.

This is a member's only webinar. To access the video, please send a request to events@lpea.lu

WEBINAR

GILLES DALL'AGNOL

Counsel at Allen & Overy

"(...) unless new arrangements are concluded with the neighboring countries, remote work carried out as of 1 September 2020 in the neighboring countries may trigger (...) income tax and social security liabilities"

Under the current Covid-19 context, a substantial number of employees continue to work remotely, at least on a part-time basis. This raises a number of questions.

The first one is whether the Covid-19 remote working arrangements need to be formally documented. Considering that these arrangements address an ad hoc concern, as opposed to a "regular and permanent" working set-up, a formal addendum is not legally required. However, the employer may have an interest in clarifying a number of points, in particular regarding data protection, confidentiality and adverse tax/social security consequences. This clarification should take place in writing, for instance by email, but does not require a formal addendum.

The second question concerns the specific situation of cross-border commuters. Depending on the number of days cross-border commuters work outside of Luxembourg and in particular within their country of residence, income tax and social security liabilities may be triggered within their country of residence. Luxembourg had found specific Covid-19 arrangements with the three neighboring countries that allowed to "freeze" the situation for a number of weeks, meaning that days worked remotely in the neighboring countries were counted as days worked in Luxembourg. However, these arrangements largely end on 31 August 2020. In other words, unless new arrangements are concluded with the neighboring countries, remote work carried out as of 1 September 2020 in the neighboring countries may trigger, once certain thresholds are exceeded, income tax and social security liabilities within such countries.

This is a member's only webinar. To access the video, please send a request to events@lpea.lu

WEBINAR

SYLVAIN CAILLEAU

Counsel at Allen & Overy

"The expectation is that directors must be more ready for scrutiny, especially in companies with financial difficulties."

Directors are operating in a more challenging environment and many are aware of their potential, personal liabilities in the Covid-19 context. The expectation is that directors must be more ready for scrutiny, especially in companies with financial difficulties.

Directors have the right to make mistakes. For instance, if directors had approved an investment in the hospitality sector that looked very promising in February 2020, but that was subsequently impacted by the confinement that started the following month, that would not of itself constitute mismanagement. Courts will only look at the facts that existed and were available to the directors at that time. They cannot judge a director's behaviour with the advantage of hindsight.

We have seen an increase in pre-litigation advice involving companies in financial difficulties and their directors.

Some tips as to how to better operate in the current market circumstances: 1) if the company is in financial distress, hold board meetings regularly (weekly or even more regularly if necessary) to ensure that the situation is strictly monitored; 2) document decisions for each individual company; 3) handle group issues wisely and consider each company's position on an individual basis rather than the group's interest as a whole; 4) handle cash wisely and delay dividend payments if relevant; 5) check whether there is a D&O (Directors and Officers) insurance, make sure that premiums are paid, check which risks are covered and keep a copy of the insurance in your own file.

This is a member's only webinar. To access the video, please send a request to events@lpea.lu

10 years LPEA

THE LUXEMBOURG VOICE OF PRIVATE CAPITAL

www.lpea.lu