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Global Private Credit & Direct Lending

The collapse of First Brands Group, the parallel collapse of Market Financial Solutions in the UK and recent redemption calls at some of the largest players in the private credit market have placed the US\$1.8 trillion private credit industry under wide public scrutiny for perhaps the first time in the asset class's phenomenal rise since the global financial crisis of 2008 (GFC).

As of mid-March 2026, several large private credit funds faced unprecedented redemption pressure, and JPMorgan has reportedly marked down collateral on software loans in private credit financing facilities, tightening the availability of funding to private credit lenders.

However, instead of portending doom for the asset class, these events should instead be seen as a market correction that can fortify the foundations of private credit, thereby allowing not just for continued growth, but for healthier and more sustainable growth.

This Q&A alert examines the structural fault lines and legal risks that underlay the disruptions described above, and explores specific steps that private credit funds, private equity sponsors and banks should be taking now to navigate this market correction.

I. The Collapse of First Brands Group and Tricolor Holdings (US) and Market Financial Solutions (UK) – Background and Legal Implications

What happened with First Brands Group, Tricolor Holdings and Market Financial Solutions and why does it matter for private credit lenders?

First Brands Group (First Brands), one of the largest auto parts manufacturers in its sector, filed for Chapter 11 in September 2025,¹ followed shortly thereafter by the Chapter 7 liquidation filing by subprime auto lender Tricolor Holdings. In January 2026, First Brands's founders Patrick and Edward James were criminally indicted² in the Southern District of New York on allegations of a US\$3 billion-plus lender fraud that included fabricated invoices, double- and triple-pledged collateral, and collateral that never existed. A Houston bankruptcy court approved GM/Ford bridge financing for the debtors,³ and asset sales proceeded through February 2026.

The combined collapses cast a spotlight on concentration risk across private credit books exposed to auto-adjacent, late-cycle, covenant-lite borrowers, and naturally also raised concerning questions about underwriting discipline and portfolio monitoring standards, not only for these facilities but also across the entirety of private credit as an asset class.

In the UK, a similar collapse befell Market Financial Solutions (MFS). The company's creditors are currently alleging that approximately⁴ £1.2 billion in loans was backed by only £230 million of genuine collateral, with double-pledging allegations mirroring the accusations levied against First Brands.

The enforcement environment resulting from the above incidents will raise the bar for lender diligence standards, by investors, and potentially by regulators, both at the point of loan origination and for on-going covenant compliance, with private credit facing renewed scrutiny on both sides of the Atlantic.

The cross-border dimension deserves explicit attention. Funds with UK or European portfolio companies, limited partner (LP) capital from Alternative Investment Fund Managers Directive (AIFMD)-regulated vehicles, or cross-border credit facilities, must navigate a materially different regulatory environment from their US counterparts. In the UK, the Financial Conduct Authority (FCA) has signaled heightened focus on private market liquidity practices in the wake of the MFS collapse. In the EU, European Long-Term Investment Fund (ELTIF) 2.0 introduces retail access provisions for private credit vehicles that carry their own liquidity management and disclosure requirements, which differ in important respects from the Security and Exchange Commission's (SEC) framework for US retail-marketed funds. For structures that span jurisdictions, the gap between US and UK/EU standards on collateral documentation, enforcement rights and investor disclosure is a live source of transaction risk that requires coordinated, multijurisdictional legal advice.

II. The Redemption Wave – From Blue Owl to an Industry-wide Test

What happened at Blue Owl?

To begin, it helps to understand the evolution of the business development company (BDC). A BDC is a type of closed-end investment company created under the Investment Company Act of 1940. BDCs serve as capital formation vehicles that channel investor capital into private credit markets, particularly loans to middle-market companies that are often underserved by traditional banks.

The first phase of the private credit industry's growth was dominated by so-called BDC 1.0. These BDCs draw capital from institutional investors and trade on public stock exchanges. Investors achieve some degree of liquidity under the BDC 1.0 structure primarily by trading on the secondary market through exchanges, rather than by exercising redemptions with the fund itself. This structure allows for investment in a range of assets that are held over a relatively long-term, as these institutional investors understand that their investment is quite illiquid.

BDC 2.0 refers to a newer generation of retail-oriented BDC structures that offer periodic investor liquidity (typically quarterly repurchase rights) while investing primarily in illiquid private credit assets. While these BDCs should carry sufficient liquidity to meet redemption calls, there is nevertheless a potential tension between the investors' often shorter liquidity time horizon versus the longer tenor of the underlying private credit loans.

Blue Owl's OBDC II, the Blue Owl investment vehicle that has garnered so much attention recently, falls into this BDC 2.0 category. It is a US\$1.6 billion BDC marketed to retail investors through broker-dealer networks. In mid-February, in response to investor redemption requests in part because of concern about the fund's concentration in software investments (*see more on this topic in Section IV below*), Blue Owl permanently halted quarterly redemptions for the fund,⁵ instead opting to sell approximately US\$600 million of its loans at 99.7 cents⁶ on the dollar to repay a Goldman Sachs revolving facility and fund a special cash distribution of approximately 30% of the fund's net asset value (NAV). While this sale of loans at near-par and the cash distribution to investors was framed as evidence that the underlying portfolio was sound, the market was unconvinced and quickly sold off equity in the fund. By early March 2026, similar redemptions had spread to the largest names in the industry.

How do differences between BDC 1.0 and BDC 2.0 tend to play out in periods of market distress?

Middle-market private credit loans carry three-to-seven-year maturities, are not publicly traded, and in periods of market stress, have a relatively limited secondary market. The lender's return is predicated on holding to maturity. Selling under pressure almost always means accepting a discount, not because the credit is impaired, but because the buyer assumes illiquidity risk and demands compensation for it.

BDC 1.0 structures are closed-end structures that generally do not have redemption rights and have a 10-year fund life. Those investing in these structures – often pension funds, sovereign wealth funds and insurance companies – are opting for a buy and long-term-hold strategy that matches the liquidity of the underlying loans.

In contrast, BDC 2.0 vehicles combine quarterly redemption rights for investors with an illiquid asset base of private credit loans that are not publicly traded. This combination is a liquidity mismatch. In normal conditions, the mismatch generally goes unnoticed. However, when market sentiment turns negative, on news of a gate closure at a peer fund, reported fraud in the market, or any other credit scare, retail investors (many of whom do not fully appreciate the illiquidity of their investment) move to exit simultaneously. Redemption queues build faster than new capital can replace them. The manager faces a binary choice: impose a gate or sell assets into a thin, stressed market at the worst possible time. At Bloomberg's Future of Finance event on March 12, 2026, Tikehau Capital's Cécile Mayer-Lévi captured the dynamic precisely: the party has become too noisy, and the door when you want to exit is too narrow.⁷

Goldman Sachs estimates roughly 80%⁸ of the direct lending market sits in long-duration drawdown funds, separately managed accounts and listed BDCs. These are structures without on-demand withdrawal mechanisms. The retail evergreen fund segment (BDC 2.0) represents approximately US\$220 billion⁹ or roughly 20% of total industry lending exposure. This is where the structural vulnerability is concentrated.

Practice Guidance – BDC sponsors and fund managers operating semi-liquid vehicles should undertake an immediate review of governing documents, gate provisions and tender offer mechanics against those that led to challenges at OBDC II. This review is more complex than it may appear – gate and tender mechanics are governed by a layered set of documents, including the fund's charter, offering memorandum, subscription agreements and applicable broker-dealer selling agreements. These documents may contain conflicting provisions or impose disclosure obligations that were not triggered at the time of original drafting but become operative once a gate is imposed.

Investors and regulators are likely to push for greater disclosure and transparency for retail-marketed private credit vehicles going forward. Funds considering or pursuing conversion to closed-end or listed structures should engage counsel now on the structural, tax, and regulatory implications before committing to a strategic path.

Are there other retail participation risks beyond current BDC 2.0 structures?

Yes. US life insurers have increased their exposure to private credit, allocating close to one-third of the US\$5.6 trillion¹⁰ they hold in total assets to the industry, up from 22% a decade ago.

The Trump administration's August 2025 executive order directing regulators to facilitate private credit inclusion in 401(k) and other plans under the Employee Retirement Income Security Act of 1974 (ERISA) could also replicate the BDC 2.0 liquidity mismatch at dramatically larger scale if not carefully structured. US workplace retirement plans held US\$13.9 trillion¹¹ at the end of Q3 2025.

III. Lender to the Lenders – What Banks Providing Financing to Private Credit Funds Need to Know

What is back leverage?

Back leverage refers to the practice of private credit funds borrowing against their own loan portfolios, often from traditional banks, to amplify returns. A fund pledges its portfolio of middle-market loans as collateral to a lender, which extends a credit facility based on the assessed value of that collateral. The fund then deploys this additional capital into new loans, boosting the returns to investors on their equity in the fund.

Back leverage has been a core engine of private credit's growth. According to Federal Reserve data analyzed by Moody's, Wall Street lenders had provided approximately US\$300 billion in financing¹⁴ to private credit funds as of late June 2025.

Banks with the contractual right to revalue collateral independently are positioned to impose discipline unilaterally on the private credit funds borrowing from them. Banks that did not reserve this right may find their exposure is larger than their valuations suggest.

Practice Guidance –

Funds with existing back leverage facilities should immediately review credit agreement terms for:

- (i) the bank's unilateral revaluation rights and whether adequate cure periods and notice requirements are specified;*
- (ii) where applicable, borrowing base advance rate definitions and whether they contain sector concentration haircuts for software-heavy portfolios (provisions that were not prevalent in the 2021–2023 vintage of these facilities); and*
- (iii) collateral substitution mechanics permitting substitution of software for other assets.*

Where the back leverage facility lender also participates in a tranche of the fund's portfolio loans, the lender's unilateral revaluation right may either be constrained or, alternatively, exercised in a manner that conflicts with the fund's obligations to other investors or counterparties. Identifying and managing these structural conflicts requires independent legal review.

For banks negotiating new credit facilities, advance rate step-downs triggered by software sector concentration exceeding defined thresholds, where possible, should now be strongly considered to provide structural protection.

IV. Systemic Contagion – Software Concentration and NAV Opacity

What is the software concentration problem?

Private equity-backed software and SaaS companies represent a significant share of many private credit portfolios. Recently, the rise of AI competitors in the sector has diminished the pricing power and consequently the revenue projections of many of these companies. While mission-critical enterprise software remains resilient, commodity SaaS providers facing AI-driven profit margin erosion are seeing significant revenue projections downgrades. When a lender sizes a loan based on specific projections, any material shortfall or decline in earnings before interest, taxes, depreciation and amortization (EBITDA) can cause the credit to shift from performing to impaired almost instantly.

In mid-March 2026, JPMorgan became the first major bank reported to have marked down¹² the value of software loans held in the financing portfolios of private credit clients. By cutting the assessed value of this collateral, JPMorgan directly reduced the borrowing capacity of affected funds and, in some cases, created the potential for margin calls requiring funds to post additional collateral. JPMorgan Chase CEO Jamie Dimon characterized¹³ the action as prudent financial discipline rather than a response to actual loan losses. The markdowns have not triggered material margin calls to date, but represent a preemptive structural tightening of the back leverage market with significant implications for fund liquidity management.

What is the NAV opacity problem, and why does it matter legally?

Private credit loans are valued by fund managers, not by a public market. Unlike broadly syndicated loans, where secondary market trading produces observable prices, middle-market loans sit on fund books at values determined through internal models and periodic third-party valuations. Timing of NAV calculations and access to information on the underlying investments in such a fair-value environment complicate pricing. In normal conditions, this is unremarkable. Under AI-driven margin compression in software and SaaS, it raises a pointed question: are private marks following public software multiples down, or not? The answer has direct legal consequences across the capital structure.

For borrowers, stale marks can obscure covenant breaches – a loan covenant defined by reference to enterprise value or EBITDA multiples may already be tripped on a mark-to-market basis even if the fund has not yet formally declared a default. For lenders holding back leverage facilities, inflated collateral values directly inflate reported advance rates and understate actual leverage, potentially masking a breach of borrowing base thresholds that would trigger an event of default. For fund managers, investor claims premised on inaccurate and/or misleading NAV pricing are a foreseeable next step if marks diverge materially from realized values on exit or restructuring.

Practice Guidance – Fund managers should conduct an immediate review of valuation policies and procedures against SEC guidance on private fund valuation, with particular attention to software and SaaS positions. Where back leverage facilities reference fund NAV or borrowing base calculations tied to internal marks, counsel should assess whether current valuations would survive independent stress-testing and whether disclosure to LPs and facility lenders remains adequate. Backtesting the accuracy of such procedures should be employed. The intersection of fund governance obligations, timing of NAV calculations, credit agreement mechanics, and regulatory exposure requires coordinated legal review across multiple practice areas.

V. Implications and What to Do Now

Are the challenges cited above (lax underwriting and diligence, liquidity concerns by retail investors, and over-concentration in the software sector) genuine causes for concern or are the markets overreacting?

Both.

Private credit is certainly facing its first substantial stress period since the beginning of its meteoric rise. In a very brief period, redemption stress has spread from one fund to five major managers. The decision by large financial institutions to unilaterally revalue downward certain software-related collateral supporting back leverage loans have introduced a bank-to-fund deleveraging move that surprised many in the market. Recent disclosures by other traditional banks suggest that private credit risk is embedded in the regulated banking system more deeply than prior disclosures suggested. Software sector concentration under AI-driven margin compression remains the most structurally serious risk, and NAV opacity (i.e., whether private marks are following public software multiple compression) remains an active concern for the market.

That said, based on verifiable data and what we are seeing in the market, it appears that the entirety of the private credit market is being unfairly tainted with the same stain. As noted above, on the retail side, Goldman Sachs estimates 80% of direct lending sits in vehicles without on-demand redemption, meaning that this structural vulnerability is contained to roughly 20% of the US\$1.8 trillion market. Others have noted that loans secured by more tangible assets, such as infrastructure, railcars, aircraft and other hard assets producing durable cash flow, remain well secured and continue to perform well. Anecdotally, we have seen numerous examples of capital redeemed from funds in distress and immediately redeployed into private credit funds making loans secured by more tangible assets. Asset-based lending is now the fastest growing sub-strategy within private credit, accounting for 34% of all new fund launches in 2025.¹⁷

The fundraising and deal flow outlook is bifurcated, not collapsing. The retail channel faces years of reputational and regulatory repair. Bank of America projects loan issuance 15% lower year-over-year in 2026 and RA Stanger forecasts a 40% year-over-year decline in BDC capital formation. However, asset-based lending, infrastructure credit, credit secondaries and distressed strategies are all scaling in this environment. Furthermore, many have attributed the extraordinary growth of the private credit market, at least in part, to bank retreat from certain middle-market lending due to regulatory constraints on banks imposed by Dodd-Frank and Basel III/IV in the aftermath of the GFC. The long-term structural case for this paradigm remains fully intact.

In our view, this shakeout is the beginning of a correction leading to a cleaner, more disciplined, more institutional, more tangible asset-based market. The players who recognize this and act on the resulting opportunities will be best positioned for what comes next.

Priority Actions by Client Type

| Private Credit Funds | Private Equity Sponsors | Banks and Other Lending Institutions |
|---|---|--|
| <p>Gate provision review against current BDC governance standards, including cross-referencing fund governing documents, offering memorandum, and selling agreements for conflicting or newly operative disclosure triggers.</p> <p>Back leverage facility audit of revaluation rights, advance rate concentration haircuts and collateral substitution mechanics.</p> <p>Audit intercreditor and subordination agreement terms for first-out/last-out provisions that may no longer reflect current market realities or anticipated workout complexity, with particular attention to whether the back leverage lender is also a participant in the portfolio loans. Such structural conflicts can constrain enforcement options.</p> <p>Review fund valuation policies and procedures against SEC guidance on private fund valuation, focusing on software and SaaS positions, and assess LP and lender disclosure obligations where current marks may diverge from stressed market values.</p> <p>For funds with UK or European LPs or portfolio companies, assess cross-border structuring exposure under AIFMD and ELTIF 2.0 with dual-qualified counsel.</p> | <p>Map the intercreditor and subordination terms across portfolio companies' private credit capital structures, with particular focus on first-out/last-out split-lien arrangements originated in the 2020-2023 vintage where payment waterfalls and enforcement rights may be ambiguous in a partial-default scenario.</p> <p>Audit maintenance covenant headroom across portfolio companies with covenant-lite or covenant-loose agreements originated between 2020 and 2023, with priority attention to software and SaaS portfolio companies whose revenue and revenue projections have been negatively impacted by AI competitors.</p> <p>For portfolio companies approaching a maturity wall on payment in kind (PIK)-heavy or interest-deferral structures, begin a liability management analysis now. Options such as amend-and-extend, uptier exchange and out-of-court restructuring narrow materially once a payment default occurs.</p> | <p>Review back leverage and credit facility documentation for unilateral revaluation rights, software concentration haircuts and cure period mechanics. Pay particular attention to whether revaluation triggers conflict with obligations owed to other fund counterparties.</p> <p>Assess Fed and SEC regulatory capital and disclosure implications of private credit fund financing exposure, including the adequacy of current internal classifications of bank-to-fund facilities under applicable capital rules and existing public disclosures.</p> <p>For insurance company lenders, engage counsel on insurance regulatory capital treatment of existing private credit allocations and the implications of any portfolio reallocation toward asset-based or infrastructure lending.</p> <p>Formulate strategy to reallocate new facility origination toward asset-based, infrastructure and tangible-asset lending, and engage counsel on documentation standards for these structures, which differ materially from the covenant-lite templates prevalent in recent years.</p> |

Footnotes

- 1 ["First Brands files for bankruptcy, revealing billions of dollars in liabilities."](#) Reuters (September 29, 2025).
- 2 ["First Brands Founder Patrick James Indicted by US Prosecutors."](#) Bloomberg (January 29, 2026); ["Former First Brands CEO Patrick James and His Brother Are Indicted for Bilking Billions from Banks."](#) The Times-Tribune (January 29, 2026).
- 3 [First Brands Group – Restructuring Administration Cases.](#) Kroll (Ongoing).
- 4 ["MFS Creditors Warn of £930 Million Shortfall From Double Pledges."](#) Bloomberg (February 27, 2026); ["MFS Creditors Face £1.3 Billion Shortfall After Collapse, Court Filings Show."](#) Bloomberg (March 10, 2026).
- 5 ["Blue Owl Loan Sale Raises \\$1.4 Billion for Investor Payouts."](#) Bloomberg (February 18, 2026); ["Blue Owl Sells \\$1.4B in Loans, Halts OBDC II Redemptions, and Shifts to Capital Returns."](#) AltsWire (February 2026).
- 6 ["Blue Owl Redemptions Halt Intensifies Private Credit Fears."](#) Bloomberg (February 22, 2026).
- 7 [Tikehau's Mayer-Lévi Says Private Credit Has Become 'Too Noisy.'](#) Bloomberg (March 12, 2026).
- 8 Goldman Sachs Research Note on Private Credit Evergreen Funds, cited in: ["Private Credit Could Be the Next Crisis on Wall Street."](#) CNBC (March 11, 2026).
- 9 *ibid.*
- 10 [Loan Note: Insurers Carve Out the Biggest Allocations; KBRA Identifies New Risks.](#) Private Debt Investor (January 26, 2026). See also: CreditSights data, cited in: Other Potential Risks in Retail Private Credit (insurance allocation figures).
- 11 ["Release: Quarterly Retirement Market Data, Third Quarter 2025."](#) Investment Company Institute (January 15, 2026); [Trump Administration Executive Order, "Democratizing Access to Alternative Assets for 401\(K\) Investors"](#) (August 7, 2025).
- 12 ["JPMorgan Restricts Private Credit Lending After Loan Markdowns."](#) Bloomberg (March 11, 2026); ["Private Credit Gets Marked Down"](#) (Money Stuff). Bloomberg Opinion (March 11, 2026).
- 13 ["Apollo and JPMorgan Impose a Dose of Reality on Private Credit"](#) (Banking Monitor). Bloomberg (March 12, 2026).
- 14 ["Private Credit's Rapid Evolution Is Raising Risks, Moody's Warns."](#) Bloomberg (November 17, 2025); Moody's analysis based on Federal Reserve data, cited in: ["Private Credit's Back Leverage Is Another Pain Point for Funds."](#) Bloomberg (March 12, 2026).
- 15 ["Private Credit Faces Steep PIK Maturity Wall – BofA Global Research"](#) PitchBook (September 24, 2025).
- 16 ["Blue Owl May Seek an 'Orderly Liquidation' of Private Credit Fund, Analysts Say."](#) FA-Mag (February 2026).; RA Stanger BDC capital formation forecast reported in multiple outlets, February-March 2026.
- 17 ["2026 US Private Credit Outlook: More LBOs, Steady-to-Wider Spreads."](#) PitchBook (November 25, 2025). Preqin 2025 Private Debt Data.

The lawyers on Squire Patton Boggs' Global Private Credit & Direct Lending team have expertise across the issues described in this alert, from back leverage facility reviews to cross-border structuring, intercreditor disputes and restructuring guidance.

If you would like to discuss your specific situation or explore how we can assist, please contact Gabriel Yomi Dabiri or Cynthia Weiss directly using the contact information below.



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Gabriel Yomi Dabiri advises clients across the credit spectrum, providing strategic counsel to private credit funds, direct lenders, private equity sponsors and corporate borrowers on complex domestic and cross-border finance transactions.

Gabriel has extensive experience structuring and negotiating credit facilities across the capital stack, including senior, mezzanine, subordinated, unitranche, first lien/second lien, asset-based lending, subscription line and capital call facilities. He advised on complex intercreditor and subordination arrangements, liability management strategies, debt restructurings and debtor-in-possession financings. His background in both "buy-and-hold" and broadly syndicated loan transactions enables him to creatively navigate the evolving private credit landscape.

Gabriel is dual-qualified, admitted to practice law in New York and in England and Wales. He also draws on his experience working at Linklaters, White & Case, Morrison & Foerster and Polsinelli in London, Singapore and New York.



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Cynthia Weiss represents borrowers and lenders in a wide range of debt financing transactions, with a particular focus on private credit and direct lending across the healthcare, technology, and consumer goods sectors. She has extensive experience structuring and negotiating cash-flow and asset-based facilities, acquisition financings, bridge loans and subordinated debt, and represents a broad range of lenders, including private credit funds, private equity firms and family offices.

Cynthia is dual-qualified, admitted to practice law in New York and Washington DC. Prior to Squire Patton Boggs, she practiced at Cleary Gottlieb, Latham & Watkins, Arent Fox, and Polsinelli, bringing a breadth of sponsor-/borrower- and lender-side experience to complex private credit transactions across the capital stack.

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This client alert is prepared by Gabriel Yomi Dabiri and Cynthia Weiss of the Global Private Credit & Direct Lending practice at Squire Patton Boggs. It is intended for general informational purposes only and does not constitute legal advice. Attorney-client privilege does not attach to this communication. Data current as of March 16, 2026.