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Faegre Drinker: A Firm Designed for Clients

# Institutional Investor Services

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# How We Can Add Value

Your organization requires an experienced team of business advisers that can provide comprehensive legal and consulting services while mitigating risk, maximizing efficiencies and delivering value. Faegre Drinker is that team. As institutional investor clients navigate an increasingly dynamic and complex investment landscape, they look to us to solve legal and structural challenges — with an eye to mitigating operational and fiduciary risks. Our goal is to work in step with you to meet your needs. Your Faegre Drinker institutional investor team will be led by partner **Tiffany Reeves**.

The Faegre Drinker institutional investor team offers a collaborative single-stop legal provider solution for institutional investors worldwide. We serve all of the institutional investor's legal needs, extending beyond general investment-related guidance. Our practice encompasses fiduciary compliance (where we serve as fiduciary counsel for several very large state pension systems and investment boards); tax (including tremendous capabilities on compliance with the Common Reporting Standard (CRS) and U.S. Foreign Account Tax Compliance Act (FATCA), Internal Revenue Service (IRS) matters, and tax reclaims from various foreign jurisdictions); and environmental, social and governance (ESG) and corporate governance (where we participate in numerous investor groups and have authored significant publications related to ESG and other related topics).

Our national best interest compliance team assists clients in interpreting and preparing for compliance with the evolving and overlapping federal and state laws and regulations related to the standard of care for broker-dealers, investment advisers, insurance companies, agents and brokers. We offer an interdisciplinary team that draws from Faegre Drinker's investment management, Employee Retirement Income Security Act (ERISA), Securities and Exchange Commission (SEC) and regulatory enforcement defense, litigation/Financial Industry Regulatory Authority (FINRA) arbitration and compliance, class action defense, and insurance regulatory and transactional practices. Our team puts experienced investment, corporate and tax attorneys, litigators, legislative professionals, compliance attorneys and former regulators in your corner.

We actively assist governmental asset owners, investment managers, broker-dealers, registered investment advisers, retirement plan/individual retirement account (IRA) service providers, health systems and insurance companies with the challenges resulting from the ever-changing regulations from the SEC, FINRA, the Department of Labor and state agencies related to fiduciary requirements and best interest duties.

**In addition, our attorneys work on the following other types of investment-related matters for our asset owner clients:**

- **Private market investments (direct and through commingled funds)**
- **Co-investments (direct and structured through funds)**

- Single investor/fund-of-one investments
- Joint ventures and club deals
- Agreements with banks and other financials (e.g., ISDA, Repos)
- Public-Private Investment Programs
- Workouts on fund investments and manager removals
- Tax matters (e.g., reclaim and avoidance of U.S. and foreign withholding, FATCA/CRS, unrelated business taxable income (UBTI), effectively connected income (ECI), Foreign Investment in Real Property Tax Act (FIRPTA))
- Securities matters (e.g., advising on governmental filings)
- Futures, swaps and derivatives agreements
- Custodial agreements and securities lending agreements
- Corporate governance program support
- Policies, guidelines and procedures relating to placement agents and fees, plan governance, ethics and compliance matters
- Fiduciary reviews of compliance with laws and policies; guidance regarding best practices

Faegre Drinker's investment management group is nationally recognized.

Clients describe the Faegre Drinker investment management group as **"thorough, knowledgeable and responsive."**

*— Chambers USA*

Our clients note that we have "**the right people with the right expertise** to solve any problem in a timely and reasonable fashion."

*— Chambers USA*

"It's a **spectacular firm,**" says a client; "the resources we get are top notch and we always know we're going to get an excellent job from them."

*— Chambers USA*

## Helping You Execute on Your Investment Program

Faegre Drinker's institutional investor services team has the experience to help execute on your business goals. We serve a broad range of institutional investors and pension funds by focusing on practical, real world and cost-effective advice to clients. We help our clients understand, structure and negotiate the terms of their investments in private funds, direct and co-investments, secondary transactions, and related alternative investment strategies across legal structures and asset classes. Representative clients include public pension funds and state investment boards, registered investment companies, funds of hedge funds, insurance companies, university endowments, foundations, family offices, health systems and banking institutions. Many of our attorneys have in-house experience, which makes them business-minded and solutions-oriented in their approach to providing counsel to clients.

In addition to investors, we represent investment managers, for whom we structure and draft documents for investment funds, managed accounts and other investment products. We have launched numerous U.S. and non-U.S. hedge funds, private equity funds, venture capital funds, hybrid funds, fund platforms, funds of funds, dedicated feeder funds, commodity pools, variable life and separate account insurance products and investment companies (including open-end and closed-end funds, business development companies, interval funds and ETFs).

Servicing both investment managers and investors allows us to obtain a true market perspective of investment terms and trends and gives us valuable insights into current and emerging market practices. We believe that this combination of strengths results in our delivering informed advice and an unparalleled client experience.

Our attorneys provide the following services to private market investors:

- Legal and compliance due diligence on private funds and investment advisers, including reviews of all legal and compliance documents, policies and procedures.
- Drafting legal diligence documentation, including summaries of key terms and comment memoranda.
- Negotiating investor side letters and other investment documents and drafting customized investment terms.
- Structuring and negotiating investment-related purchase and sale transactions, including for co-investments and direct investments, within the U.S. and cross-border.
- Negotiating trading documents and agreements.
- Establishment and maintenance of investment credit agreements.
- Representation in litigation and other adverse proceedings against managers.

## Co-Investment Summary



Our clients participate in many different forms of co-investments transactions, ranging from direct investments in an operating portfolio company to dedicated co-investment funds or separate accounts that hold multiple co-investments with a particular sponsor. Typically, our clients invest in individual co-investment transactions alongside the clients' existing private equity managers. These co-investment structures typically involve a client participating in a dedicated co-investment fund formed for the purpose of facilitating the client's and other co-investors' commitments to a particular co-investment alongside the fund sponsor's main fund.

The legal diligence for co-investment transactions presents unique challenges versus a standard private equity fund investment. Most significantly, co-investment transactions often move at an accelerated pace, requiring a client to complete legal diligence in an efficient manner. The ability for us to move quickly on co-investment transactions is attributable in large part to our significant deal flow — we have often been involved in the negotiation of the sponsor's main fund, which creates efficiencies in negotiating co-investment transactions since co-investment funds are typically based on the main fund documentation. Our significant investment management and M&A experience gives us unique insight into the marketplace and allows us to focus on achieving attainable terms, and appropriately address bespoke client issues via side letter or other legal diligence documentation.

# Knowledge to Guide You Through Any Transaction

In serving as counsel to help you execute on your investment program, we tailor a team of experienced attorneys to guide you through investment opportunities of various asset classes and structures. In addition to Tiffany Reeves and the institutional investor services team, your Faegre Drinker team will consist of attorneys in our real estate, corporate and restructuring groups.

## Real Estate – Joint Ventures and Lending



Grounded in industry-specific knowledge, we handle sophisticated real estate transactions throughout the U.S. and across market sectors. We help both real estate investors and users in their commercial real estate projects, using a team approach that maximizes efficiency and effectiveness. We handle projects of any scale or complexity while also offering the location-specific experience necessary for success in key markets.

Faegre Drinker attorneys advise clients with respect to their real estate holdings in all 50 states and help them make sound equity and lending decisions. We work on deals in most asset classes, and represent lenders and equity investors, as well as the users of their capital, including developers and users of real estate assets. In our investment work, we routinely assist in the structuring and formation of joint ventures, limited liability companies, partnerships, holding companies and other entities for the purpose of buying, developing or value adding, and selling real estate. We are well-versed in the unique issues raised in the formation of ventures between institutional investors and more risk-tolerant developers and operators. We also handle mergers and acquisitions, sales and acquisitions for real estate investment trusts (REITs), pension funds, opportunity funds, and private equity funds, for national developers and other investors. We work with unique assets such as mixed-use projects, ground leases, air rights, tenancy in common and condominium interests. We enjoy steady and significant support from our tax, securities, environmental and bankruptcy colleagues to address contingencies and challenges both complex and routine.

Our team handles structured finance matters for senior lenders, agents and arrangers of syndicated and structured facilities, subordinated and mezzanine lenders, asset-based lenders, hedge funds and equity investors, and borrowers and issuers of debt products in the bank and capital markets.

From single properties to multistate real estate portfolios, we assist with expansion, divestment and property asset management. We represent both owners and users in buying or leasing new facilities, selling property, conducting due diligence, negotiating contracts for construction or development of new facilities, moving into or leaving markets, subleasing, terminating leases prior to expiration, expanding or reducing an existing footprint, executing strategic plans to reduce costs, easing tax burdens and consolidating operations, and interpreting and negotiating lease amendments, subordination agreements, estoppel statements and similar documents.

With respect to real estate lending, we have extensive experience representing lenders in a broad spectrum of transactions. Our practice includes representing lenders in the highly competitive world of non-recourse lending by insurance companies, which requires us to remain very focused on efficiency and cost-effectiveness. By using a team approach, and delegating routine matters to lower-cost service providers and using higher-cost providers for more strategic decisions, we are able to achieve our client's goals in a manner that does not strain relationships with their borrowers.

## Corporate – Private Equity



Our 225 corporate, securities, tax, public and corporate finance, and M&A attorneys serve as trusted legal advisers on your most important and strategic transactions and business decisions. We support the finance and governance needs of public and private companies, government entities, venture capital funds, financial institutions, and institutional and individual investors around the world. Our teams work alongside you to vet opportunities and challenges. We execute mergers and acquisitions, joint ventures and other key strategic business transactions consistent with your goals, supporting compliance with domestic and international law.

Faegre Drinker's national private equity practice has the experience to deliver success in large, sophisticated transactions, as well as the rate structure and flexibility to equally excel in smaller transactions. Our private equity team is a core part of our 175-attorney mergers and acquisitions practice, which over the past three years closed over 725 deals with an aggregate value over $100 billion. We know the private equity deal market, and we understand and apply the latest structures and practices for private equity deals. We deliver value in advising funds, management, co-investors and portfolio companies throughout the life cycles of private equity investments. From acquisitions, to minority and control investments, to add-on acquisitions, to recapitalizations and restructurings, and ultimately to the array of exit events, we perform throughout the full range of opportunities and issues. We also team with our national-level fund formation and governance professionals to offer additional levels of insight and experience, and we capitalize on the knowledge of our over 1,200 attorneys, consultants and professionals to deliver top-level value and results.

## Lending & Finance - Restructuring - Opportunistic Investing



With over 50 attorneys located in New York, Delaware, Texas, Illinois, Minnesota, New Jersey, Indiana, Colorado, Pennsylvania and the United Kingdom, Faegre Drinker's Lending & Finance and corporate restructuring teams have broad experience in a variety of industries and jurisdictions in the U.S. and abroad.

Our front-end lending practice represents leading banks, non-bank lenders and borrowers in a variety of debt and related transactions. We have experience in many industries with unique legal requirements, including agricultural, tribal and health care finance, with transactions ranging from bilateral loans involving a single bank and borrower to multinational syndicated credit arrangements with multiple layers of debt. Our experience includes asset-based credit facilities, real estate loans, cash-flow financings and asset securitizations, among other transactions. Clients appreciate the depth of our industry knowledge, our integration with bankruptcy and workout teams, and our ability to deliver an excellent product in a timely fashion.

Our attorneys help clients achieve the most favorable outcomes in difficult financial circumstances. We represent all types of stakeholders in bankruptcy and out-of-court restructuring matters — debtors, creditors, investors, servicers, landlords, indenture trustees, receivers, bankruptcy trustees, private investment funds, distressed asset and business purchasers, bondholders, and creditors' committees.

Having advised on some of the largest and most complex bankruptcies in the U.S., we have structured Section 363 sales, negotiated stalking horse purchase agreements and bid procedures, evaluated competing bids, and accomplished sales under confirmed plans of reorganization. As a result of this deep experience, our team is uniquely positioned to advise clients of particular opportunities and challenges presented by transactions by or with distressed, bankrupt or newly emerged companies. Our clients represent the spectrum of participants in the world of distressed investing, including hedge funds, private equity firms, unsecured creditors, and distressed companies and their boards, as well as strategic acquirers looking to make opportunistic investments in distressed companies.

# Institutional Investor Services Team



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# About Faegre Drinker

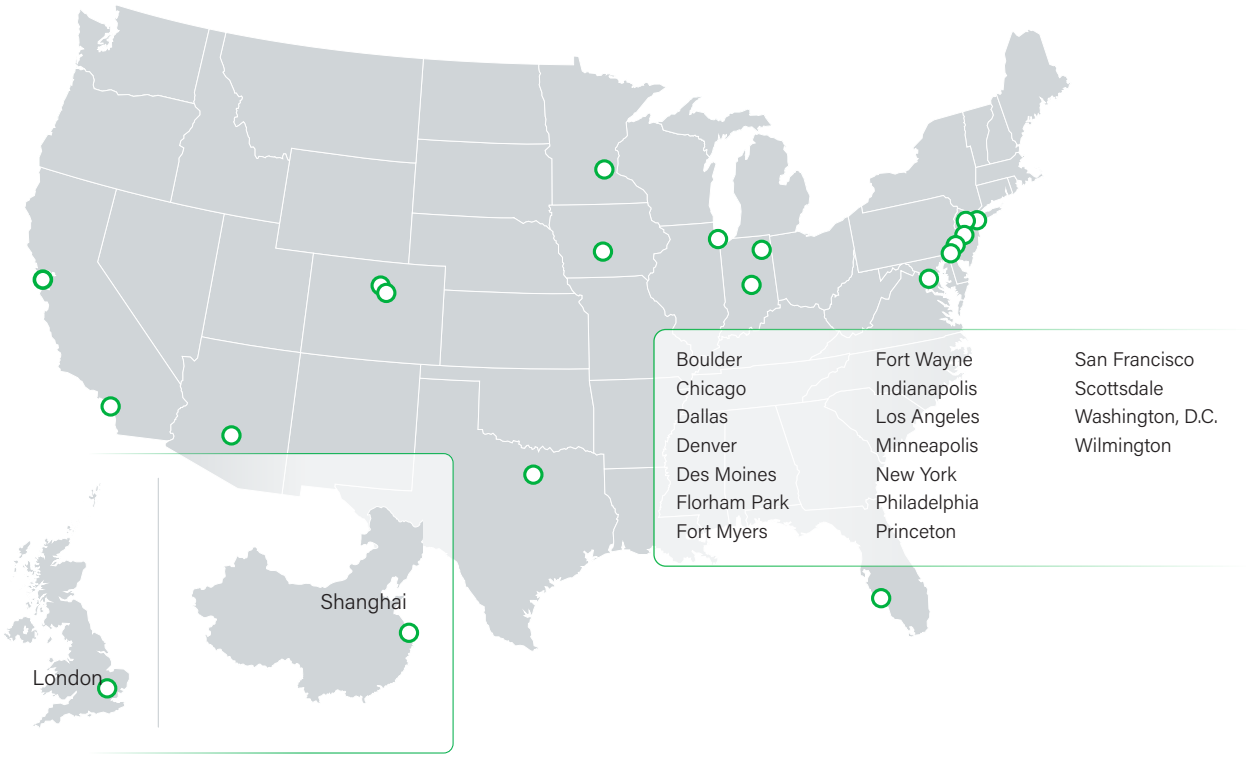
Faegre Drinker was formed by the merger between Faegre Baker Daniels and Drinker Biddle & Reath on February 1, 2020, two firms known for exceptional legal and consulting capabilities and a commitment to service excellence. With over 1,200 experienced attorneys, consultants and professionals in 20 locations across the United States, London and Shanghai, we have the strength to solve your most complex transactional, litigation and regulatory challenges wherever you need us. We partner with clients ranging from emerging startups to multinational corporations, delivering comprehensive and customized advice that advances your most ambitious business objectives.

Our culture is firmly rooted in relentless client focus and mutual trust that empowers collaboration. We listen to and understand your priorities and pressure points. We bring you fresh ideas that work. And we deliver excellence — without arrogance. We are committed to our communities and to building a diverse and inclusive firm that reflects those communities and our clients.

Faegre Drinker moves boldly into the future, investing in talent, technology and innovation to continually provide clients with efficient service, collaborative experiences, innovative approaches and value.



## Our Global Reach




We serve clients in every U.S. state and more than 100 countries. Our international reach extends far beyond our offices in China and the United Kingdom. As a founding member of Lex Mundi and its exclusive member firm in Indiana and Minnesota, and as the exclusive Illinois member firm of World Law Group, we have access to over 200 law firms and thousands of legal advisers in more than 100 countries.

**Our investment practice is supported by practices throughout our firm including:**

- Benefits & Executive Compensation
- Corporate
- Environment & Energy
- Finance & Restructuring
- Government & Regulatory
- Health Care
- Insurance Services
- Intellectual Property
- International
- Investment Management
- Labor & Employment
- Litigation
- Private Client
- Product Liability & Mass Torts
- Real Estate & Construction

# Tailored Pricing Approaches

## Spotlight on AFAs



We understand that our in-house partners strive to minimize spend while providing value to our mutual clients in the delivery of legal services. One of the most effective ways of achieving this goal is to move away from traditional hourly fees toward alternative fee arrangements (AFAs) that more closely align the interests of outside counsel and the clients. Faegre Drinker has worked with clients on a variety of AFAs, including capped fees (with collars), phased pricing and volume-based value pricing, among others. We believe our template pricing provides a competitive proposal, but after your review, we would welcome the opportunity to discuss with you an AFA structure that meets your objectives. We look forward to building a solution that makes sense for you in this matter.

## Fixed Fees for Underlying Manager Investment Reviews and Negotiations

We represent a variety of investors and, over time, have developed a process for the efficient and cost-effective review of legal documents and negotiation of investor side letters for private fund investments. This experience allows us to provide the following alternative pricing for this work.

- **Legal Diligence Review:** fixed fee per investment review, which includes a review of the proposed investment fund's PPM/OM, LPA, legal opinions (if any) and subscription documents (or equivalent documents) and the preparation of a legal diligence summary of key terms and comment memorandum.
- **Legal Diligence Review + Negotiation:** Fixed fee per investment negotiation, which includes an investment review (as described above) plus drafting and negotiating a side letter with the underlying manager, coordination of the subscription (subscription documents submission, AML/KYC, etc.) with underlying manager and administrator, and facilitating closing mechanics.
- **SMA**: Fund-of-one or other bespoke fixed fee arrangements negotiate with the client.

Faegre Drinker provides these fixed fee proposals in good faith based on an assessment of expected time to be spent on these projects, and Faegre Drinker solely bears the risk of any overages. Therefore, Faegre Drinker develops an initial analysis in consultation with each client to determine a fixed fee proposal on a per transaction basis that aligns with the particular client's needs.

## Traditional Fee Arrangements

If the traditional hourly rate structure is the preferred fee arrangement, we staff projects in the manner that is most cost-effective for clients — by selecting the right attorney (from a seniority and experience perspective) to work on a given matter and, when appropriate, leveraging lower-cost attorneys.

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