



Top Three Legal Considerations for Family Offices Adding Private Credit to Their Investment Portfolios

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Family offices are increasingly turning to private credit as a significant component of their portfolios, underscoring a notable shift in how the world's wealthiest families are thinking about risk, return and diversification. As private credit continues to move from niche to mainstream, family offices are continually drawn to its potential for attractive yields and portfolio resilience. Below are the top three legal considerations for family offices when investing in private credit.

1. Considerations Before Investing in Private Credit

Private credit is, by definition, less liquid than public debt. Family offices will need to be comfortable with longer lock-up periods and the potential for delayed repayment. Legal review of redemption, collateral and payment rights, transfer restrictions, and secondary market options is important to fully understand the investment's liquidity profile and repayment risk.

Secondly, structural protections are paramount. Loan documentation should be scrutinized for covenants, collateral packages, intercreditor arrangements and default remedies. Family offices should ensure they have adequate protections in downside scenarios, including clear enforcement rights and priority in the capital structure. Competent counsel familiar with market terms and conditions is crucial in determining whether and to what extent these protections exist in a given loan document.

Third, regulatory and tax considerations can add a layer of complexity. Cross-border investments in particular can trigger complicated tax issues, and family offices should work with legal and tax advisors to understand the implications of investing in private credit funds or direct loans, including withholding taxes, reporting obligations and potential regulatory filings.

Finally, alignment of interests among the family office, any investment manager and the borrower is essential. Fee structures, pricing, equity co-investment opportunities, potential board observation rights and transparency around conflicts of interest should be carefully negotiated. Family offices

should seek meaningful investment by the manager and robust financial (and other informational) reporting frameworks that promote transparency and accountability.

2. Advantages and Disadvantages of Private Credit for Family Offices

Private credit offers a compelling set of investment features for family offices, including attractive risk-adjusted returns. In a low-yield environment, private credit often offers higher returns than traditional fixed income, frequently with floating rates that provide some protection against inflation. This can be a significant draw for family offices seeking to meet multi-generational capital needs. Additionally, private credit enhances portfolio diversification. Its low correlation with public markets and other asset classes can help family offices build more resilient portfolios, especially during periods of market volatility.

Another key advantage is portfolio customization and control. Direct lending and bespoke credit structures allow family offices to tailor investments to their specific needs, including, if desired, those related to Environmental, Social and Governance impact or objectives. Well-structured private credit deals can also provide strong covenants and collateral arrangements, offering a degree of protection in adverse scenarios.

However, private credit comes with some important disadvantages. Illiquidity remains a key concern. Lock-up periods and limited secondary markets mean that capital can be tied up for years, which may not align with all family offices' liquidity needs. The complexity and opacity of private credit deals also pose challenges. These transactions are often highly negotiated and less transparent than public market instruments, increasing the risk of adverse selection or hidden liabilities. Additionally, the operational burden of monitoring loans, particularly in direct lending, requires legal and administrative infrastructure. Lastly, regulatory uncertainty is an emerging concern. As the private credit market grows, it is attracting more regulatory scrutiny, which could impact deal structures, reporting requirements and compliance obligations.

3. Strategic Approaches for Family Offices Investing in Private Credit

Given the unique characteristics of private credit, family offices should consider several strategies to maximize benefits and mitigate risks. One popular approach is to co-invest with experienced agents. Many family offices recognize that they may not have the internal resources needed for deal sourcing, credit analytics and post-investment monitoring. Partnering with private credit funds or platforms that invite family offices into sidecar vehicles or co-investment opportunities can help bridge this gap. Through these partnerships, family offices gain access to institutional infrastructure, robust origination pipelines and thorough due diligence processes — effectively leveraging external expertise and market access. However, this approach can come with a diminished ability to negotiate preferred terms as compared to direct lending.

As always, diversification across strategies and sectors is another effective approach. All private credit is not created equally. Rather than concentrating exposure in a single fund or industry, family offices can reduce risk and enhance returns by spreading investments across various strategies and industries. Some examples include asset-backed lending, opportunistic or special situation credit, and mezzanine or direct lending. Each segment carries distinct risk-return profiles and legal considerations that must be understood and managed accordingly.

Direct lending in particular, continues to be a preferred strategy for many family offices. While these deals can offer attractive returns and greater control, they also demand deep expertise and rigorous structuring. Legal advisors play a crucial role here, ensuring that transactions include strong collateral packages, adequate personal or corporate guarantees, financial covenants that meaningfully test performance and enforcement rights that are not easily diluted by junior capital or borrower-friendly provisions.

Lastly, preparing for downside scenarios is an important part of a family office's strategy. Even the best-structured private credit deals can encounter borrower distress or default. Family offices should work with investment management professionals and/or legal counsel to stress-test portfolios, negotiate robust covenants and establish clear enforcement pathways. Such preparation not only protects capital but also creates leverage during workouts or restructurings, ultimately enhancing the family office's position when an investment does not go according to plan.

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