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# Incentive Equity That Goes the Distance: Rethinking MIP Design for the Current Private Markets

**GIBSON DUNN**

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# Today's Speakers



**Ekaterina (Kate) Napalkova** is a partner in the New York office of Gibson Dunn and a member of the Employee Benefits and Executive Compensation Practice Group. Kate advises public and private companies, private investment funds, boards of directors, and management teams on a broad range of compensation and employee benefits matters. Her advice focuses on the human capital, compensation and employee benefits aspects of M&A, restructurings, IPO, cross-border, spin-offs, and other corporate transactions. She is experienced in the negotiation and implementation of benefit and compensation plans, as well as compensation-related securities reporting and corporate governance matters.



**Jamal Lama** is a partner in the New York office of Gibson Dunn. Jamal's practice focuses on advising companies and private equity firms across a wide range of industries, with specific experience in energy and infrastructure investments across geographies and asset classes. His representations include domestic and cross-border public and private M&A, joint ventures, preferred equity financings and other strategic transactions. He also has substantial experience advising clients on corporate governance issues throughout the lifecycle of a company, including private equity portfolio companies.



**Kristen Poole** is a corporate partner in the New York office of Gibson Dunn, where her practice focuses on mergers and acquisitions and private equity. Kristen represents both public and private companies, as well as financial sponsors, in connection with mergers, acquisitions, divestitures, minority investments, restructurings, and other complex corporate transactions. She also advises clients with respect to general corporate governance matters and shareholder activism matters.

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# Designing MIPs That Actually Work

01

# Why Standard MIPs Are Breaking Down

 6–8 yrs

average hold period today (up from 4–5)

Source: PitchBook

 ~\$95.8B

continuation fund transaction volume in 2025

Source: Evercore; 2025 Secondary Market Report

 147

continuation fund-related exits in 2025 (up from 44 in 2021)

Source: PitchBook

 ~\$220B

expected evergreen fund AUM by 2029 (retail-focused)

Source: PitchBook; 2029 Private Market Horizons report

## Designed based on assumptions that don't fit the model.

The vesting schedule, performance hurdles, and liquidity mechanics of traditional MIPs assume a 4-5 year hold with a clean M&A or IPO exit.

## The continuation fund and permanent capital vehicles break the model.

GP-led secondaries effectively re-set the sponsor's economic interest while leaving management in place, and standard MIP documents are often silent or ambiguous on the mechanics and often do not maximize the incentive value of the MIP. Permanent capital or “evergreen” vehicles allow for theoretically indefinite hold periods, which pushes out liquidity events for management.

## Value proposition of re-visiting traditional forms early in the lifecycle.

GCs and fund counsel are routinely asked to implement structures their forms weren't built for. The gaps create real exposure at exactly the wrong moment.

# Where Conventional MIPs Fail



## Vesting anchored to a 5-year exit

Vesting cliffs hit long before any liquidity event, or after the sponsor has already harvested value via secondary sales of non-controlling interests or continuation fund transactions. Management and sponsor incentives diverge.



## IRR-based hurdles and longer holding period = diminishing returns

Traditional IRR hurdles may not be the right performance-based metric for longer holding periods. A 20% IRR over 4 years = 2.07x MOIC. Over 8 years, the same MOIC returns only 9.5% IRR.



## Silence on interim liquidity events

MIP documents may not address dividend recaps, PIK distributions, and partial secondary sales. This leaves management participation and liquidity undefined when those events crystallize value. Management teams are increasingly expecting to see these terms addressed.



## Leaver provisions too blunt for longer holding periods

Binary good/bad leaver mechanics designed for shorter holding periods create misaligned incentives when management must stay engaged.

# Building a Duration-Agnostic MIP



## MOIC-Anchored Hurdles

Replace IRR with MOIC thresholds (1.5x, 2.0x, 2.5x).  
Time-neutral and survive holds of any length.  
Include a minimum IRR backstop.



## Milestone + Time Hybrid Vesting

Layer time vesting with milestone vesting tied to value creation events (recaps, secondary sales, and partial realizations all count).



## Interim Distribution Rights

Carve in management's pro-rata right to participate in dividend recaps and other interim realizations when sponsor receives cash (on a current basis, not deferred to exit).



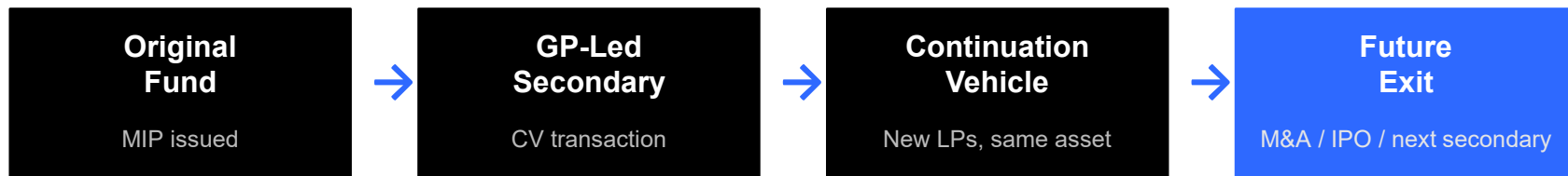
## Sliding Leaver Scale

Replace binary good/bad leaver with a sunseting sliding scale.  
An 8-year participant retains more than a 2-year participant on departure.

# Vesting & Continuation Fund Structuring

02

# The Continuation Fund **Transaction**



1

## Does the MIP roll or crystallize?

Negotiate whether unvested equity rolls into the new vehicle or crystallizes. Each has employment, tax and business-level consequences.

2

## What changes are required to the underlying documents to reflect the transaction?

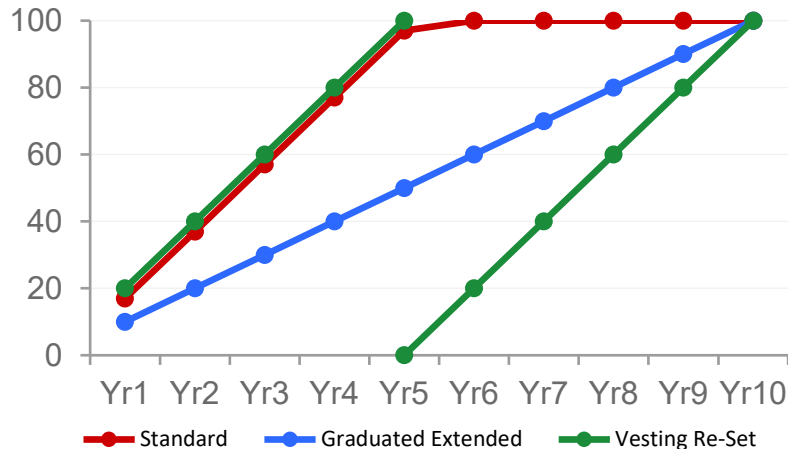
Avoid foot-faults and enforcement gaps by providing for automatic equitable adjustments or unilateral equitable amendment rights to economic terms, vesting and forfeiture terms, restrictive covenants.

3

## Does vesting re-start, continue, or accelerate?

Standard docs assume change of control triggers acceleration; but GP-led secondaries may not qualify if 'same GP' carve-outs apply.

# Vesting Mechanics & Legal Pressure Points



Standard / Graduated Extended / Vesting Re-Set



## Good/Bad Leaver — Revisit Regularly

Terms may become stale and labor laws can change over an extended hold period. Agreements need to provide flexibility to amend.



## Tax Treatment at Rollover

Whether a continuation transaction can facilitate a tax-free rollover depends on transaction structure.



## 409A and Section 280G

Consider whether vesting acceleration or payout triggered at continuation close (if any) implicates IRC 409A/280G.



## Accounting Treatment

Consider accounting treatment implicated by less traditional vesting and repurchase mechanics.

# Incentive Equity in Non-Traditional Liquidity Scenarios

03

# Liquidity Scenario Matrix

Liquidity Event	MIP Trigger?	Key Drafting Issue
Dividend Recap	Rarely	Silent on management participation; must add explicit pro-rata distribution right if contemplated
GP-Led Secondary (Cont. Fund)	Sometimes / Partial	Change of Control definition (i.e., does it exclude all "Affiliates" of the existing fund? Or just funds within the existing fund complex?); rollover consent; 409A and 280G analysis required
Strip Sale (LP interest)	No	MIP stays with asset
NAV Facility (LP borrowing)	No	Covenant restrictions on distributions; subordination risk; lender consent rights
Traditional M&A	Yes	Standard; verify continuation fund structure hasn't broken documentation chain

# Key Takeaways

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## **Audit existing MIPs against extended hold scenarios**

Map every live MIP against 7-, 8-, and 10-year timelines. Identify where cliffs, hurdles, and leaver provisions break.



## **Update standard forms for continuation fund mechanics**

Add rollover considerations and vesting continuity language to your form management equity agreement.



## **Revisit performance metrics (IRR; MOIC-based hurdle architecture)**

For new deals with uncertain timelines, shift to MOIC thresholds with a backstop minimum IRR floor.



## **Map all liquidity scenarios**

Walk through non-traditional scenarios before the MIP is put in place; prepare examples for management teams illustrating alignment between sponsor and management team in various scenarios.



# Questions