



FOGEL & POTAMIANOS LLP

**THE VENTURE CAPITAL
FUND BUILDER™**
Checklist

**The Law Firm That
Makes Things Happen.**

Venture Capital Fund Builder™

Investors and advisors who have a skill for picking winning private company investments become candidates to start their own venture fund. However, navigating the complex maze of corporate and securities law, compliance, and best practices can be an impediment to fund formation. To this end, F&P has developed The Venture Capital Fund Builder™ to serve the needs of first time or early-stage venture capital companies – from fund formation, through first and successive investments.

FUND STRUCTURE

- Fund jurisdiction (Delaware preferred)
- Number and type of investors (typically accredited investors, no more than 100 owners per fund unless a fund is limited to qualified purchasers)
- General partner structure
- Type of Fund – closed-end, evergreen, SPV (deal by deal), or single fund with multiple vehicles?
- What will be the size of the fund?
- What will be the management fees, and how will they be charged?
- What is the carry, and how will it be charged?
- What is the investment thesis? Is the thesis specific enough yet broad enough for flexibility?
- What stage in the portfolio investment lifecycle will typical investments be made?
- Entity Flow Chart

FUND OVERSIGHT

- Will the fund have an LP Advisory Committee? If so, what will be the scope, e.g. conflict of interest, restriction waivers, general oversight?
- What will be its size?
- How will investment decisions be made? By the GPs or by a formal investment committee? Who will be on the investment committee?
- Expenses – organizational and initial offering costs are treated as expenses as incurred. Will costs be 1) borne by fund manager, 2) subject to reimbursement on a non-recourse basis, or 3) treat costs as expenses when occurred while amortizing expenses over a number of years for purposes of the fund's net asset value (NAV)?
- How will disputes be resolved?
- What will be the valuation methodology?
- Will the fund obtain insurance?

COMPLIANCE

- Will the fund register as an SEC Registered Adviser? Additional compliance will be required, such as Form ADV
- Exempt Offering & SEC Exempt Filing
- Blue Sky State Registration – Will the fund actively search for exemptions or apply state by state where any investor resides?
- Final Private Fund Adviser Rules – Quarterly Statement Rule, Private
- Fund Audit Rule, Adviser-Led Secondaries Rule, Restricted Activities Rule, Preferential Treatment Rule, Books and records Rule Amendments, Compliance Rule Amendments
- Fund Rules - Investment Company Act of 1940
- Adviser Rules - Investment Advisers Act of 1940
Securities Rules – Securities Act of 1933
- Annual SEC and blue sky filings
- State reporting, such as California's SB 45 regarding founder diversity

- How will the fund handle anti-money laundering and know your customer rules (AML-KYC)?

TERM SHEET

- Fund and General Partner
- Fund Manager
- Maximum Size (subject to GP increase and approval)
- LP Investment Size
- Initial Closing Date
- Final Closing Date
- Commitment Period
- Fund Length with Extensions
- Management Fee
- Carried Interest
- Carried Interest Allocation
- Limited Partner Transfers
- Disclosures
- Investment Restrictions (if any)
- ESG Policy (if any)
- Distributions/Waterfall

SERVICE PROVIDERS/VENDORS

- Administrator
- Auditor
- Accounting

FUND DOCUMENTS

- General Partner Agreement
- Limited Partnership Agreement (LPA)
- Investment Management Agreement
- Private Placement Memorandum (PPM)
- Subscription Agreement

TARGET COMPANY DILIGENCE & TERM SHEET

- F&P's VC Diligence Checklist
- Check Sizes and Ranges
- Board Seats – formal, observer, advisor
- Standard Term Sheet & Management Rights Letter



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Thank You

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