



Inside ILPA's New NAV Facility Guidance

September 10th, 2024

ILPA Update: Upcoming Webcast



- Industry-wide discussion on the Quarterly Reporting Standards Initiative (QRSI) and **revised ILPA Reporting Template and the new ILPA Performance Template** open for public comment through October 11
- Open to all ILPA Members and industry to attend
- **Also, join ILPA for a second industry-wide Q&A session on the new templates on October 3**

Visit ilpa.org to register or provide feedback on the templates!

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ILPA Webcast: ILPA QRS Initiative and Open Public Comment Period

September 24, 2024 11:00 AM EDT

[Register Today](#)

ILPA

- Neal Prunier
ILPA
- Aaron Daley
Washington State Investment Board
- Anne Anquillare
CSC
- Rohan Ranadive
Vista Equity Partners

ILPA Update: Last Chance for LP Registration



- Registration for the **2024 ILPA Summit** closes in just one month on **October 4** for LPs
- GP registration sold out!
- Don't miss out on the private equity industry's premier networking event
- Everything in one place! Curated meetings, compelling sessions - workshops, roundtables and fireside chats - featuring industry leaders and experts

Visit ilpa.org to register!



ILPA Update

OTHER UPCOMING EVENTS FOR ILPA MEMBER LPs

- **ILPA Private Equity Legal Conference** (LCON) in D.C., Oct. 1-2
- **London Member Gathering:** Sept. 23
- **Montreal Member Gathering:** Oct. 9

EDUCATION

ILPA Institute offerings available worldwide

- This fall in San Francisco, Melbourne, Virtual
- **2025 Calendar: Announced SOON!**

ENGAGEMENT

- **Updated ESG Assessment Framework:**
Now available

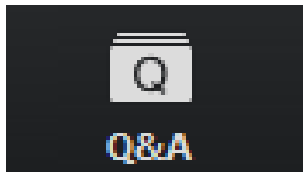
Visit ilpa.org for more information



Audience Participation



Polling: Be sure to **enable pop-ups to participate!** We'll share and respond to results in real time during the webcast.



Online Q&A Box: at the bottom of your screen is a Q&A Box. Ask questions, comment on questions from others and **upvote** the questions you are most interested in hearing answered.

Today's Speakers



David Wilson
Partner and Co-Head of
Credit, 17 Capital



Timothy Foran
Operational Due
Diligence Analyst,
Albourne



Brian Hoehn
Director,
Industry Affairs, ILPA

Agenda

Part 1: Overview of NAV-Based Facilities and Current Market Practices

Part 2: LP Concerns Regarding NAV-Based Facilities

Part 3: Recommendations for Improved Transparency and LP Engagement

Part 4: Proposed Legal Documentation

Part 5: Recommended Disclosures Related to the Use of NAV-Based Facilities

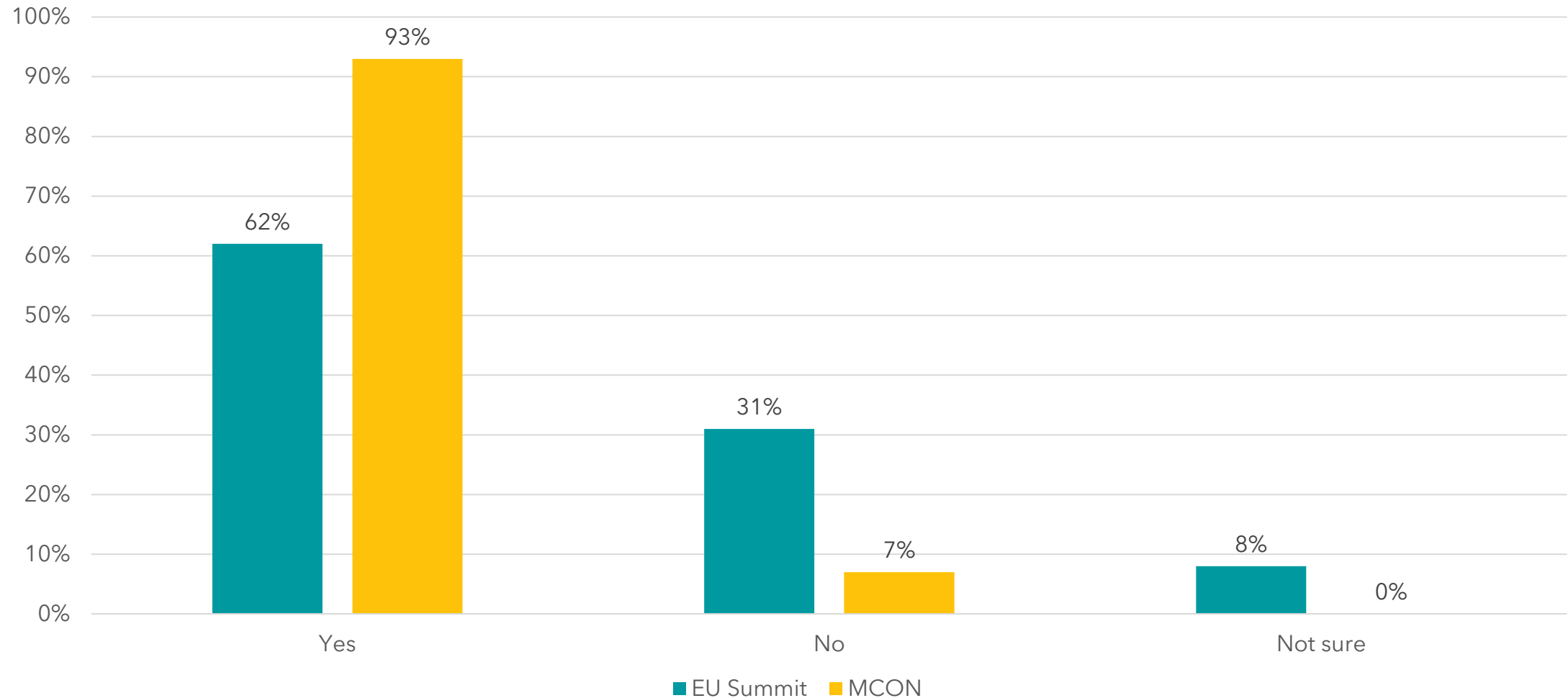
Polling Question (for LPs) Have any of your GPs used a NAV facility?



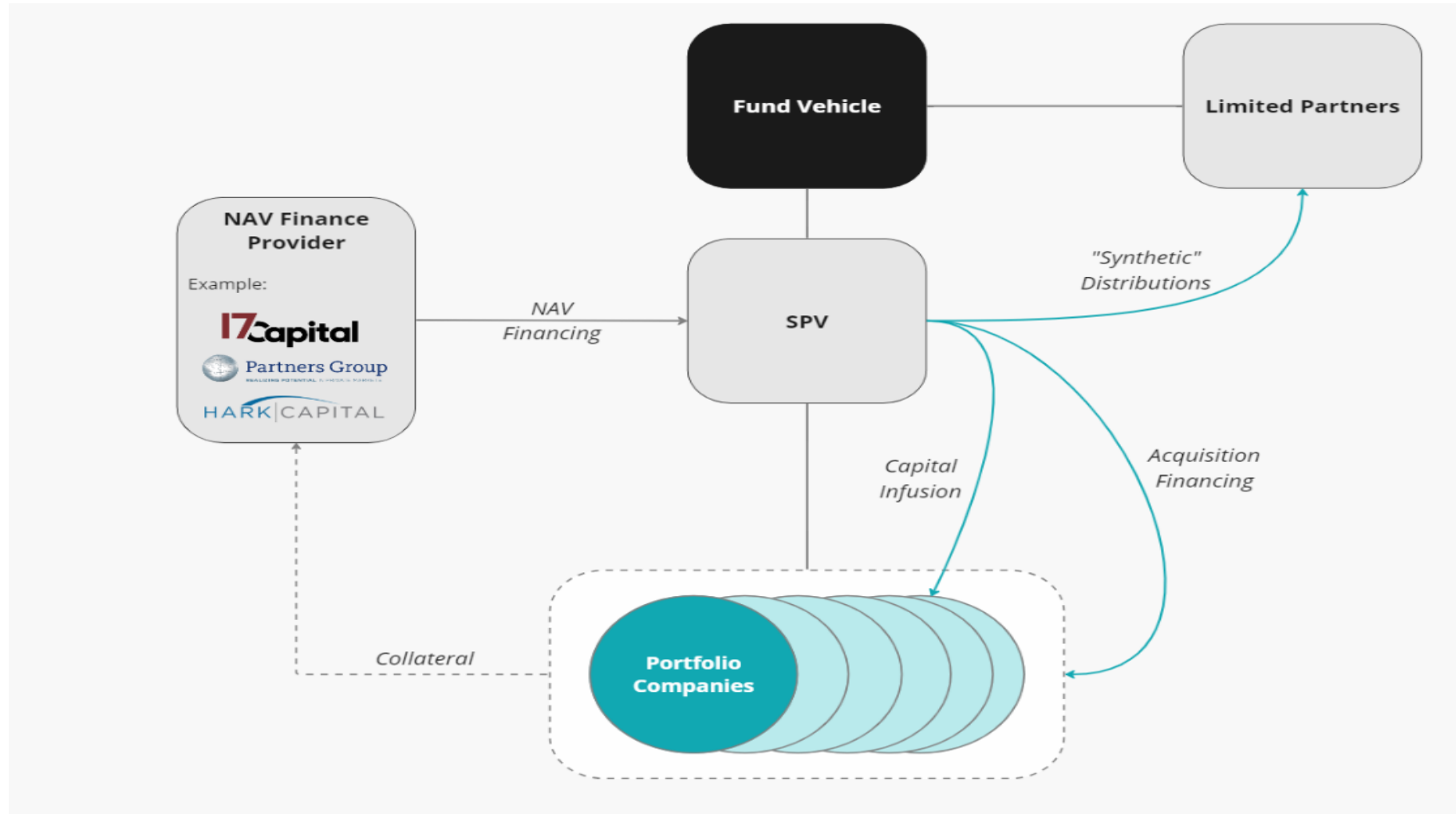
Polling Question #1



For LPs - Have any of your GPs used a NAV facility?



Part 1: Overview of NAV Based Facilities and Current Market Practices



Part 1: Overview of NAV Based Facilities and Current Market Practices

- A discussion of how NAV-based facilities are structured, the roles of market players and how the PE industry is currently using NAV facilities
- Estimated between \$44B USD in 2023 deal flow according to 17Capital
 - Estimated \$400B USD in NAV to be financed in 2025, resulting in ~\$70B USD for NAV lenders next year
- Use cases - supporting the portfolio:
 - Portfolio value creation
 - Defense to protect portfolio value
- Other use cases:
 - Advancing distributions
 - Leverage to invest in funds at the GP or LP level



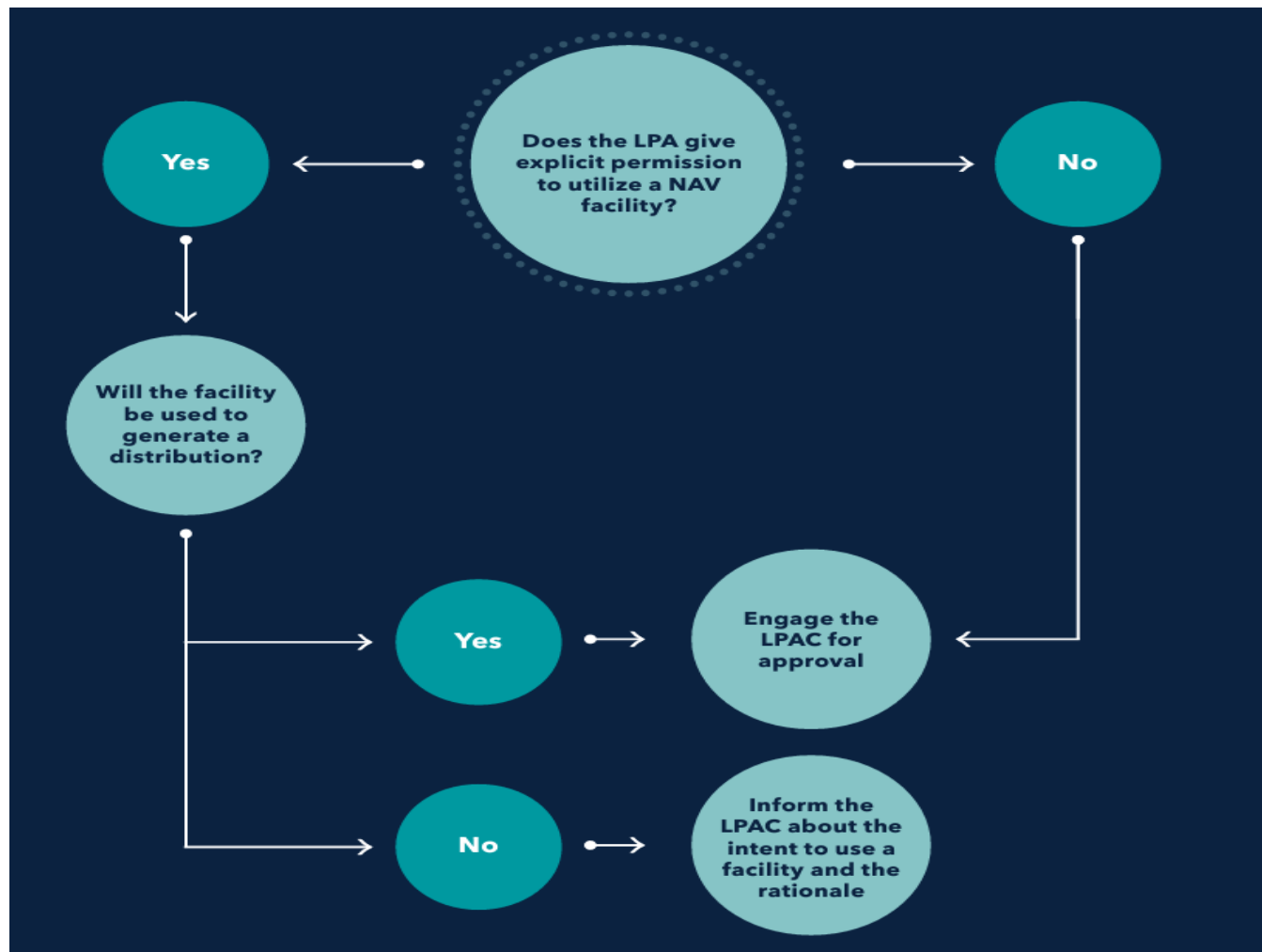
Part 2: LP Concerns Regarding NAV-Based Facilities

- A review of challenges that LPs face when their managers use NAV-based facilities
- Limited insight into when NAV-based facilities are being used
- Lack of governance related to the use of NAV-based facilities, which drives the lack of transparency
- Where the LPA is silent, GPs have taken different approaches to how they treat NAV-based facilities
- Some GPs have interpreted traditional fund level leverage provisions in LPAs as sufficient to undertake NAV-based facilities without LP/LPAC consent
- LPs have observed increased use of NAV-based facilities during the more challenging fundraising environment

Part 2: LP Concerns Regarding NAV-Based Facilities

- Use of NAV-based facilities for distributions:
 - Impact on IRR/DVPI
 - Distributions generated are often recallable
 - Administrative burden
 - Disruptive to cashflow planning
 - Tax complexities
 - Expenses and other costs
- Use of NAV-based facilities for portfolio support
 - Use of reserve capital
 - Cross collateralization risk
 - Use of the facility when a GP is struggling to fundraise

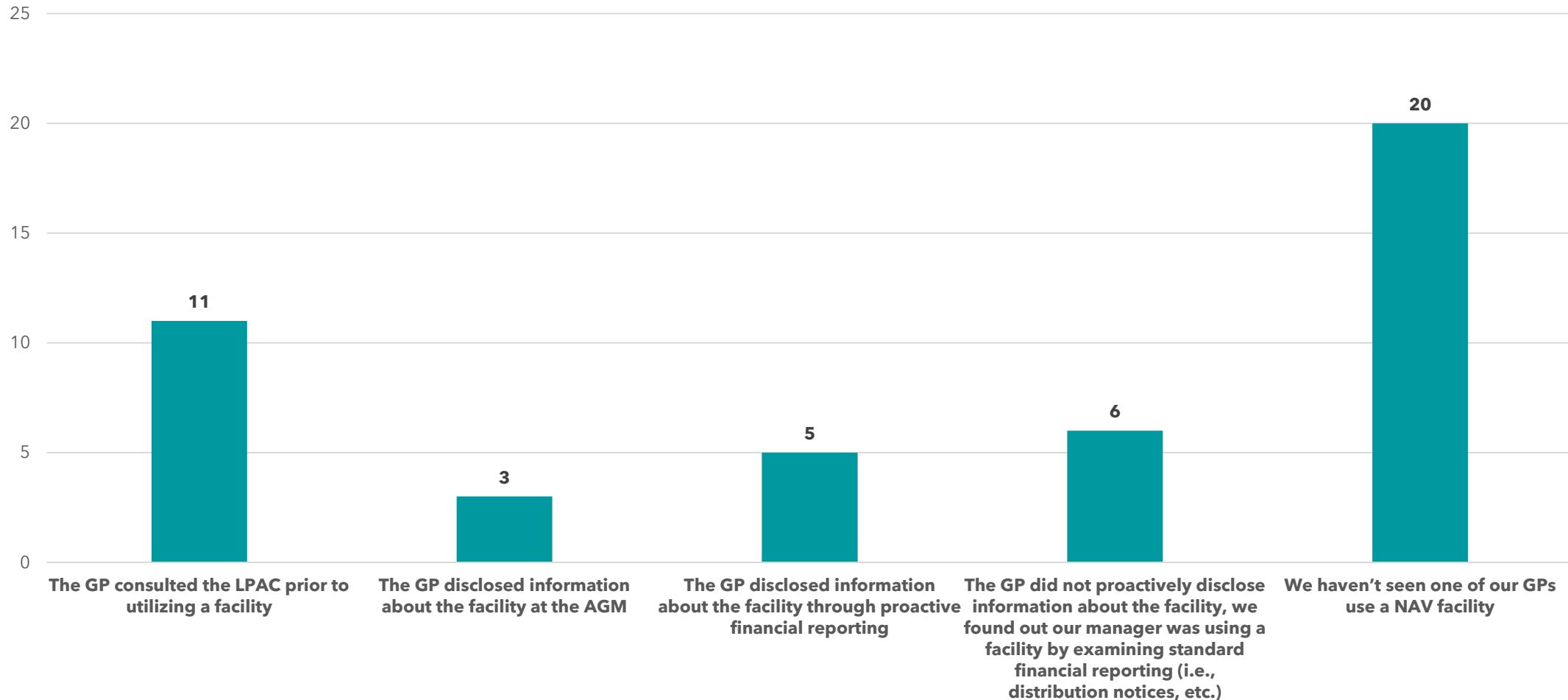
Part 3: Recommendations for Improved Transparency and LP Engagement



Part 3: Recommendations for Improved Transparency and LP Engagement

- Regardless of intended use of proceeds, GPs should engage the LPAC to provide transparency
- *Rationale and use of proceeds* - a detailed disclosure of the use of proceeds and the rationale for the facility, including details of other alternatives considered
- *Size, structure and controls* - facility size including amounts drawn at closing and undrawn amounts available. Discussion of use of SPVs, cross collateralization, repayment requirements and if the facility is secured or unsecured
- *Key economic terms* - cost of capital, the maturity date of the facility, any repayment requirements, as well as key covenants
- *LP obligations* - any additional obligations imposed on LPs, including whether any distributions received are recallable

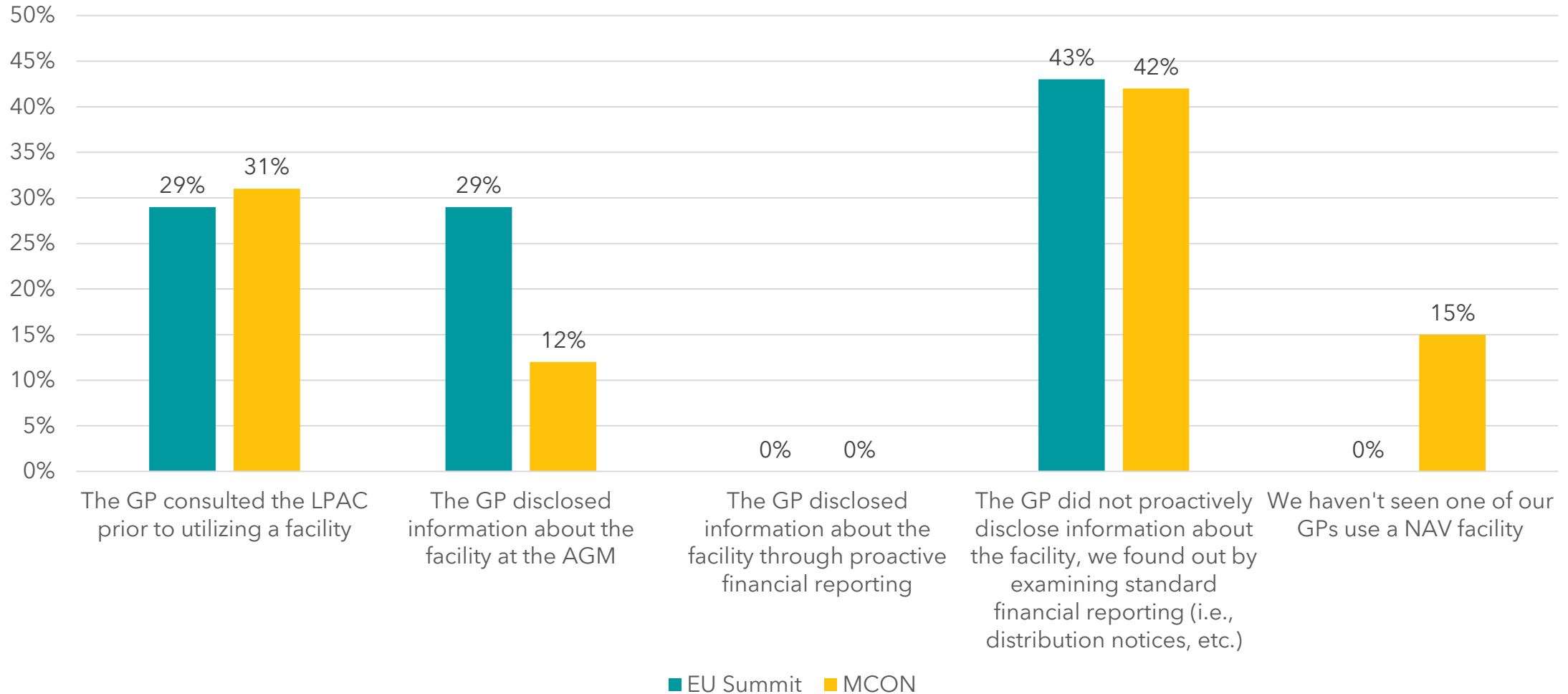
Polling Question (for LPs) How have your GPs engaged LPs around NAV facilities?



Polling Question #2

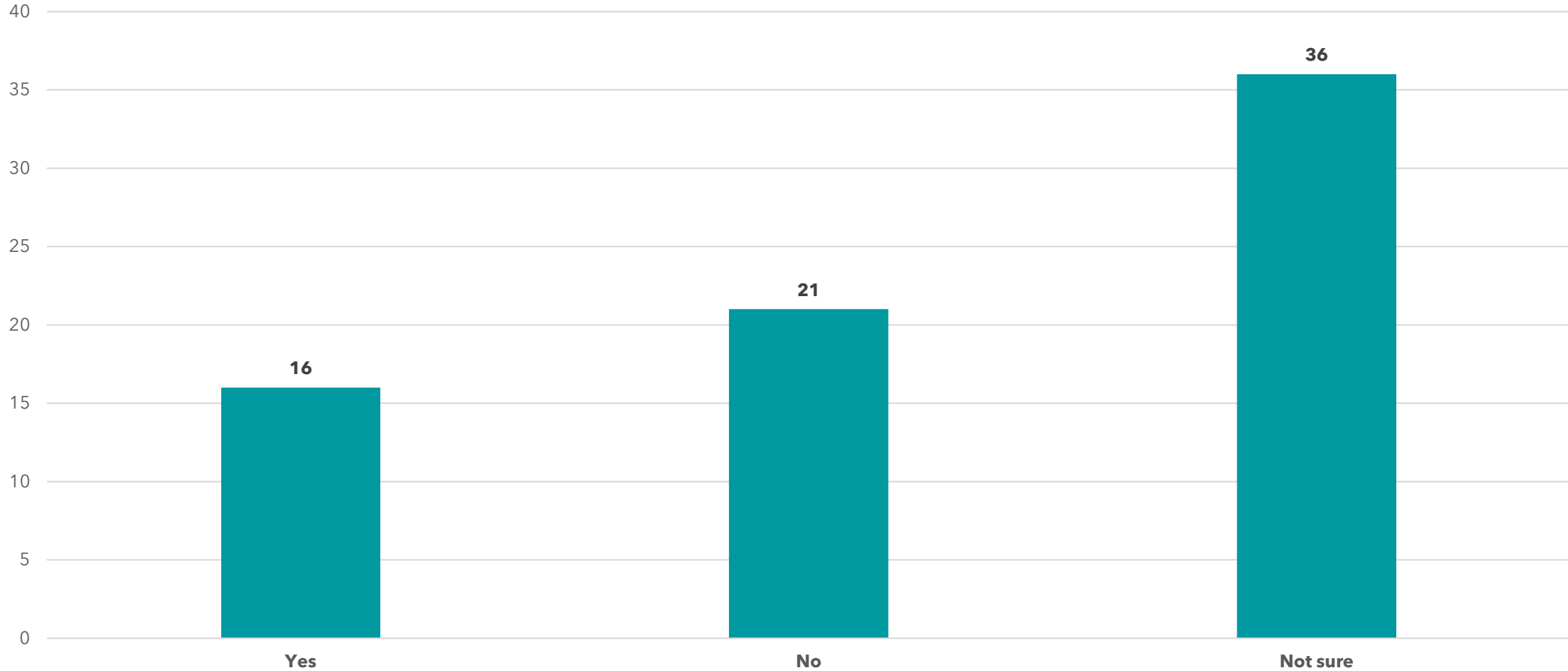


For LPs - How have your GPs engaged LPs around NAV facilities?





Polling Question (for LPs) Have any of your GPs taken a NAV facility for the purpose of generating liquidity over the past year?



Part 4: Proposed Legal Documentation



- Review of key legal terms in older LPAs that relate to NAV-based facilities and proposed language for new LPAs establishing clear guardrails regarding the use of these facilities
- Considerations/challenges with older LPAs:
 - No language that explicitly addresses NAV facilities allows for differing GP approaches in LPAC engagement
 - Some GPs have taken the view that the SPV created in conjunction with a NAV facility is outside the scope of fund level leverage limits
- ILPA recommends LPs proactively discuss NAV-based facilities with their GPs to understand how they interpret key LPA

Part 4: Proposed Legal Documentation



- New LPAs should address NAV-based facilities to ensure a shared set of expectations and guardrails around permissible uses
- New LPA language should clearly define the term “NAV-based facility” so any SPV used counts towards the calculation of fund level leverage limits but does not encapsulate SPVs intended for other forms of debt (i.e., portfolio company debt)
- New LPA language should clearly define limits to the amount of leverage that a GP is able to incur through NAV-based facilities over the life of the fund
 - ILPA is not recommending a specific threshold percentage
 - The limit should be determined by LPs and GPs during fund negotiations based on the strategy of the fund and relevant risk factors

Part 5: Recommended Disclosures Related to the Use of NAV-Based Facilities



Rationale, Key Terms, Conflicts - to be distributed to all LPs

1	What is the rationale for the facility vs. alternatives?
2	What is the overall size of the facility?
3	What is the amount borrowed from the facility to date?
4	What is the initial LTV ratio at the date of borrowing?
5	Describe the interest rate of the facility
6	What is the tenor/term date of the facility, including any extensions?
7	Describe the structure of the facility including the use of SPVs
8	Describe any security interests provided as collateral
9	Describe the details of the financial covenants
10	Describe if a credit rating has been obtained
11	Describe any potential conflicts of interest associated with the lender
12	Describe any consents required and confirm that all required consents have been obtained

Part 5: Recommended Disclosures Related to the Use of NAV-Based Facilities



Questions to Guide LP Dialogue with GPs

1	Is the amount of leverage appropriate given the rationale and risks?
2	Will proceeds be used in a way that is consistent with the best interests of the fund?
3	If used for a distribution, what is the impact on the waterfall?
4	If used for a distribution, will the mgmt. fee be reduced to reflect the distributed amounts?
5	What is the impact on uncalled commitments? If used for a distribution, will it be recallable?
6	Is the leverage included as “fund leverage” in the measure of fund-level leverage?
7	Do any LPs have side letter or exclusion rights that may lessen their exposure?
8	Will details about the facility be disclosed in the fund’s audited financial statements?
9	Who at the GP is responsible for monitoring the usage and performance of the facility?



Thank You!

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