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Executive Summary

In a climate where private equity's secondary market sales have exploded, pension funds and endowments are selling off private equity holdings, and large asset managers are lobbying to expand private equity's reach to individual 401(k) plans, this report offers a timely reminder that all that glitters is not gold.¹ With pension funds' waning enthusiasm for private equity, large private equity managers appear to see the 401(k) market as their industry's next "pot of gold," a place where those asset managers can sell off their leftovers to less savvy retail investors.²

The rapid expansion of private equity ownership in the U.S. economy has accelerated income and wealth inequality, creating what has been described by some analysts as a "billionaire factory" for private equity managers, with the performance fees alone collected by private equity managers between 2006 and 2015 increasing the number of multibillionaires by more than sevenfold.³ Yet, workers employed by the exploding number of private equity-owned portfolio companies, including some of the AFT's own members, have not fared nearly so well. Widespread bankruptcies and plant closures have caused many American workers to lose their employment, often triggered by the fallout from private equity's hallmark financial restructuring. Workers have borne the brunt of the impacts, as seen in the devastating collapse of Steward Health Care and Prospect Medical Holdings. Federal tax policy, specifically the carried interest tax loophole and other corporate tax breaks, has exacerbated wealth and income disparities, the magnitude of which may threaten the stability of the U.S. economy.

Despite the many negative impacts of the private equity business model on working people, it is working people's own capital in the form of public pension funds that private equity has relied upon for its expansion. Over a *trillion dollars* in private equity deals close each year, and public pension PE's yield advantage is little more than a mirage funds are by far their largest source of investment. Whereas working people's pensions historically were managed very conservatively, changes in markets and in accounting have ratcheted up the pressure on pensions to grow. Today, pension funds are engaged in a constant search for higher investment returns, which the "alternative" investment industry has seized upon—with unsettling results for workers.

With a steady drumbeat of reports of endowments' and public pension funds' selling off their private equity investments,⁴ private equity firms are increasingly targeting the \$13 trillion held in individual retirement accounts, namely 401(k) plans, as a new, much larger source of capital, while providing current investors and private equity insiders with an exit strategy.⁵ The industry has lobbied the Trump administration for deregulatory changes to "democratize private equity," effectively granting them sweeping access to tens of millions of working people's savings. Moreover, despite having said on multiple occasions that he wanted to close the carried interest tax loophole, President Trump's 2025 tax bill not only fails to close the loophole, but it also significantly expands tax benefits and financial incentives for private equity firms and their billionaire managers, all while cutting funds for programs working people count on.

The private equity industry defends its business model as critical to providing the investment returns on which pension funds depend, but the data tell a different story. Analyses by academic researchers show that:

- PE managers frequently manipulate reported asset values;
- Volatility in actual values is just as high as in the public markets, despite the masking of the reported asset values;
- IRR, the most common way PE firms report returns to investors, is a misleading and easily gamed measure of fund returns;
- PE managers can also easily game fee structures to increase PE firm profits; and
- Many benchmarks are not accurate reflections of the characteristics of companies bought into PE funds.

Correcting for these factors, and accounting for the loss of liquidity involved in PE investments, shows that PE's yield advantage is little more than a mirage, facilitated by leverage used for buyouts. In the short term, PE funds can appear to show a significant advantage over public markets, but in

the long term, they do not. Returns are far from the jackpot promised to investors overall, and this is especially true for smaller investors. The rise of private equity secondary markets—where limited partner investors can sell their existing interest in a private equity fund to another investor—has confirmed these analyses, with sellers taking substantial losses when they sell PE fund shares.

While the returns to PE investors are questionable, and the impact of PE

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on workers and broad economy troubling, PE and the tax laws that reward and subsidize it have generated an extraordinary number of billionaires, which may be its most significant legacy. As one leading expert put it, "This wealth transfer from several hundred million pension scheme members to a few thousand people working in private equity might be one of the largest in the history of modern finance."

Private markets have become a virtual "billionaire factory."
At the turn of the 21st century, there were a handful of PE billionaires. As of 2025, there are dozens, with the Forbes 400 including 36 of them, and plenty more in the wings. These billionaires have earned unimaginable wealth through fees paid by working people's savings. If pension funds were enjoying outsize returns, perhaps this could be justifiable, but the evidence shows that after correcting for risk and fees, the returns are not

"outsized" by any measure. Moreover, the fees charged by PE managers that contributed to their unprecedented wealth have also contributed to pension underfunding, further destabilizing the retirement security of public workers.

This report explores the forces driving private equity's explosive growth and whether it is generating the returns investors expect, particularly for public pension investors overseeing the retirement security of working Americans. It also highlights policy options at federal and state levels as well as options for fiduciary and policy action to address investment risks and reverse the flow of capital from working people to billionaires.

Specific recommendations include:

For fiduciaries:

Require PE managers provide meaningful and accurate information

- about fees and returns to ensure that workers' capital is invested transparently;
- Conduct an asset allocation review to examine less costly and more effective diversification approaches;
- Adopt and enforce investment policies that address investment risks associated with PE, including anti-privatization policies and labor principles, to ensure that workers' capital is not used to undermine and harm workers and communities; and
- Identify and develop investment alternatives to private equity that provide better risk-adjusted returns and support working people.

For federal policymakers and policy advocates:

- Protect retirement savers and mom-and-pop investors by refusing PE access to 401(k) plans and other individual retirement accounts;
- Pass legislation that addresses reputational risk and curbs the worst abuses of PE, particularly in the healthcare and housing sectors; and
- End tax breaks that incentivize PE, including closing the carried interest tax loophole, that drive income inequality.

For federal regulators:

A federal regulatory agenda that centers working people and protects their interests, while unlikely under the current Trump administration, should include Federal Trade Commission enforcement of rules against corporate concentration and monopoly, tax enforcement to stop PE general partner tax evasion, and Securities and Exchange Commission rulemaking and enforcement to increase transparency and accountability for PE.

For state policymakers and regulators:

With diminished expectations of federal action, states have many tools to act:

- Requiring full transparency of PE fees and returns for public pension funds:
- Increasing transparency on corporate ownership in critical sectors such as healthcare, housing, education, child care and infrastructure;
- Raising industry standards and bolstering worker protections to curb abuses in sectors with high PE presence, such as retail, nursing, home health and child care; and

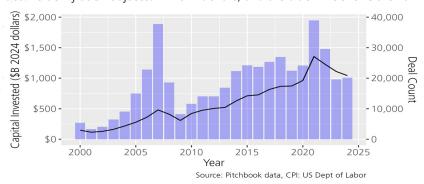
Regulating PE in healthcare and strengthening tenant protections aimed at large-scale corporate owners.

A Guide to Private Markets

Over the course of the past 25 years, private financial markets have become large enough to have a huge impact on the U.S. economy. Today, there are over a trillion dollars in private equity deals closed each year⁹ (Figure 1), and this market is driven by pension funds, predominantly public ones. Public pension fund allocations to alternative investments have nearly tripled from 7.41 percent in 2008 to 19.55 percent in 2017.¹⁰

Even beyond direct investment, the PE industry is heavily reliant on financing through private credit, which also relies heavily on public pensions. PE has fundamentally restructured the American corporate landscape, with 12 million people now being employed by private equity-owned portfolio companies,¹¹ ranging from medical supply powerhouse Medline to dominant security player G4S.

Figure 1: U.S. PE leveraged buyout deal activity by year, 2000 to 2024. Blue bars are total deal value inflation-adjusted in 2024 dollars, and the black line shows the number of deals.



While individually, each public pension fund may own a relatively small part of each PE fund, together pension funds often represent the largest share of invested capital. Public pensions make up almost a third of all investors to private equity funds and contribute an astonishing 67 percent of their capital, according to one study. The PE industry has a huge impact on the nation's economy, and public pension plans are by far its largest supporters.

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dramatically higher fees for PE managers than for managers in the public markets, resulting in a turbocharged engine of inequality, directly converting worker savings into billionaire profits. The fees flowing to many of the richest people in the world come directly from public pension funds and are taxed at a much lower rate than the incomes of teachers, nurses, firefighters and other working people.

The rise of private market investments means that pension trustees are often asked to make asset allocation decisions regarding the relative weight in their funds' portfolios of private equity, private credit, real estate trusts and more. This guide reviews some of the important features of private market investments—the real returns, outsized fees, unnoticed risks—and provides a short history of pension funds' outsized role in its growth.

Real Data about Private Equity

Private equity's extensive lobbying presence has allowed it to evade

Returns

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regulation requiring disclosure of fees, risks and returns. This lack of consistent data collection and transparency has hindered investors' access to reliable, accurate and comparable data to allow them to evaluate risk-adjusted returns net of fees. Without public disclosure, long opposed by private equity's lobbyists, from year to year, private investments' asset values and returns are whatever the PE firms say they are, and industry data about PE investment values is thus prone to manipulation. Only when a fund closes and all the portfolio companies have been sold off is true market valuation possible, but until then, investors have few options beyond simply trusting the PE firms' estimates of returns. That said, many researchers have studied the flaws with

current returns metrics and alternate methods to assess long-term performance, and this report shares their findings, detailing along the way numerous data challenges regarding what is being measured and how.¹³

What are PE assets actually worth? PE funds self-report portfolio companies' asset values, which can be highly manipulable in the short term

to the benefit of PE fund managers. One study found significant correlations between reported asset values and outside events that should be irrelevant to asset values, like the PE firm starting another fund or trustee elections, ¹⁴ evidence that PE managers may juice asset valuations in advance of new fundraising. Because valuation is the basis for performance calculations, those too could be profoundly misleading. This asset valuation skew may be best seen in the secondary market for private equity limited partnership shares, where sales of private equity assets frequently occur at deep discounts to their assumed valuation. ¹⁵

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However, what matters to pension funds and their beneficiaries is longterm performance. The secondary market for PE investments has provided new, more independent data, to shed light on real asset values. One study developed an artificial index for private equity by analyzing 3,404 fund transactions for 2,424 funds from 2006 to 2017. Using this index, researchers found more volatility and less value than the standard indices of private equity performance from Pregin or Burgiss, which rely on direct data from PE firms and limited partners. 16 The authors noted: "A striking observation about the transactions-based indices is that they are much more cyclical and exposed to market-wide risk than other indices based on reported NAVs." The strong implication of their study was that any private equity advantage over public equities was insignificant and largely due to high leverage. High leverage can produce high returns, but only with high risk, implying that PE investments are unlikely to provide protection against other forms of market risk. It is textbook financial management to measure risk-adjusted returns.

Is the IRR a useful measurement of returns? Much of the returns data PE fund managers provide to LP investors is reported using the internal rate of return. The IRR is a measure of cash flow, expressed as a discount rate. Because PE funds' actual cash flows are highly complex, using the IRR to measure PE returns is misleading, a subject given extensive treatment by Ludovic Phalippou, a researcher at the Said Business School at Oxford University. ¹⁷

Yet, private equity firms use the value extensively, reporting IRR values for all their funds. If PE funds had simple cash flows like CDs or bonds, where investors make an initial investment and then receive income, then the IRR would reflect the actual rate of return on that investment. However, the high complexity of PE fund cash flows creates several problems with using IRR as

a measure of returns.

- The IRR calculation is highly sensitive to the timing of payments. If a manager can slightly accelerate some payments, perhaps by reporting them at the beginning of a month instead of the end or borrowing against the dry powder to delay deploying it, they can artificially inflate the IRR.
- IRR calculations assume a constant rate of return over the term of the investment, which is virtually never the case. With PE's varying rates of return, the order of the return numbers matters significantly.
- Because IRR calculations give disproportionate weight to early payments, funds that start with high early payments will have a high IRR, even if the fund ultimately generates disappointing real cash returns for investors upon closing.
- A published IRR may not distinguish between LPs' committed and invested capital. If some proportion of a particular LP's investment is kept as dry powder, then the return on investments may not reflect the experience of that LP, who might hear about great returns but is only partly invested in them. Notably, LPs may pay fees on capital that is committed but not yet invested.
- PE funds may present investors with composite and since-inception IRR figures that no individual investor will ever realize. Again, because high returns early in the fund will bias all the measurements afterward, high early returns to the insiders who founded a firm will appear to be shared with all the subsequent investors.
- IRR as used by funds to measure PE returns does not adequately account for investment risk and even more importantly is not a reliable measure of real returns to pension fund limited partners in any way at all.¹⁸

What about returns smoothing? Returns smoothing is another factor confounding a true evaluation of PE performance, leading to rosier short-term returns predictions that often do not materialize when funds close. Companies in a PE portfolio are valued infrequently, generally no more than quarterly, and never independently valued prior to the close of the fund, compared to the near continuous market valuation of public equities. In one study, researchers found that treating PE returns as a smoothed version of public equity returns made a surprisingly good fit, based on cash flow data

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for 3,000 PE funds reaching back to 1980.19

The authors also note that while the average PE fund has not significantly outperformed public equities over the long term, the top PE funds did, but that these same funds are associated with much higher use of leverage in their portfolio companies. Greater levels of long-term debt are closely associated with greater damage to those companies and heightened risk of bankruptcy.²⁰ In short, much of the apparent outsized returns appear to be associated with outsized leverage and leverage-related risk, resulting in top-earning PE funds likely to be the ones that damage their portfolio companies' long-term viability the most.

Relevant returns metrics must also include compensating investors for volatility. Smoothed PE valuations do not reflect the volatility associated with high leverage—a critical flaw in self-reported fund valuations. Looking at actual PE fund returns, they appear more volatile than public equities, which would more accurately account for the leverage involved. A 2022 report from the chief investment officer of a prominent financial advisor confirmed this result, writing, "Stale (or managed) pricing can lead to the understatement of market beta using reported returns and a consequent overstatement of alpha." In other words, if your self-reported asset pricing makes investors think the volatility is lower than it really is, then the risk-adjusted returns will also be lower.

Can public market equivalents help? The most meaningful approach to evaluating private equity returns for most investors is comparative: Is private equity a better investment than some other choice, after controlling for risk, liquidity and expense?

To address this question, researchers at the University of Chicago and MIT developed a "public market equivalent" (PME).²³ They looked at the payments into the PE fund and estimated what an equivalent return would have been had those payments been made into an index fund using a given benchmark, like the S&P 500 or Russell 3000. This metric is complex—discussions of how to choose the benchmark or how to treat fees remain lively—but a PME provides a compelling means to evaluate comparative returns.

After analysis of PME, many studies have confirmed that in the end, PE returns are, at best, merely equivalent to investments in public equities.

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Private credit—the next economic crisis?

Alternative asset managers have created private credit as an asset class in substantial part to meet private equity's need to access debt financing to fund leveraged buyouts. According to an International Monetary Fund report, "PE companies are pivoting their strategy to private credit to address the fall in funding and banks' growing reluctance to fund their LBOs."124 Private credit carries more risk than bank lending and highyield bonds. Banks have regulatory risk thresholds beyond which they may be unwilling to lend. Private credit funds can take on risky borrowers on more flexible terms, which can be advantageous for companies seeking capital.

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- Pension Plan Investment Board demonstrated that PE performance was better than public markets between the mid-1980s and the mid-2000s. However, most of the excess was due to the leverage used to power these investments. After adjusting for leverage, PE returns are not significantly better than the public market equivalents. And after 2008, adjusting for portfolio company leverage completely eliminated any premium over public markets. Analyses through 2014 showed that PE investments would run 1.5 percent behind the public markets.
- Before 2006, PE buyout funds outperformed public markets, but since then have performed about equal, and venture funds have not outperformed the public markets on average since the 1990s. Researchers concluded this after analyzing cash flow data for almost 300 institutional investors invested in over 1,800 buyout and venture capital PE firms.²⁵
- One study, focused on New Jersey due to its more detailed fee data, showed that PE returns were the same as returns would have been if invested in the S&P 500, not accounting for any premium for illiquidity or leverage.²⁶
- Based on data provided by the Florida State Board of Administration,²⁷ one analysis demonstrated that between 1988 and 2011, the Florida SBA invested \$836.4 million in six PE funds, and received distributions of \$1.2 billion, for a net gain of \$351.5 million. However, the Florida SBA had set as its private equity benchmark the Russell 3000 index plus a 3 percent risk and illiquidity premium. Had the same money been invested in the benchmark index over the same period, it would have returned \$1.38 billion. Another analysis found that the Florida SBA would have considerably higher investment returns had it simply avoided alternatives and invested in index funds instead.²⁸ Florida pensions would have earned a billion dollars more by *not* investing in PE.

However, when leverage becomes widespread and hidden from investors and regulators, disasters can happen. The IMF recently dedicated a chapter of its "Global Financial Stability Report" to the risks of private credit.²⁹ It notes that the private credit market has grown explosively since 2000, worth about \$2 trillion worldwide, and that it represents almost 10 percent the size of corporate borrowing from banks. Concerningly, key risks it highlights include companies using private credit to load up on debt, making them more vulnerable to rising interest rates and economic downturns, and the fact

that private credit increases leverage throughout an economy, much of which is hidden.

Liquidity: Investors should expect to be compensated more for the illiquidity of their PE investments. When an LP invests in a partnership, they delegate control of the invested funds to the general partner, and their investment is locked up for the duration of the fund. Even before the PE fund "calls" the money, the LP has to keep the pension fund's investment liquid and protect its principal, which incurs a cost, since those funds cannot be invested in a more profitable, but more risky and less liquid, investment. Once the PE fund has their money, pension funds cannot use it for anything else, which also has a cost. One key paper suggested that a premium of about 3 percent can compensate investors for the loss of liquidity in a PE investment.¹²⁵ An investment in an illiquid private equity fund should be at least that much more profitable than the more liquid securities of a public market. Secondary market data suggests that a 3 percent illiquidity premium may in fact be too low, since buyers outperform sellers by about 5 percentage points on average. 126

For example, PE funds often employ "NAV loans," where the fund borrows against the entire collection of assets in its portfolio. Even though each portfolio company was acquired using substantial debt, the NAV loan is against the whole collection on the assumption that companies are unlikely to fail simultaneously. The same type of claim was made about mortgage-backed securities in the run-up to the global financial crisis in 2008, which essentially ignored the risk that the real estate market as a whole could decline, with disastrous consequences. More broadly, hidden and poorly understood leverage was a primary cause of the 2008 global financial crisis.

On its face, private credit is appealing to investors, especially after the interest rate collapse in the 2000s hurt pension funds' fixed-income portfolios. While similar to high-yield bonds in some respects, the differences are significant.

- **Liquidity:** Limited secondary markets for private credit make it much less liquid than bonds.³¹
- Regulation: Private credit loans themselves are not regulated and not covered by securities laws or even rated.
- **Fees:** Private credit fund fees are significant, following the PE industry standard "two and twenty" structure, though median fees may be closer to 1.5 and 15 percent.³² These are much higher fees than typical bond funds, where fees are generally measured in fractions of a percent.

Persistence: The likelihood that a PE firm will run successive successful funds is an important factor for investors. At least two studies found that persistence has decayed over time. The first found that "performance persistence has largely disappeared as the PE market has matured and become more competitive," based on an analysis of deal-level returns for 13,523 investments made by 865 buyout funds run by 269 GPs.¹²⁷ The second earlier study found roughly the same thing from the LP perspective, using a sample of 14,380 investments by 1,852 LPs in 1,250 funds.128

Private credit is sold as being more profitable than other fixed income, despite the fees, risk and illiquidity. However, as with PE investments, when a comparable portfolio of public investments is assembled that matches a private credit portfolio,³³ it will do as well or better than the private credit portfolio. When compared to the public market equivalent, there is strong evidence that the risk-adjusted advantage of private credit is indistinguishable from zero.

Looking forward. As of this writing, the outlook for PE, while perhaps not grim, is increasingly weak. Research suggests that the days of fast PE growth and outsize profits are mostly in the past.³⁴ One metric to evaluate PE industry health compares new PE investments with "exits," where a fund is closed and investors paid off. In 2024, the industry continued to rake in new investments but the level of successful exits was as low as during the global financial crisis in 2008 (see Figure 2), indicating that something is amiss.

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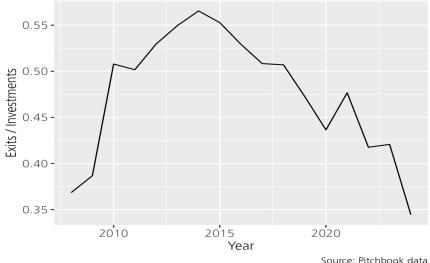


Figure 2 combines funds of different vintages, but the data tell the same story when segregated by fund vintage (see Figure 3): The PE industry profitability has undergone a two-decade, year-over-year decline. The average buyout deal size has decreased substantially over the past 20 years, implying more money

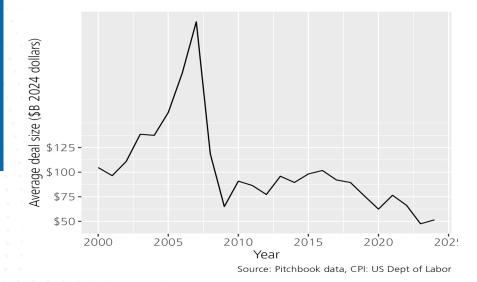
Investor size: Some research suggests that the market power of the biggest investors, who can command places in the most profitable partnerships, had the effect of limiting access to those PE funds by smaller pension plans. Because the public data about any PE fund usually comes from only one of its investors, often the largest preferred investors, 129 it is not totally relevant to smaller pension plans that cannot access the high-performing PE funds or cannot access them on equally favorable terms.

Figure 2: PE exit-investment ratio, 2008-2024

The PE industry profitability has undergone a two-decade, year-over-year decline.

chasing fewer big strikes.

Figure 3: LBO deal count by quarter, 2002-2023,



Furthermore, PE funds are reportedly increasingly unable or unwilling to use their clients' dry powder—funds committed but not yet invested—also implying that good buyout targets are increasingly scarce.³⁵ Since 2019, the amount of dry powder in the industry is up almost 40 percent, to almost a trillion dollars, a significant portion of the overall size of the market. Dry powder creates significant opportunity costs for LPs, too. Since their capital can be "called" at any point, LPs must stick to relatively liquid interim investments, forcing the LP to sacrifice returns for liquidity. If a suitable PE deal never arrives—the capital is not called—the investor sacrificed returns for nothing. At the start of 2024, the industry held \$35 billion in dry powder, a bit less than 4 percent of the total across the market, that was "invested" more than five years before.³⁶

In recent months, more cracks have appeared in the veneer of PE outperformance. State Street reports that, in 2024, its private equity index underperformed the S&P 500 over 3-month and 1-, 3-, 5- and 10-year periods.³⁷ A March report from Bain showed that PE is holding nearly 30,000 unsold companies, worth about \$3.6 trillion, effectively locking up institutional investors' cash and preventing them from realizing returns.³⁸ CalPERS, the largest U.S. public pension fund, has paid more into its PE portfolio than it has received for the last four years, and estimates that it will continue to do so for four more years, illustrating the liquidity challenges

even the largest and most powerful institutional investors face with their PE portfolios.³⁹ In May, the head of the \$1 trillion Kuwait sovereign wealth fund stated that PE funds are "very troubled" and "their time is coming up," with LPs increasingly tiring of having their money locked up in underperforming PE and asking for their money back.⁴⁰

Some institutional investors are growing wary of PE—including Yale, which led the charge among institutional investors to switch from "plain vanilla" stocks and bonds portfolios to aggressive investments in alternatives. In June, Yale announced it was putting \$6 billion worth of PE investments up for sale in secondary markets, presumably at a loss, which one analyst termed "a wake-up call" for investors and a sign that the university was "trying to get out before everyone else." Harvard, Princeton and Texas Tech are also reported to be in talks to sell off portions of their endowments' PE portfolios. 42

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Fees

Are investors getting what they're paying for? The PE industry has created fortunes for PE firm executives and managers that dwarf in a month what an ordinary worker in a PE-owned portfolio company can expect to earn in a lifetime of hard work. PE managers defend vigorously their right to be paid these vast sums from workers' own retirement savings, even as their decisions often have negative consequences for those same workers. In this context, fiduciaries, the custodians of pensioners' retirement savings, need to weigh carefully the scale of manager compensation in private equity and the incentives created by the private equity manager compensation structure.

Typically, private equity fees follow a "two and twenty" structure, with a management fee of 2 percent of their assets under management and a performance fee, also called "carried interest" or "carry," of 20 percent of the profit achieved, typically after passing a specified hurdle rate. Some PE funds charge more than this, while many pension plans have negotiated lower fee rates. Results from a five-year study of 50 pension plans show that PE annual fees amounted to 3.29 percent of the assets under management.⁴³

In addition to the basic fee structure, GPs often charge consulting and

Carried interest and corporate tax breaks

Current tax code has subsidized the creation of private equity billionaires. The key tax loophole benefiting PE billionaires relates to their performance fees, the "carry," paid by pension funds and other limited partners. Though the GPs invest only a small fraction of their own money in PE funds, the Internal Revenue Service classifies the fees they are paid as capital gains, which are taxable at a maximum rate of 20 percent, as compared to income, which would be taxed at 37 percent for the wealthiest taxpayers. 130 A single person who earned \$50,000 in 2024 paid a higher marginal tax rate than the billionaire who earned \$50 million in performance fees.

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management fees to portfolio companies (in addition to fees charged to the LPs) that can amount to as much as 6 percent of the equity invested, according to an analysis by Phalippou.⁴⁴ These fees and the extractive restructurings often leave portfolio companies in worse shape than before the takeover, degrading the long-term value of the assets for LPs while providing GPs additional income.

Do fees drive performance? Some research suggests fees do not actually reward or incentivize improved performance as currently structured. In one study, two-thirds of PE income came from management fees that have nothing to do with performance.⁴⁵ Other research also supports the finding that guaranteed 2 percent management fees are of utmost value to fund managers, not the higher but uncertain performance fees.⁴⁶

Without strict and consistent rules about how to measure either the assets under management or the gains, private equity funds enjoy multiple ways to manipulate fees to their benefit,⁴⁷ generating high fees for managers even absent significant performance improvements for LP investors, including the following.

- PE funds may charge management fees on capital committed during the investment period rather than capital invested, resulting in an LP paying fees on their dry powder.
- "Invested capital" may have multiple definitions. It could be defined as the value of a portfolio company, which the PE fund itself sets and can manipulate to either increase the value of assets under management, thus increasing management fees, or increase the gains, boosting the carry.
- Similarly, PE funds can define "invested capital" to include or exclude the transaction costs of the investment, with comparable effects on the fees.
- Manipulating the definition of the investment period could

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affect the period over which management fees are calculated or the rate of return, which is the basis of the carried interest.

Fundamentally, pensions pay fees based on valuations that are defined by the PE firm receiving those fees. Until a fund is successfully closed and all portfolio companies sold, there are no other legitimate fund valuations, creating substantial moral hazard. This hazard is highlighted in a study of fees paid by New Jersey pension funds:⁴⁸

"The GPs do not directly invoice LPs for carried interest fees, and we are unaware of any pension funds, including New Jersey, that audit independently such carried interest deductions. The carried interest fees thus reflect an honor system among GPs and LPs, which one would not expect in a business comprising trillions of dollars in investment assets. Neither FINRA, the independent public auditing community, the Department of Labor, nor the SEC pay much attention to the honor system."

In June 2020, the SEC completed an investigation into "deficiencies" across the private equity industry that "may have caused investors in private funds to pay more in fees and expenses than they should have or resulted in investors not being informed of relevant conflicts of interest."⁴⁹ These included instances of PE firms:

- Allocating fees to clients in violation of operating agreements and contractual limits;
- Failing to disclose the fees paid by portfolio companies to "operating partners"—e.g. management consultants who are not fund employees;
- Failing to assess the values of portfolio companies properly; and
- Failing to properly value the fees assessed on portfolio companies.

Important details of private equity fee structures can be opaque even to pension fund investment staff. One study of 230 U.S. pension funds looked at reported net-of-fee returns by different investors in the same funds and found large differences worth \$4.30 per \$100 of the total invested, perhaps relating to the bargaining power of each fund.⁵⁰ These substantial differences suggest that managers kept billions of dollars in returns from disadvantaged funds. Notably, data sources like Preqin typically report returns from only one of a fund's clients, typically the most advantaged.⁵¹

Due at least in part to the high fees, risks and lack of transparency of the

"This wealth transfer from several hundred million pension scheme members to a few thousand people working in private equity might be one of the largest in the history of modern finance."

PE industry, investment officers at CalPERS, CalSTRS and several other large pension funds have begun developing the capacity to internally manage some private market investments, shifting the structure of their PE portfolio "toward co-investment with no management fees or carry."⁵²

Fees have enabled the PE industry to create a substantial number of billionaires, from three in 2005 to 22 in 2020, according to an analysis by Phalippou,⁵³ and more today, according to the Forbes 400. Because so much

GP income is from management fees that appear to be disconnected from risk- and fee-adjusted performance, these billions may reflect money transferred directly from LP to GP, in exchange for the mere possibility of earning returns. Current U.S. tax policy that allows PE managers to pay less in taxes on "carried interest" income versus normal income only exacerbates the problem. In an interview about the release of his 2020 report, Phalippou said, "This wealth transfer from several hundred million pension scheme members to a few thousand people working in private equity might be one of the largest in the history of modern finance."⁵⁴

The subsidy lies in the fact that "carry" is a fee for managing money, and not a return on investment. It is in no sense a capital gain, as there is little to no capital invested by the money manager. Like other forms of money management, it is payment for work—except that private equity managers are allowed to pay much lower taxes than other high-income wage earners.

Some have estimated that over 10 years this "carried interest" loophole alone redistributes an estimated \$14-18 billion from investors, particularly public pensions, to a handful of very wealthy private by and hedge fund executives 55 As of 2016, the total number of people

equity and hedge fund executives.⁵⁵ As of 2016, the total number of people benefiting from this tax break was estimated at only about 2,000. Just one private equity executive, Blackstone CEO Stephen Schwarzman, receives somewhere between \$120-250 million annually in carried interest and incentive fees,⁵⁶ meaning that the loophole lowers his taxes by \$20-40 million *every year*.

Carried interest refers to a PE firm's performance fees. Management fees, by contrast, are taxed as regular income. However, many PE firms use "fee waivers" to disguise management fees as performance fees, thus benefiting from a lower tax rate. ⁵⁷ A PE firm manager might choose to "waive" their

right to collect a management fee in exchange for a higher share of future profits, exchanging income taxed at regular rates for income taxed at the lower capital gains rates. The same trick could be used to cut their taxable income enough to lower the applicable capital gains rate even further, to 15 percent or less. Considering Blackstone, these tax breaks explain how CEO Schwarzman pays tax on hundreds of millions of dollars each year at rates as low as those paid by people who earn only tens of thousands per year.

In 2015, the IRS proposed a rule to curb fee waivers and curb the abuse of management fee waivers, but this may have legitimized what many accountants saw as "a flagrant tax dodge."⁵⁹ The first Trump administration did impose some limits, but the PE industry invented a more complicated "carry waiver" to avoid them. A decade later, these regulations have not been finalized.⁶⁰

PE firms may also hide dividend payouts as "monitoring fees," which can be deducted from the portfolio company's taxes, creating an effective subsidy for the leveraged buyout model. As noted in a recent report, "the monitoring element is deceptive, since the PE firms do little monitoring to justify charging sometimes hundreds of millions of dollars in fees to their portfolio companies," and it cites a 2015 study that found that PE firms charged \$20 billion in monitoring fees to 600 companies over 20 years, which should have been reported as dividend income. 62

Risk

The PE industry has made it intentionally impossible to accurately evaluate investor risks and returns due to lack of data disclosure and by masking returns, maintaining an impenetrable veil of secrecy surrounding fees and other costs charged to LPs and to portfolio companies, hiding portfolio company risks from LP and public view, and, critically, lobbying extensively to oppose regulatory efforts to create metrics to assist investors in making sound capital allocation decisions. This section explores a variety of risk factors investors must navigate when considering prospective investments in private equity.

Opacity: As discussed thoroughly above, the lack of data disclosure on fees and returns creates risk. Investors cannot accurately evaluate what their future returns in this asset class will be until funds close. Until policy or practice changes, workers' retirements will continue to be subject to risk that a dose of sunshine would easily fix.

As private equity increasingly targets retail investors and individual retirement accounts like 401(k) plans as their next major source of capital, opacity risks become even more problematic. Smaller, individual investors lack the negotiating leverage or in-house expertise of large pension funds or other institutional investors, making them especially vulnerable to informational asymmetry, opaque fee structures and misleading return metrics. The industry's longstanding justification for limited disclosures—i.e., that it only serves sophisticated investors who can fend for themselves—is both contradicted by the SEC's investigations and particularly problematic as PE funds seek to tap into mom-and-pop investors and the retirement savings workers have built in individual accounts.

Given the lack of disclosed data, academic literature has stepped in to assist investors, and the findings summarized above should give every investor pause. The persistent, widespread denial of the evidence of the data—that PE's risk-adjusted, net-of-fee returns do not outperform public markets when fund-level data is analyzed—is its own risk. To quote Phalippou:

"Net-of-fee performance of PE funds being superior to that of public equity is the sine qua non condition for continued employment of at least 100,000 people. The importance of this condition might explain why the mantra of "PE outperforms" has for many people, who work in and around PE, become a quasi-religious article of faith. Merely to question it is considered heresy: either you believe and you are one of us, or you question the existence of outperformance and you are an enemy." ⁶³

Difficult exits and continuation funds: Difficulty exiting a private equity investment also adds risk. Exits are becoming increasingly challenging.⁶⁴ Since 2021, new PE investments in companies have declined significantly, but the number of successful exits has declined even faster. According to Pitchbook data, as of 2024, over 10 percent of portfolio companies have been in PE for over 9 years, and hundreds for 15 years or more.⁶⁵

PE funds have a term, usually from 5 to 10 years, after which the funds are intended to wind down, with the GPs selling off the portfolio companies and returning proceeds to the investors. Often, fund managers hold many funds open longer to eke out a little more return. A loss, or even a mediocre showing, can materially damage the fundraising prospects of a PE firm or manager. GPs therefore may wish to delay a final accounting of fund returns, employing one of several methods. GPs

- Contracts may allow GPs to choose the most convenient time to sell, even allowing the GP to lengthen the term, sometimes by many years, in a situation called "zombie funds."⁶⁸
- With the consent of the partners, PE firms can legally "restructure" the fund to accommodate the longer term.
- The GP may arrange for portfolio companies to be sold to another PE fund, including other funds run by the same PE firm. So-called "continuation funds" specialize in these kinds of acquisitions. Such sales are sometimes referred to as "GP-led" secondary market transactions.

The few investors large enough to buy in these markets means that LPs may find themselves on both sides of a transaction—both as an LP in a PE fund selling assets to a continuation fund, and an LP in that same continuation fund buying assets. This presents an obvious conflict of interest to the GP, who is arranging an asset sale from one set of LPs to another. Such a sale yields substantial transaction costs and fees for the GP, paid for by the LPs. Many pension funds report suspicion of the value of continuation funds, yet they make up a growing share of the PE marketplace.⁶⁹

Leverage: The extreme reliance on leverage endemic to the private equity model creates added risk, and when viewed in the context of PMEs discussed above, appears entirely unnecessary to generate competitive investment returns.

A 2022 Harvard Business School study noted that extra leverage (risk) explains any outsized PE returns. Buyout firms look for targets with a particular set of characteristics: smaller firms with reliable revenue that could accommodate debt service payments, such as restaurant and retail chains, consumer goods manufacturers, and some hospitals and other healthcare businesses. A public equity index of similar companies, with added extra returns (and risk) from the leverage, effectively replicated the returns.⁷⁰

"Evidence presented in this paper suggests that the asset selection and incremental leverage of the PE buyout investment process are more important than typically assumed or estimated to be in the evaluation literature. ... Investing in public firms with similar characteristics to those selected by PE buyout funds—without having to purchase controlling interests at favorable prices or implementing any operating improvements—is

PE's high fees and extractive behavior appear to be for the exclusive benefit of the PE firms and their billionaire managers, not the beneficiaries who they are supposed to be serving.

sufficient to match the historical performance of the limited partners of PE buyout funds." (emphasis added)

This finding echoed similar research in 2021: When you construct a public market equivalent comprised of the same kinds of companies and conditions as those in a PE portfolio, you get the same investment results.⁷¹ One does not need to buy entire companies, rearrange their management, instigate mass layoffs, sell off real estate and implement other financial engineering strategies to get the same level of returns the PE industry boasts about. An inescapable corollary is that PE's high fees and extractive behavior appear to be for the exclusive benefit of the PE firms and their billionaire managers, not the beneficiaries who they are supposed to be serving. On a realized return basis, pension funds would appear to be able to realize similar risk-and fee-adjusted returns by simply investing in the public markets.

Economic destabilization: To the extent the greater risk to portfolio companies created by private equity's leveraged finance model leads to more layoffs and business failures, the model harms our local, state and national economies. The consequences of increasing levels of financial distress across our economy could include a negative impact on overall pension returns and employer contributions. This is a particularly relevant dynamic for state and local government pension funds and their government sponsors, whose own budgets and contribution levels rely on a strong, healthy economy. A 2019 study from researchers at the University of Chicago and Harvard Business School found that employment at private equity portfolio companies "shrinks by 4.4 percentage points relative to controls when omitting post-buyout acquisitions and divestitures." ⁷²

Reputational risk: Outsourcing investment decisions, an essential feature of the externally managed private equity fund structure, can nonetheless damage pension funds' reputations. Through their involvement in PE funds, LPs become implicated in business practices that heighten negative media, public, regulatory or legislative attention that can also erode fund performance. Further, workers and retirees contributing to pensions can also bear the costs of financial engineering in the form of higher prices and declining service quality, including for healthcare services and residential housing.

Instances of reputational risk are well and thoroughly documented elsewhere, including the AFT's own reports on PE portfolio companies in the

firearms,⁷³ immigrant detention,⁷⁴ private prison⁷⁵ and hospital⁷⁶ industries and labor risk⁷⁷ generally, as well as numerous reports on climate.⁷⁸ Sometimes risk is endemic to PE funds themselves, which are rife with conflicts of interest that often have legal repercussions. One survey showed that in a review of almost 6,000 PE funds, about one in six disclosed some kind of civil or regulatory misconduct by its GPs.⁷⁹

Numerous case studies, including several current examples, demonstrate the array of reputational risks PE investments can pose to LPs. These include Cerberus Capital's widely reported Steward hospital debacle, 80 81 Leonard Green's Prospect Medical Holdings fiasco, 82 83 for-profit colleges with eroding educational value, 84 85 nursing homes where deep staffing cuts harm residents' health outcomes, 86 87 and chemical and petrochemical investments where chronic safety lapses jeopardized worker safety and added significant legal costs. 88 89 90 91

PE funds have the tools to manage these risks on behalf of LPs but simply prefer not to, asserting legal separation when circumstances favor GPs. When marketing to investors, PE firms tout their track record with numerous successful funds, their effective management and oversight that generate a record of persistence in creating portfolio company value and delivering returns for investors. But ironically, when pension funds flag labor disputes or other sources of reputational risk, many PE firms maintain that they are completely separate from GP fund management, preventing them from having any involvement in resolving issues. Both cannot be true.

How Did We Get Here?

If returns are now mediocre, fees are high and risks are significant, what explains pension funds' commitment to invest in private equity? Until the 21st century, pension funds, public and private, were largely content to split their investments between stocks for growth and bonds for stability and generally found it relatively straightforward to meet investment goals of 8 percent or more, before accounting for inflation.

But for almost the past 20 years, real interest rates have been lower—and remained lower—in the United States than at any time in its recent history. These low rates are often blamed on a succession of economic crises (the 2001 popping of the tech bubble, the 2008 financial meltdown and the

COVID-19 pandemic).

This long-term decline in bond yields broke one of the assumptions that pension funds had made for decades, that meeting their investment goals would remain relatively easy, or at least no more difficult than it had been for years. It also appeared before a backdrop created by another important development: a dramatic change in the way public pension funds are evaluated. Before the 1980s, public funds in state and local governments were often treated much like Social Security, as a "pay as you go" system where a portion of current employee premiums is used to pay benefits to retirees. The newer "actuarial" funding emphasizes the value of the assets above other considerations, such as the cash flow necessary to pay benefits.⁹³ Though one can run many pension systems indefinitely with assets much smaller than the system's liability, accountants now call that an "unfunded" liability, which sounds like a deficit.⁹⁴

Private equity buyouts are in reality mostly a rebranding of the junk bond-fueled leveraged buyouts of the 1980s. This change in accounting drove an unprecedented accumulation of assets, as well as unprecedented attacks on the very notion of a pension plan for public employees. Between 1980 and 2007, state and local pension fund assets grew from \$183 billion to \$3.2 trillion, from 6 percent of the nation's GDP to 23 percent, as public pension funds tried hard to erase the perceived deficit. (As of 2024, state and local pension assets still stand at that mark, \$6.2 trillion, or 22.5 percent of GDP. (The accumulation of assets was successful to a large degree, and by 2007, state pension plans had a median funded level of 92 percent.

During the run-up of assets in the 1990s, pension funds sought new investments: hedge funds, real estate trusts, foreign currency speculation and more. Investment managers scrambled to meet the demand created by the accumulating assets.

Private equity buyouts are in reality mostly a rebranding of the junk bond-fueled leveraged buyouts of the 1980s. The world of pension funds desperately seeking yield collided with another development of the era: the phenomenally profitable leveraged buyouts of the 1980s. During that decade, the availability of massive amounts of capital from the junk bonds provoked a spree of leveraged buyouts—using a company's own assets to finance its takeover by private investors and then looting them after: selling off real estate, closing pension plans, abruptly shuttering less-profitable divisions and major layoffs. The lasting impact was the pioneering of an

extractive and destructive, but very profitable, line of business.

Junk bond investment declined in the 1990s, as their value dropped precipitously. The savings and loan crisis and the high-profile bankruptcies of several large life insurers meant fewer buyers of junk bonds to supply a growing cadre of buyout specialists who needed another way to fund their careers. They developed the structure of the modern private equity firm, with formal partnerships among general partners and institutional investors—mainly pension funds—to be the limited partners. By the end of the decade, there were an increasing number of buyout specialists, and they were increasingly eager for investors.

The financial crisis of 2000-01 left pension funds both in a weaker financial position than they had been and lacking an important investment option as interest rates declined. The result was the rapid development of the modern private equity industry, predominantly supported by pension funds.

Buyouts were also fostered by the tax code. Corporate debt is deductible from a company's profits, while dividends to shareholders are paid after taxes. Part of what makes leveraged buyouts so profitable is that the huge amounts of debt often allow the company to erase its tax liability and pay that money to investors instead of to the IRS. That the company itself might be hobbled by replacing the discretionary dividend payments with mandatory debt payments is not usually a consideration.

The institutionalized private investment markets would not have succeeded so well without being able to make (at least partially) credible claims of outsize returns at low risk. A 2014 study noted, "We find better buyout fund performance than previously documented—performance has consistently exceeded that of public markets. Outperformance versus the S&P 500 averages 20% to 27% over a fund's life and more than 3% annually."

More recent academic analyses have cast considerable doubt on these claims. As a researcher at Oxford University put it, "as of the end of 2019 (i.e., right before Covid-19), since at least 2006, net of fees performance of PE funds matched that of public equity markets." This is true *before* taking into account issues like risk, liquidity and diversification, as demonstrated in this report.

Policy Options

Fiduciaries, policymakers at the state and federal levels, and regulators can limit private equity firms' continuing to extract outsize management fees from pension funds. Pension fund fiduciaries can use their substantial individual and collective market position to demand more accountable, transparent investment practices and vehicles, and better law and regulation at the federal and state levels. The following recommendations reflect real action opportunities for each of these entities responsible for overseeing the retirement security of millions of working Americans.

Fiduciaries

Pension funds are the backbone of the private equity industry, and they are the ultimate source of PE billionaires' wealth. Pension fiduciaries, as our economy's longest of long-term investors, can act to shape this market.

1. Use market power to demand meaningful information about fees, risks and returns

Nothing prevents pension fund investment staff, consultants and trustees from demanding that PE firms with which they invest capital provide improved disclosure and transparency, as the Institutional Limited Partners Association is working to do.¹⁰¹ Ultimately, the choice to allocate or withhold capital, and to set terms for capital commitment, remains the investor's greatest power.

In 2023, the SEC adopted the Private Fund Rule to govern disclosure by private funds, which required them and their advisors to provide investors with a wealth of information, such as regular account statements, standardized fee and expense information, and conflict of interest disclosures. Also in 2023, the SEC adopted rules and amendments to the Investment Advisers Act of 1940 to improve the regulation of private fund advisers. These rules required PE firms to provide quarterly statements to LPs with fund performance, fees and expenses; arrange independent annual audits of each fund; and get a third-party valuation for any GP-led secondary transaction. The rules also prohibited PE firms from providing preferential treatment to certain LPs without notifying other LPs.

While the SEC's rules were blocked in the Fifth U.S. Circuit Court of Appeals in June 2024,¹⁰⁴ they provide fiduciaries a road map to disclosure standards and independent oversight consistent with fiduciary duty. Fiduciaries

Ultimately, the choice to allocate or withhold capital, and to set terms for capital commitment, remains the investor's greatest power.

can incorporate into their investment contracts with private equity firms specific requirements for standardized fee, investment and performance information, quarterly statements, independent audits and third-party valuations. Specifically, investors can:

- Require GPs to report performance using appropriate custom PME benchmarks to ensure clear and accurate reporting of fund performance and replace IRR hurdle rate with a PME threshold to ensure that incentive fees are only distributed when clearly specified performance targets are met.
- Conduct an asset allocation review to examine less costly and more effective diversification approaches. The review should include a complete analysis of past net performance of their private equity investments, using a PME metric rather than IRR to calculate returns, as well as a comparison with low-fee alternatives.
- Require GPs to develop consistent valuation methodologies to ensure that all return data is reported in reliable and comparable terms.
- Mandate that GPs consistently report quarterly fee and cost data through a template that, at minimum, meets the standards of the fee reporting template developed by the Institutional Limited Partners Association and make this data publicly available.
- Require that GPs notify LPs of other investors in funds to allow for communication and clarity about market terms for a given fund.

2. Communicate and enforce investor expectations to mitigate risk

By adopting formal investment beliefs and other investment policy statements, along with a clear enforcement framework, pension funds can mitigate risk and communicate their expectations to GPs. LPs adopting such investment policy expectations for their invested capital can shape key aspects of the GP's relationship with its portfolio companies.

Fiduciaries can:

Require that GPs provide information related to portfolio companies to assess any adverse consequences for employees, consumers and other stakeholders that may create reputational risks for investors. This could be done as part of the due diligence process for selecting

- and allocating capital to GPs.
- Adopt investment policies requiring GPs to refrain from eliminating public sector jobs and privatizing public assets as part of their business model, such as the **anti-privatization policies** adopted by CalPERS¹⁰⁵ and other funds.
- Adopt responsible contractor policies to mitigate risk and provide for robust labor due diligence through union neutrality, project notification and the exclusion of debarred contractors.
- Adopt **PE labor standards**, like those detailed in a recent AFT report¹⁰⁶ or even those recommended by the American Investment Council,¹⁰⁷ the PE industry's lobbyist, that at minimum include:
 - Respecting workers' freedom of association, with neutrality in labor organizing;
 - Ensuring worker safety and health;
 - Providing industry standard wages for working people; and
 - Respecting collective bargaining agreements.
- Consider adopting responsible property management standards, as some pension funds are currently exploring, to ensure that funds' investments are not diminishing the availability of affordable housing that active and retired pensioners themselves rely on.¹⁰⁸

3. Develop better investment alternatives

Some larger U.S. pension funds have begun to manage more of their private market investments internally, allowing them to enjoy lower fees, higher returns and the ability to control risks more directly. CalSTRS adopted a Collaborative Model in 2017 and reported in 2023 that it has saved the fund more than \$1.6 billion since inception, with savings "generated by reducing management fees and carried interest paid by the total fund." 109

Additionally, pension funds are also embracing co-investment, where they invest alongside PE managers on improved economic terms, to reduce fees and add control. The New York State and Local Retirement System has committed more than \$500 million to such co-investment strategies. Calpers also is taking steps to shift the structure of its PE portfolio toward co-investment. These approaches as currently structured may be out of reach for smaller pension funds, but they are more common among

Canadian and other global pension funds, offering models for U.S. funds of all sizes to emulate.

Another set of possibilities includes providing pension funds with realistic alternatives to investments in PE funds. A recent report suggests that pension funds could create investment opportunities that align with beneficiaries' long-term interests, including access to affordable housing. These include nonprofit developers that build affordable housing and cut costs by eliminating developer profits, expanding entities like the AFL-CIO's Housing Investment Trust to make affordable housing investments in a way suitable for pension funds, and creating a cooperative or mutually owned asset manager to serve a large number of pension funds. These have worked effectively at smaller scales in the United States and could be applied in multiple sectors.

Policymakers and Policy Advocates

Federal legislative policy approaches: The Trump administration had many opportunities in the 2025 tax bill to make tax policy work for working people, not simply enrich Wall Street and private equity executives. Unfortunately, President Trump's 2025 tax bill does the opposite, doubling down on corporate tax cuts for the wealthy, preserving preferential tax treatment for billionaire investors with the carried interest tax loophole, lowering the individual income tax rate for the highest income earners, and encouraging private equity's debt-driven business model by allowing these firms to deduct more interest on debt to reduce their taxes.

- Close the carried interest loophole: The "carried interest" loophole allows private equity and hedge fund managers to misclassify their earnings as investment income, letting them pay a lower capital gains tax rate instead of regular income tax. Even with bipartisan calls to close it in 2016, intense private equity lobbying kept it intact in Trump's 2017 tax law. The Biden administration later proposed taxing capital gains as ordinary income for earnings over \$1 million, effectively eliminating the loophole. However, despite saying that he wanted to close the carried interest tax loophole, Trump's tax bill instead preserved this billionaire tax giveaway.
- Reduce business-interest deductions: Private equity's extensive use of debt financing makes them big beneficiaries of generous business interest deductions in the tax code. Trump's tax bill expanded

the business interest deduction. The deduction is calculated as a percentage of earnings, and the bill lets firms use a bigger earnings calculation, which enables much higher deductions. Experts say the change could cost the public \$60.5 billion over the next decade. At a minimum, this expansion should be reversed.

- Apply corporate alternative minimum tax at the PE fund level:

 Most PE firms were exempted from the 15 percent corporate
 alternative minimum tax, created by the Inflation Reduction Act of
 2022, by allowing them to calculate CAMT at the portfolio company
 level rather than the PE fund level.¹¹³ Changing this calculation to apply
 CAMT at the fund level would ensure that PE funds are paying their fair
 share of taxes.
- Protect retirement savers and mom-and-pop investors from private equity extrac-tion: Private equity firms are pushing for broad access to 401(k) plans and other individu-al retirement accounts seeking to tap into the trillions in working people's assets held there. The private equity industry has lobbied the Trump administration aggressively to weaken retirement and investor protections, which would expose savers, retirees and small investors to steep fees and potential losses they cannot afford. Retail investors and individuals saving for retirement would be even more vulnerable to deceptive marketing, hidden fees and inflated return projections—likely ending up in the worst-performing, highest-cost funds. This is a particular concern for elderly investors who are frequently targets of aggressive marketing. Policymakers should instead strengthen guardrails around workers' retirement savings, including strengthening fiduciary protections, increas-ing transparency and disclosure requirements for private equity firms and private markets more broadly, and rejecting attempts to loosen the "accredited investor" definition. 114 Instead, the Wall Street Journal reported that the Trump administration plans to release an executive order that will make it much easier for 401(k) providers to include private equity investments, thus exposing individual savers to fee extraction and heightened risks from high-cost private equity investments.¹¹⁵
- Close regulatory loopholes that encourage and reward PE abuses: The Stop Wall Street Looting Act was first introduced in Congress in 2021 and reintroduced in 2024 after private equity firm Cerberus looted Steward Health Care, leaving hospitals in bankruptcy,

communities without access to care and thousands of workers without jobs. The act would force private equity firms to take responsibility for the outcomes of the companies they buy and restructure, closing regulatory loopholes, protecting investors, enhancing workers' rights when PE drives portfolio companies into bankruptcy, and closing the carried interest loophole.¹¹⁶

- Curb PE abuses in healthcare that harm patients and workers and create reputational risk: Both the Warren-Markey Corporate Crimes Against Health Care Act and the Markey-Jayapal Health Over Wealth Act would create reforms to reduce the worst outcomes created when private equity funds acquire and re-engineer vital community healthcare assets, creating a compensation clawback provision and strong civil penalties¹¹¹² as well as prohibiting sale-leaseback agreements and disclosures of debt, executive pay and reductions in services in PE-owned healthcare facilities.¹¹¹8
- Rein in PE's worsening of the national housing affordability crisis, another source of reputational risk: Several current pieces of legislation aim in varying ways to curtail the ability of large financial actors driving up housing prices for working Americans, including the Stop Predatory Investing Act,¹¹⁹ the Humans Over Private Equity for Homeownership Act and the Affordable Housing and Homeownership Protection Act.

Federal regulatory action to protect the public interest in relation to private equity

A regulatory agenda that centers working people and protects their interests in relation to private equity would include the following elements. However, actions by the current Trump administration suggest that, if anything, regulatory oversight will be weakened, including private equity reporting and disclosure obligations and scrutiny of fees and fund practices. For example, in addition to the rumored executive order, the SEC already twice has paused the implementation of rules finalized in 2023 to modernize PE reporting needed to look out for systemic risks.

FTC enforcement of rules against corporate concentration and monopoly: The FTC and Department of Justice, under Biden, updated merger review rules to limit private equity's role in corporate consolidation, including roll-ups and partial ownership stakes. They also highlighted PE-

driven harms to workers, consumers and competitors. Federal antitrust regulators aiming to help working Americans should continue this important work.

Tax enforcement that stops PE general partner tax evasion: PE GPs exploit tax loopholes that the IRS had begun targeting, including unreported carried interest, foreign tax havens, fee waivers and disguised dividends. Now funding cuts to the IRS are a serious threat to that important scrutiny to prevent tax evasion. The IRS should instead step up efforts to crack down on tax evasion by GPs and other Wall Street partnership arrangements.

SEC rulemaking and enforcement: As noted above, the SEC in 2023 wrote new rules to require more transparency and accountability in the ways PE interacts with institutional investors, as well as rules requiring more disclosure to regulators that will help monitor systemic risks. The SEC should implement systemic risk disclosures, ¹²⁰ do more to enhance investor protections and dramatically step up enforcement against PE funds that break existing rules by providing misleading information about fees and returns or failing to live up to their own commitments.

State policy action to advance public interest in relation to private equity

States have led efforts to create greater transparency on fees and returns and to establish guardrails to curb some of the worst practices of private equity firms. With diminished expectations of federal action, states have many tools to act.

- Increasing transparency of PE fees and returns: State legislators can require GPs to disclose all fees and returns to provide investors with a comprehensive picture of investment performance. Some states have pursued this, notably California¹²¹ and Kentucky, ¹²² both of which require a disclosure of carried interest, management and incentive fees. California's law provides a robust framework.
- Increasing transparency on corporate ownership: Beneficial ownership disclosure and transparency measures in critical sectors such as healthcare, housing, education, child care and infrastructure can curb abuse. State legislatures should strengthen reporting frameworks and licensing and registration protocols. States can also require GPs to share responsibility for all liabilities of companies under their control, and end GP immunity for violations of law by portfolio companies to mitigate potential for reputational risk resulting from negligent or otherwise detrimental management practices.
- Raising industry standards and bolstering worker protections: PE

targets sectors with low wages and poor labor protections (e.g., retail, nursing, child care and home health). Strengthening minimum wages; preventing misclassification; enforcing staffing ratios, wage laws and noncompete bans; and ensuring harassment protections would support workers and help maintain the quality of care or service they provide. State legislators can also require GPs to prioritize worker pay and worker retention in the bankruptcy process and require GPs to retain risks related to debt arrangements to disincentivize the use of bankruptcy as a strategic exit.

- Regulating private equity in healthcare: Increased inspections of PE-owned facilities can allow state regulators to expose quality issues. States should enforce surprise billing laws where federal rules fall short (e.g., ground ambulance) and strengthen anti-kickback, false claims and self-dealing laws. Adding PE and hedge fund transactions to certificate of need and nonprofit conversion reviews and expanding their application beyond outright sales to joint venture arrangements would enhance scrutiny. Additionally, banning dividends for two years after a portfolio company is acquired and limiting monitoring and transaction fees would disincentivize asset stripping and encourage value-generating management and investment.
- **State attorneys general action:** Private equity frequently builds local monopolies in healthcare, food and groceries. DOJ and FTC merger guidelines now recognize serial acquisitions and roll-ups as potential Clayton Antitrust Act violations, leading to forced PE divestitures in anesthesia and veterinary practices. State attorneys general should act in support of consumers to curb PE's monopolistic power across industries.
- Strengthening tenant protections aimed at large-scale corporate owners: Tenant protections like "just cause" eviction protections, rent caps, strict code enforcement and first right to purchase for manufactured home communities help curb predatory corporate landlords. Minnesota set a precedent by suing a PE owner over neglected repairs.¹²³

0.25 % 707.55 1.34 ▲ 0.17% 1787.63 8.49 1791.97 4.83

Conclusion

The policy options highlighted here, if implemented, would address some of the most negative consequences of private equity's rapid expansion in the U.S. economy. Tax code reforms would help ensure that already budget-strapped working people do not have to foot the bill, disproportionately, for federal budget priorities. Ultra-wealthy private equity managers should not be allowed to game the tax code and pay lower marginal tax rates than all other working Americans. Regulatory and legislative reform at the state and federal levels could limit the potential for harm to working Americans and our economy when private equity applies its leveraged buyout model to ever greater segments of our economy.

Investors, as the foundational allocators of capital in our economy, can also act separately from regulatory or legislative movement. Private equity as an asset class has touted superior financial performance, but when those returns are adjusted for risk, high fees and illiquidity, outperformance is not borne out by the data. Investors charged with overseeing the retirement security of working people in this country must take a hard look at private equity, private debt and other alternatives. Are they in fact delivering better risk-adjusted long-term returns net of fees than comparable public market equivalents? What actions can investors take now to make risk, fees and returns more transparent, communicate clear expectations to asset managers, and seek out better models for investing? Investors need not wait for regulatory and legislative action—they can and should take prudent action now to better position our pension systems to deliver on the promise of financial security, which hard-working Americans depend upon.

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