



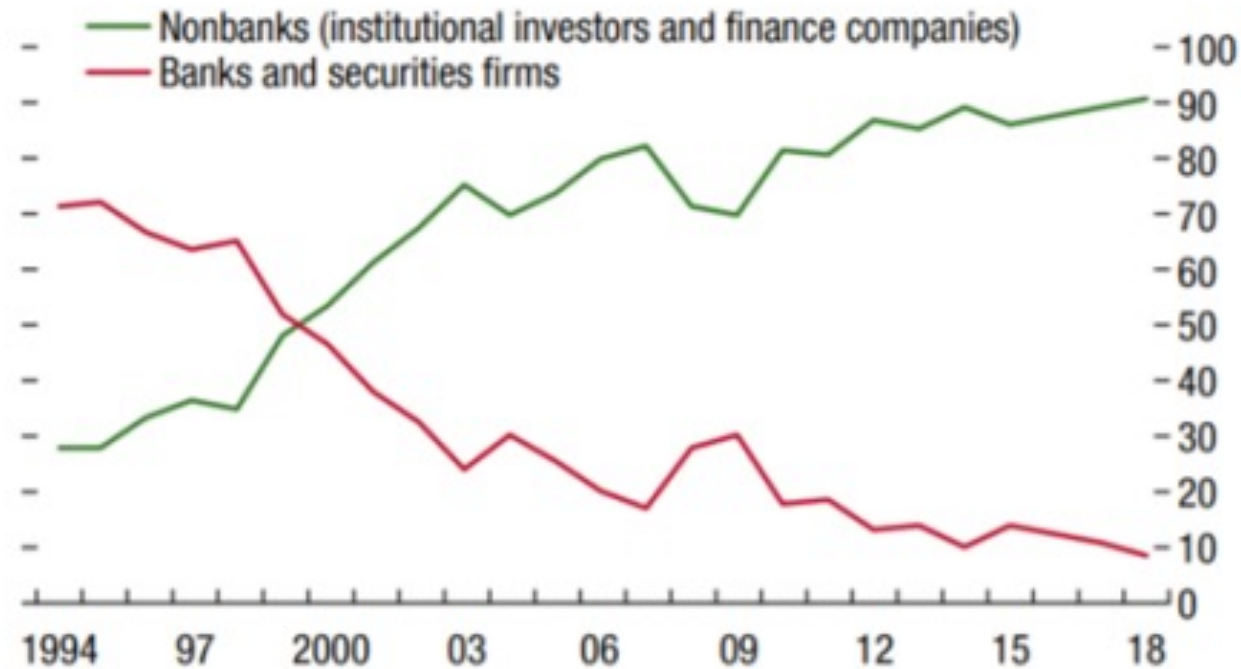
Creditor
Rights
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Credit Market & Restructuring Trends



The Decline of Bank Lending

Figure 1. U.S. Leveraged Loan Investor Base (1994-2018)
(Percentage of primary market issuance)



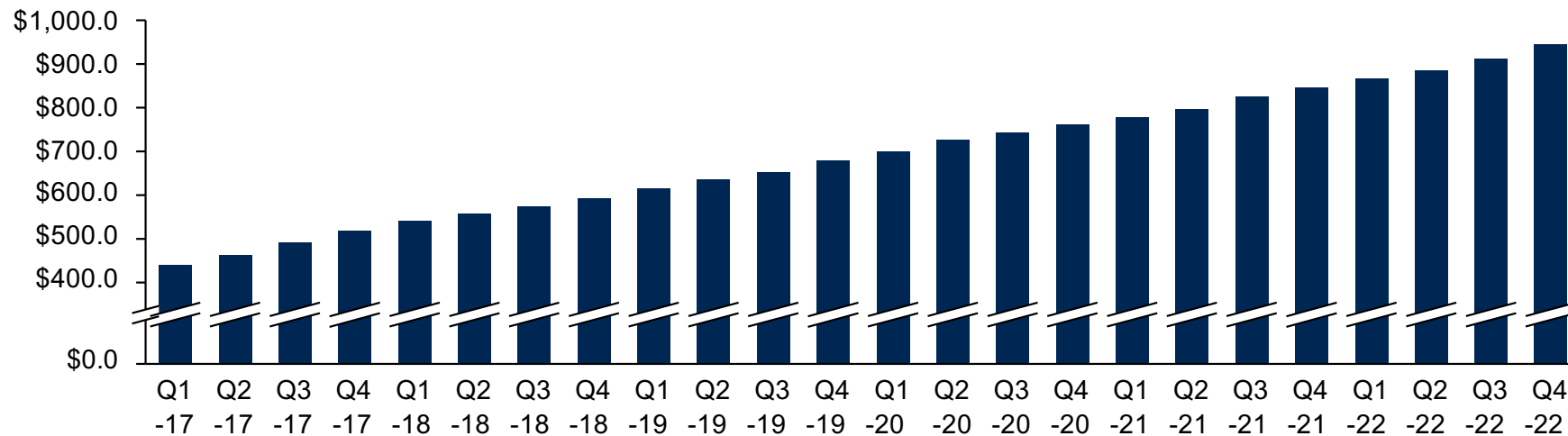
Source: International Monetary Fund (IMF).



The Rise of CLOS

US CLOs outstanding have more than doubled in recent years with ~\$1 trillion outstanding today

US CLO Market Size (\$Bn)



Key Considerations

1

Due to certain structural aspects of CLOs (e.g., tax exemption rules, etc.), they cannot often provide direct liquidity or rescue / DIP financing, increasing reliance on new private or special situation lenders in a restructuring / workout

2

CLOs are generally more inclined to find creative restructuring solutions given limitations on their ability to receive and hold equity or other junior capital as consideration

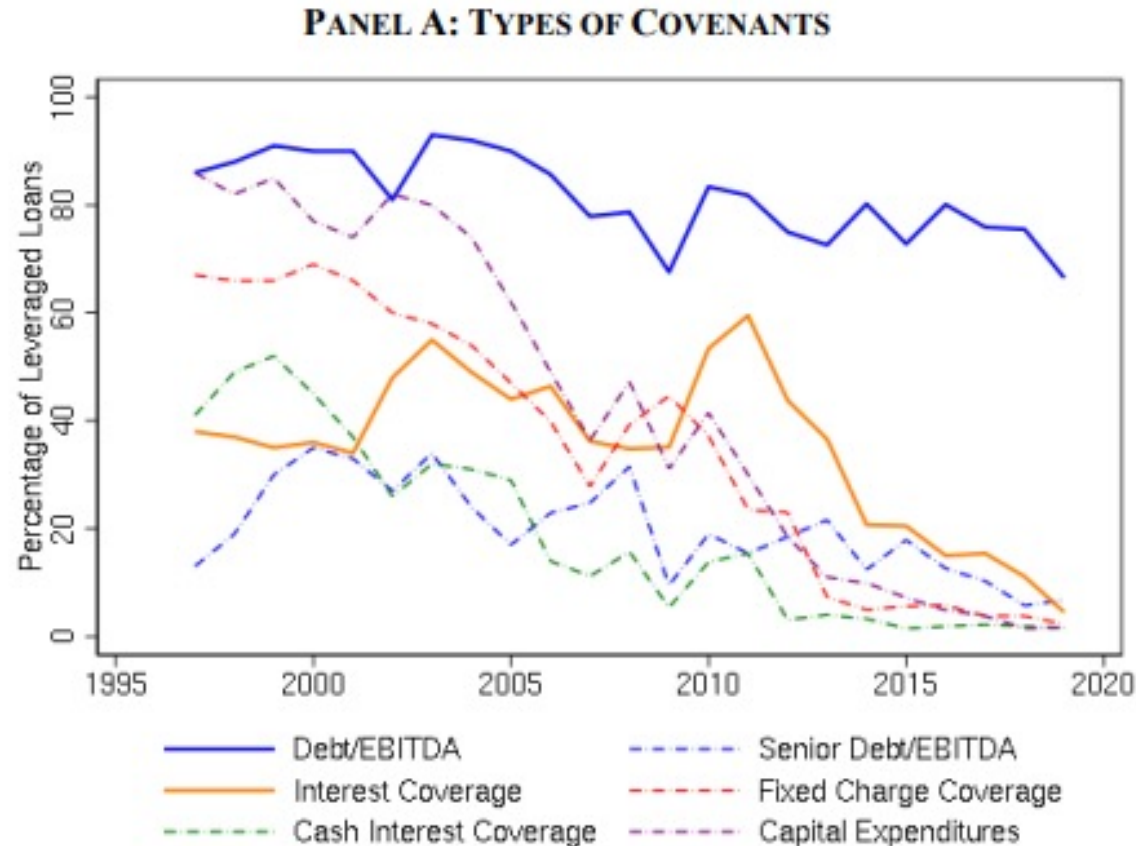
3

CLOs are passive vehicles that are not equipped nor designed to participate in restructuring transactions



Loosening of Lending Standards

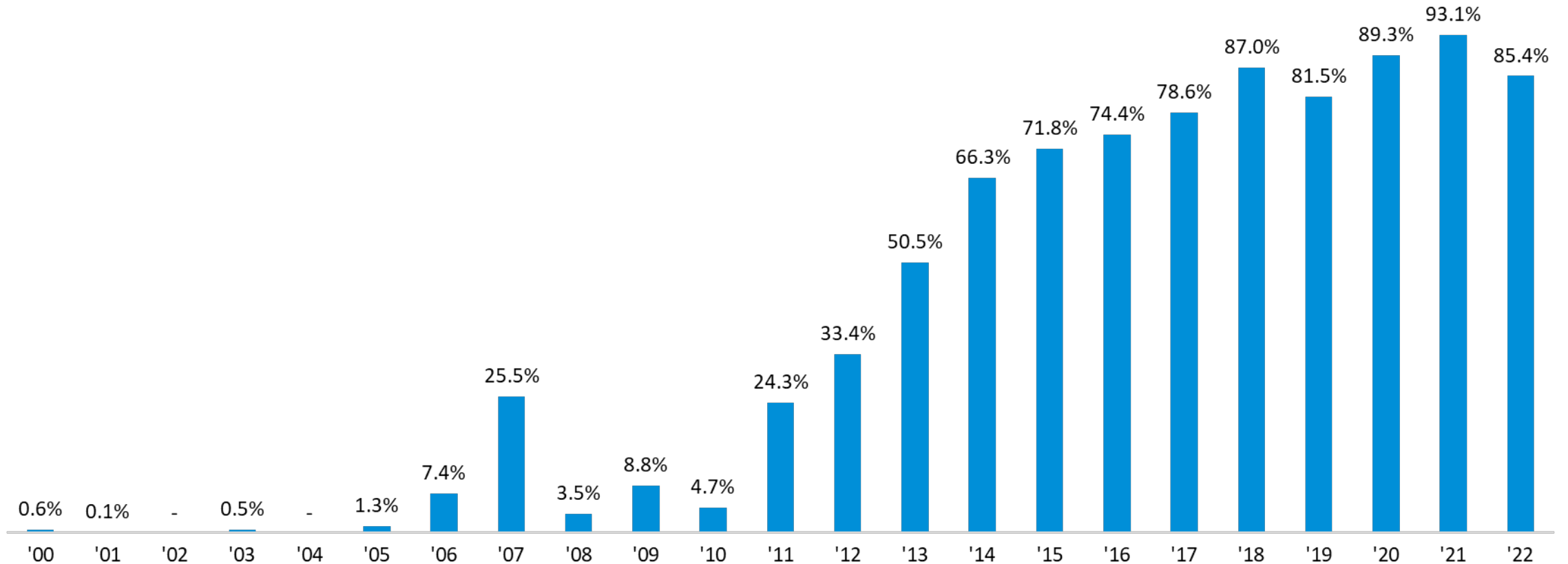
FIGURE 2 – FINANCIAL COVENANTS IN THE LEVERAGED LOAN MARKET





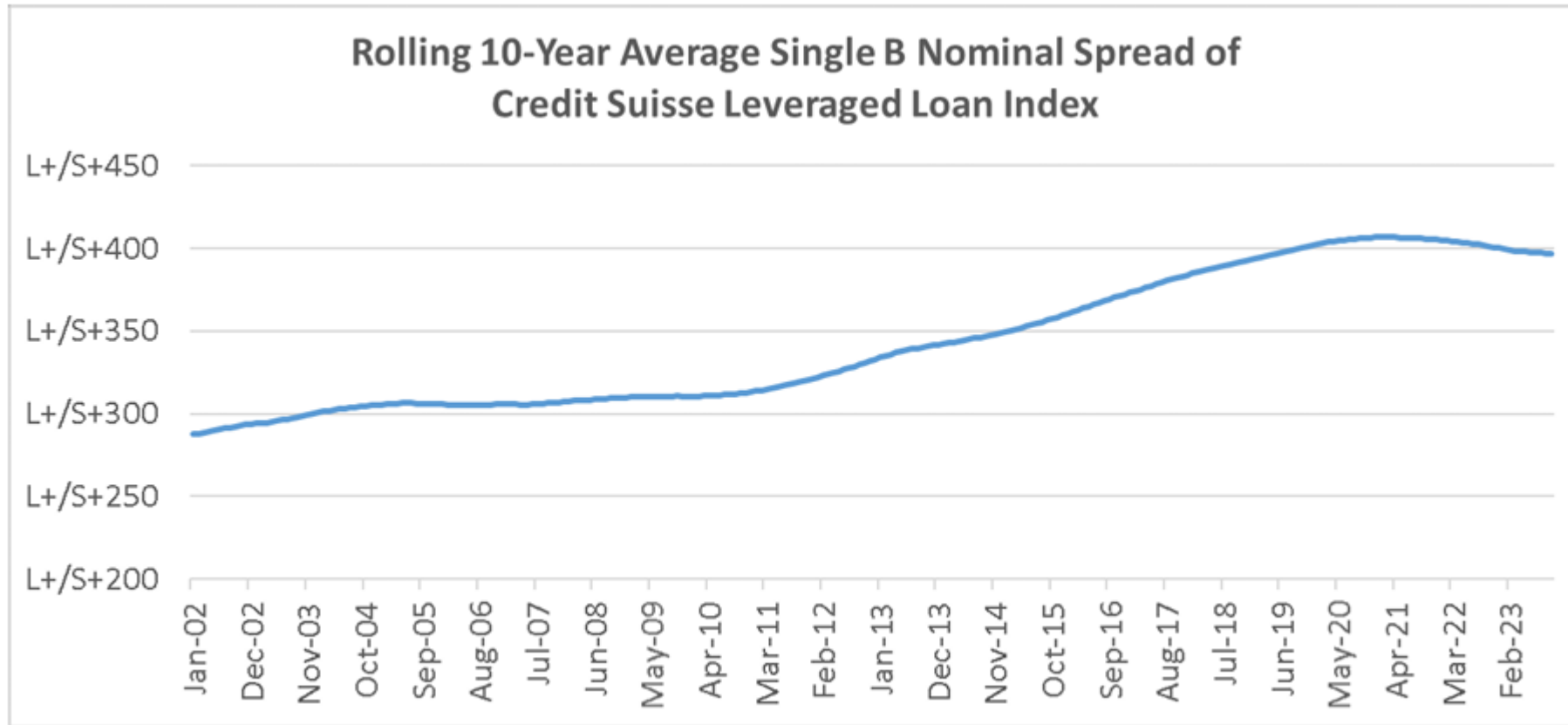
Growth of Cov-Lite Lending

Cov-Lite Issuances Have Increased





Increasing spreads to compensate

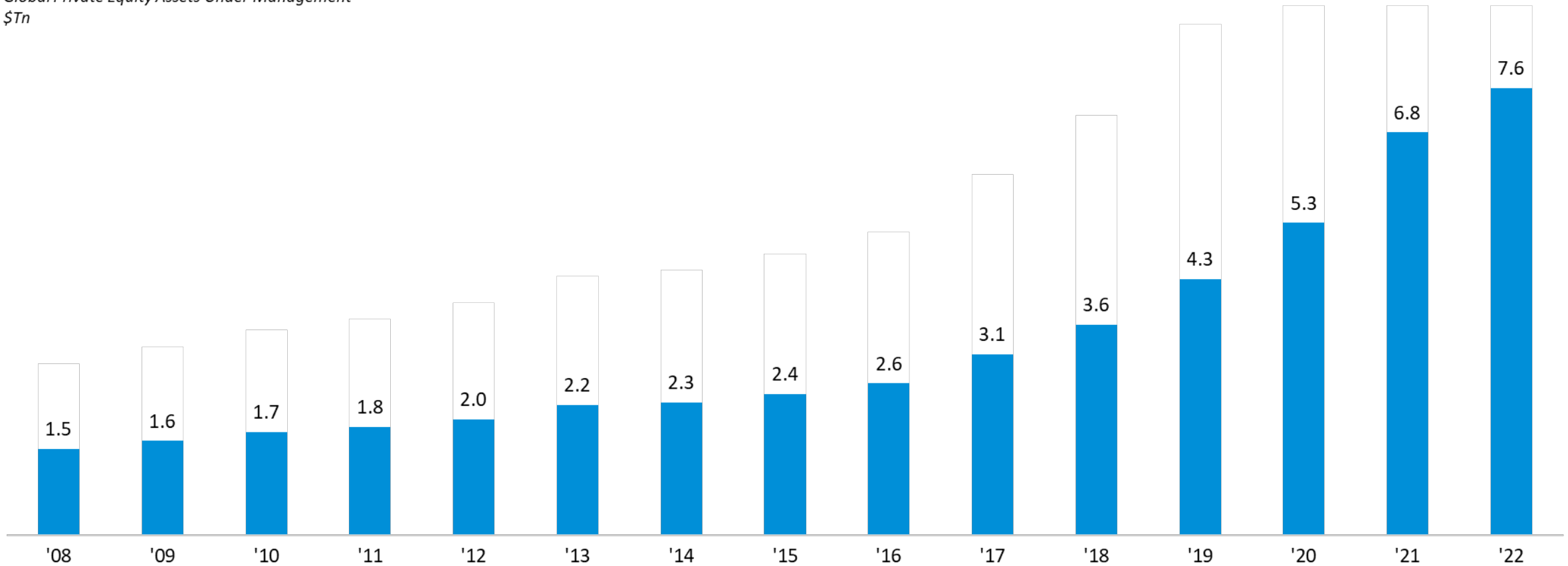




Role of Private Equity Has Increased

Growth of Private Equity Assets Under Management

Global Private Equity Assets Under Management
\$Tn



Source: Pitchbook



Role of Private Equity Has Increased

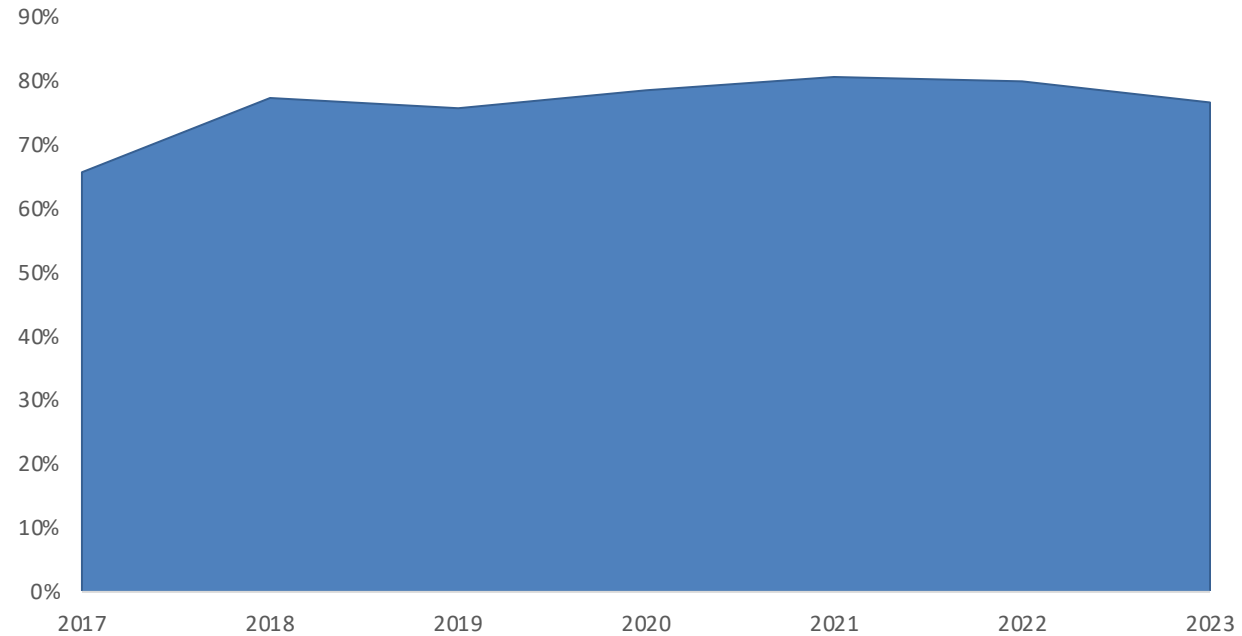
Buyout Bonanza

Private-equity U.S. deal volume, year to date



Source: Dealogic

Sponsor Portion of Riskiest Tiers of Primary Loan Market



Source: LevFin Insights, measured as B or lower



Changes in Restructuring Dynamics

Lenders

- No ongoing relationship with companies
- Passive vehicles with lack of incentives to enforce remedies
- Difficult to organize for collective action

Sponsors

- Alignment of interests between equity and company management
- Lack of independent corporate governance

Consequences

- Sponsor domination of restructuring process
- Insider transactions/ Asset Stripping
- More aggressive restructuring strategies



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Where Do We Go From Here?

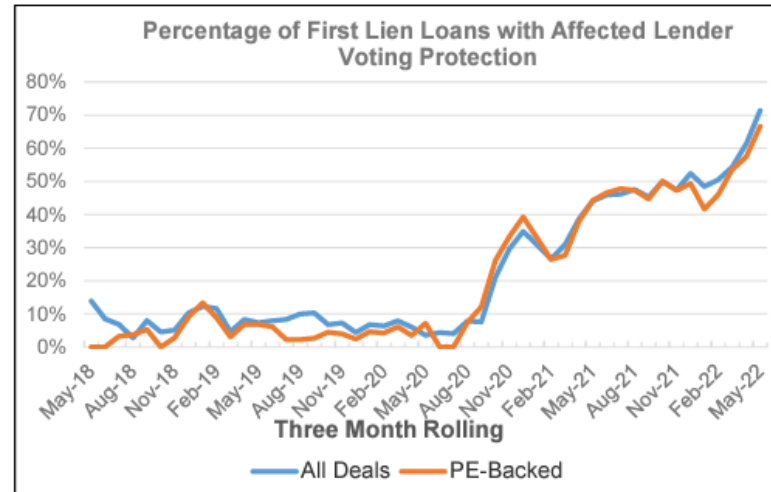


Norms, Contracts and the Courts

Norms

- How likely is it that PE Sponsors **change behavior** in rising rate environment where levered valuations are challenged?

Contracts



Courts

- Some courts have **questioned aggressive liability management techniques** (Trimark, Boardriders) but others have **easily approved them** (Serta)