



7772 N. Palm Ave.
Fresno, CA 93711
(559) 457-0681 p.
(559) 457-0318 f.
FresnoCountyRetirement.org

BOARD AGENDA LETTER

DATE: November 4, 2020

TO: Board of Retirement

FROM: Donald C. Kendig, CPA, Retirement Administrator

Staff Contact: Douglas Kidd, Investment Officer

SUBJECT: Approve Amendment to Insight Fund XI Agreement – APPROVE

Recommended Action

1. Recommend that Hamilton Lane consent on behalf of FCERA for Insight Partners (GP for the FCERA investment in Fund XI) Amendment #2, which will allow the fund to purchase interest in certain pooled vehicles, removing the 5% cap relative to Fund assets, but ensuring that there will be no blind pool risk by requiring the investable funds to have completed their own investment periods, are at least 75% committed, or are continuation funds investing in existing assets of the sponsor.

Alternative Action

1. Recommend that Hamilton Lane deny consent to Insight for Amendment #2.

Fiscal and Financial Impacts

Likely to be Immaterial. The entire commitment to Insight Fund XI is \$10mil, of which 1/3 is already committed. This consent is likely to affect only a small fraction of a small investment. If there is a risk, it is really only performance related. The current language protects FCERA from having its capital deployed into a blind pool vehicle unless fees on those pools are offset by the GP. It is difficult to tell at this point the consequence of possible fees not offset or the likely return of any such investment.

Background and Discussion

Insight Partners Fund XI is a \$10mil commitment FCERA made through Hamilton Lane in 2019. Hamilton Lane reports that Insight has a long and strong track record with prior funds, averaging a net IRR to LP's of more than 20% from their past six funds, which lands them in the top quartile. Insight Partners specializes in enterprise software. They are already 1/3 committed in Fund XI,

though only 15% of our capital has been called. The original LPA included a provision whereby Insight would not invest more than 5% in pooled vehicles, (a fund within the Fund.) The reason for such a limitation is that it adds further blind pool risk, and pooled vehicles would almost surely have another layer of fees. To avoid “fees on fees,” and further blind pool risk, the original limit was imposed by the GP on the Fund. Already in the life of Fund XI, there have been two opportunities which Insight has captured, where they were able to buy secondary (pre-existing holdings) of mature venture capital funds. In both cases, the fees were able to be offset or there were no additional fees, and the return on both investments has been 2X. Consequently, the GP would now like to amend the agreement to give themselves more room to pursue such pooled investments, now without an upside limit and without the “fee offset” provision. They acknowledge the blind pool risk by limiting such investments to those already 75% committed or at the end of their investment periods, or perhaps continuation investments for pre-existing commitments. Staff asks the Board to share with Hamilton Lane our preference that consent be given to Insight for this Amendment to our Limited Partnership Agreement (LPA).

Attachment

1. Insight Fund XI Proposed Amendment

Insight Associates XI, L.P. and Insight Associates (EU) XI, SARL
1114 Avenue of the Americas, 36th Floor
New York, New York 10036

October 27, 2020

To the Limited Partners of:

Insight Partners XI, L.P.
Insight Partners (Cayman) XI, L.P.
Insight Partners (Delaware) XI, L.P.
Insight Partners (EU) XI, S.C.Sp. (collectively the “Parallel Partnerships”)
Insight Partners XI (Co-Investors), L.P.
Insight Partners XI (Co-Investors) (B), L.P. (collectively the “Co-Investors Partnerships”, and together with the Parallel Partnerships, “Insight Fund XI”)

Re: Proposal to Amend the Limited Partnership Agreements of Insight Fund XI

To the Limited Partners of Insight Fund XI:

In the course of our comprehensive efforts to source investments in the U.S. and abroad, we have been presented with opportunities to acquire secondary investments in existing portfolio assets and in other companies that we view as highly attractive investment candidates. Increasingly, these secondary opportunities are consummated through the acquisition of LP and/or GP interests in an established pooled investment vehicle, typically a venture fund. This is an area where we believe we have a significant competitive advantage given our deep sector focus. In September 2020, Fund XI consummated an investment of this type through its acquisition of certain interests in Gemini¹, an Israeli venture fund. In a similar transaction, in April 2019 Insight Fund X² acquired certain portfolio company interests of Genesis Partners Fund IV, LP³, another Israeli venture fund.

As you may be aware, the limited partnership agreement of the Parallel Partnerships (each, a “Partnership Agreement” and collectively, the “Partnership Agreements”) permits investments by Insight Fund XI in pooled vehicles, up to a cap of 5% of commitments and provided that, unless Advisory Committee consent to the contrary is obtained, any carried interest or management fees payable in connection with such investments be offset against carried interest or management fees payable to the Fund XI GP or the Investment Manager.

¹ The investment in Gemini is comprised of interests in Gemini Israel V Limited Partnership, Gemini Partners Investors V Limited Partnership and Gemini Capital Associates V, L.P.

² Fund X is comprised of Insight Venture Partners X, L.P., Insight Venture Partners (Cayman) X, L.P., Insight Venture Partners (Delaware) X, L.P. and Insight Venture Partners X (Co-Investors), L.P.

³ The investment was consummated through IG Holdings, L.P.

We are requesting your consent to an amendment to the Partnership Agreements that would alleviate the restrictions on Insight Fund XI's investing in pooled vehicles in instances in which the secondary opportunities presented are held within investment funds that are generally past their investment periods or substantially deployed. Our rationale for this request is that these secondary investments would not be in true blind pool vehicles but rather in a collection of already identified portfolio assets, thus enabling the Investment Manager to take into account the potential implications of carried interest and/or fees payable in connection with such investment when allocating a purchase price to relevant investment opportunities.

Specifically, the amendment would permit Insight Fund XI to invest (without regard to the 5% cap and without the need for Advisory Committee consent or the need to neutralize fees or carry) in funds that (i) are past their investment periods, (ii) have deployed or reserved at least 75% of their commitments, or (iii) are continuation funds intended to invest in one or more existing portfolio assets of the relevant investment fund sponsor, in each case at the time that such investment is consummated.

Detailed Description of the Proposed Amendment

We are writing to seek your consent to the following amendment to the Partnership Agreements:

Investments in Pooled Investment Fund Vehicles - Section 4.2(h)

Section 4.2(h) of the Partnership Agreements prohibits the Parallel Partnerships from making any investments in a pooled investment fund vehicle that provides for the payment by the Parallel Partnerships of a “carried interest” or management fee unless the General Partner and/or the Investment Manager neutralizes the cost to the Parallel Partnerships of such “carried interest” or management fee.

We are seeking your consent to amend the Partnership Agreements to clarify that the limitation in Section 4.2(h) of the Partnership Agreements will not apply to an investment in a pooled investment fund vehicle if, at the time of consummation of such investment, (i) the investment period of such pooled investment fund vehicle has expired, (ii) such pooled investment fund vehicle has invested or committed or allocated for investment, used or reserved for expenses or reserved for follow-on investments an amount equal to at least 75% of its aggregate capital commitments or (iii) such pooled investment fund vehicle has as its primary investment objective the acquisition of one or more identified portfolio companies of the relevant investment fund sponsor (including any related follow-on investments) (commonly referred to as a “continuation fund”).

The limitation providing that the amount invested in pooled investment fund vehicles by the Parallel Partnerships shall not exceed five per cent (5%) of Capital Commitments shall therefore not apply to investments in pooled investment fund vehicles of the types described above, in each case, to be determined as at the time that such investment is consummated.

The changes to the Partnership Agreements reflecting the amendment are set forth in Exhibit A attached to this letter.

Capitalized terms not defined herein are as defined in the applicable Partnership Agreement.

We would appreciate your indicating your consent, as a Limited Partner, to the amendment substantially as attached and returning the consent to Melissa Carissimo via email to MCarissimo@insightpartners.com at your earliest convenience, and, in any case, by November 10, 2020, with a copy to Andrew Prodromos at Aprodromos@insightpartners.com.

Should you have any questions regarding these proposals, please call Cian Cotter, Blair Flicker, or Ian Sandler.

Cian Cotter	CCotter@insightpartners.com	212-230-9207
Blair Flicker	BFlicker@insightpartners.com	212-230-9278
Ian Sandler	ISandler@insightpartners.com	212-931-5387

Thank you for your continued support.

Consents

The undersigned Limited Partner of Fund XI has reviewed the amendment set forth on Exhibit A hereto and hereby:

Please check only one option below.

Consents to the proposed amendment to Section 4.2(h) of the Partnership Agreements, which provides that the restriction on the Partnership's investments in pooled investment fund vehicles that provide for the payment by the Partnership of a "carried interest" or management fee shall not apply to pooled investment fund vehicles (A) in respect of which the investment period of such pooled investment fund vehicle has expired, (B) that have invested or committed or allocated for investment, used or reserved for expenses or reserved for follow-on investments an amount equal to at least 75% of its aggregate capital commitments, or (C) that has as its primary investment objective the acquisition of one or more identified portfolio companies of the relevant investment fund sponsor (including any related follow-on investments), in each case, as at the time such investment is consummated.

Does not consent to the proposed amendment to Section 4.2(h) of the Partnership Agreements, which provides that the restriction on the Partnership's investments in pooled investment fund vehicles that provide for the payment by the Partnership of a "carried interest" or management fee shall not apply to pooled investment fund vehicles (A) in respect of which the investment period of such pooled investment fund vehicle has expired, (B) that have invested or committed or allocated for investment, used or reserved for expenses or reserved for follow-on investments an amount equal to at least 75% of its aggregate capital commitments, or (C) that has as its primary investment objective the acquisition of one or more identified portfolio companies of the relevant investment fund sponsor (including any related follow-on investments), in each case, as at the time such investment is consummated.

Note: If your organization is an investor in Fund XI through more than one entity, please list all of the entities below.

Fresno County Employees' Retirement Association

By: _____
Name:
Title:

Date: _____, 2020

**Please send your executed and dated consents to Melissa Carissimo via email to
MCarissimo@insightpartners.com, with a copy to Andrew Prodromos at
Aprodromos@insightpartners.com.**

Exhibit A: Proposed Amendment to Partnership Agreements of the Parallel Partnerships

Amendment to Section 4.2(h) of the Partnership Agreements

- (a) With effect on the date hereof, Section 4.2(h) of the Agreement is hereby amended by making the changes as shown in the blackline directly below:

4.2 Investment and Other Restrictions. Notwithstanding any other provision of this Agreement, but subject to Section 4.7 and Section 4.8, without the consent of a Combined 66⅔% In Interest with respect to subsections 4.2(e), (f), (j) and (l), or of the Advisory Committee with respect to each other subsection of this Section 4.2, the Partnership shall not:

(h) make, **subject to the final sentence of this Section 4.2(h),** any investment in a **blind** pooled investment fund vehicle that provides for the payment by the Partnership of a “carried interest” or management fee to any Person other than management of, or consultants to, a portfolio company unless the General Partner and/or the Investment Manager neutralizes the cost to the Partnership of such “carried interest” or management fee by reducing (dollar-for-dollar) the “carried interest” paid by the Limited Partners in connection with such investment and/or reducing (dollar-for-dollar) the Management Fee paid by the Partnership, provided, however, that the aggregate cost of all investments made in such pooled investment fund vehicles, during the term of the Partnership, shall not exceed 5% of the Capital Commitments and provided, further that such 5% limitation shall not apply to any pooled investment fund vehicle organized by the General Partner or the Investment Manager to hold Portfolio Investments as long as such “carried interest” or management fee is so neutralized. **Notwithstanding anything to the contrary in this Agreement, the foregoing investment restriction (including the aforementioned 5% limitation) shall not apply, and no consent shall be required, with respect to any investment by the Partnership in a pooled investment fund vehicle where, at the time of consummation of such investment (i) the investment period of such pooled investment fund vehicle has expired, (ii) such pooled investment fund vehicle has invested or has committed or allocated for investment, used or reserved for expenses or reserved for follow-on investments an amount equal to at least 75% of its aggregate capital commitments, or (iii) such pooled investment fund vehicle’s primary investment objective is the acquisition of one or more identified portfolio companies of the relevant investment fund sponsor (including any related follow-on investments) commonly referred to as a “continuation fund”**);