



# Nixon Peabody Private Equity Newsletter

## Editor's note

We are pleased to present our second issue of the *Private Equity Newsletter*. We are encouraged by, and grateful for, the positive feedback received from many of our clients and colleagues regarding our inaugural issue. Much of the industry is abuzz with the planned public offering of The Blackstone Group, which is following closely on the heels of the highly successful offering by Fortress. We would not be surprised to see other large private equity funds follow their lead in the not-too-distant future. While some may view these events as harbingers that the market has peaked, we believe that market conditions are still very favorable — especially in the middle market which remains frothy — and believe that absent some unexpected event the private equity markets will remain strong for the foreseeable future.

We hope you enjoy this issue and look forward to seeing many of you at our event on May 3rd.

*Dominick DeChiara*

## In this issue:

Today we bring you articles reporting on a rumor on Capitol Hill that would change the current long-term capital gains tax treatment of carried interest to ordinary income tax treatment (p.2), reporting on the proposed rules by the SEC that affect the types of investors that can pool funds together in investment vehicles and create potential barriers to entry (p.3) and highlighting the increased use of indemnification agreements by portfolio companies in favor of investor funds in minority investments (p.5). For our industry focus, we turn to the energy and utility industry, which is seeing an increase in investments by private equity funds, as evidenced by the buyout of TXU Corp. by a private equity consortium group led by KKR, Texas Pacific, and Goldman Sachs for \$45 billion (p.7).

## Leveraged buyouts

### Carried interests: payment for services or a return on investment?

The returns achieved from the acquisition, growth and ultimate disposition of portfolio companies are the principal drivers of the private equity market. Clearly, success cannot be achieved without the time and effort of the principals who manage private equity funds. This article presents an issue of critical importance to those individuals.

Recently, rumors have been circulating in the private equity community that Congress may consider changing the tax treatment of the allocation of profits (or “carried interest”) to private equity managers. Private equity funds have traditionally been formed as limited partnerships or, more recently, as limited liability companies which are taxed as partnerships. The carried interest represents an allocation of the profits realized by the fund, which consist primarily of long-term gain on the disposition of portfolio investments. Currently, a carried interest in a partnership (which constitutes an allocation of long-term capital gain) is taxed at the capital gains rate, or 15%. However, Senator Charles Grassley (R-Iowa), a senior member of the Senate Finance Committee, has reportedly advocated taxing all carried interest as ordinary income, which would result in a 35% tax rate. Any change in the tax status of carried interests would directly and adversely affect the after-tax income of private equity professionals. The proposed change could also impact current plans being discussed by some larger private equity funds to follow Fortress

#### Recent news

The recently released Dow Jones Private Equity Analyst Survey ranks Nixon Peabody as a league leader among law firms in Private Equity. The Firm ranked 4th in number of private equity and venture capital funds negotiated/structured (292 funds) and 22nd in number of private equity and venture capital deals closed in 2006 (115 deals).

Investment Group and The Blackstone Group in commencing an initial public offering.

In general, fund managers are compensated in two ways. They typically charge a management fee to the limited partners of the fund ranging from 0.75% to 3.00% of capital under management. This management fee is intended to compensate fund managers for administrative and operating costs and is taxed at ordinary income tax rates. The other component of fund manager compensation is the carried interest, which generally permits a fund manager to share in the profits of the fund after capital and any applicable preferential return is distributed to the limited partners. Carried interests generally range from 20% to 35%, depending on the size of the fund.

Gains received in respect of carried interests have traditionally been classified as capital gains (to the extent attributable to taxable dispositions of portfolio investments) because they are based on long-term investment success. In order to qualify for capital gains treatment, an investor must generally put some funds at risk. In a private equity or hedge fund, all or nearly all of this investment capital is provided by members other than fund managers, who in turn make a nominal, if any, contribution to portfolio investments. In some funds, fund managers may be required to make capital contributions in an amount approximately equal to the amount of the management fees. However, many fund managers satisfy their capital contribution requirements by investing their management fees or waiving their management fees in lieu of contributing capital to the fund.

Under current law, the characterization of income allocated to all members of a private equity fund, including the fund manager, is determined at the partnership level. Because capital supplied by the other members of the fund is used by the partnership to make portfolio investments that are to be held by the partnership, the gain on the disposition of such partnership investments typically qualifies as “long-term” capital gains eligible for the most favorable current tax rate of 15% (assuming the holding period and other convert “service” income earned by the fund manager, which would normally be taxed as ordinary income, into capital gains. requirements for such treatment are satisfied). This tax treatment is seen by some to convert “service” income earned by the fund manager, which would normally be

taxed as ordinary income, into capital gains. Viewing that result as an abuse, proponents of the ordinary income tax treatment have argued that since only the funds of the limited partners are at risk and fund managers are in reality only service providers, the carried interest should be taxed at the ordinary income rate. In other words, to the extent that a fund manager's carried interest is viewed as compensation for the provision of services, rather than investment income from the purchase and sale of capital assets, such income should be classified as ordinary income and therefore taxed at the higher 35% rate.

It should be noted that notwithstanding the conceptual objections to capital gain treatment, that tax treatment of fund managers is not a "loophole" that is being exploited by clever private equity fund managers, but is a well-established principle of partnership taxation that has been enshrined in the Internal Revenue Code for decades. Any change in the tax rate applicable to carried interests would constitute a major departure from historical treatment. Further, depending on the method of effecting a change in the tax treatment, the effect could be to subject carried interest to all rules applicable to compensation income, making them subject to payroll withholding and to federal and state payroll taxes.

## Any change in the tax rate applicable to carried interests would constitute a major departure from historical treatment.

The Senate's review of carried interests has arisen in connection with other discussions of the Senate staff relating to, among other things, the potential regulation of hedge funds. Any potential changes in the tax rate applicable to carried interests would similarly apply to hedge funds that are compensated, in part, through a carried interest. However, since hedge funds generally hold investments for a shorter period of time than do private equity funds, much of their investment income is already effectively taxed at the short-term capital gains rate, which is the same as the ordinary income rate.

## Recent news

We are pleased to announce that **Jennifer Kurtis** has joined our firm as counsel in the Leveraged Buyouts and Public Companies transactions groups, based in our New York City office.

According to a spokeswoman for Finance Committee Chair Max Baucus (D-Mont.), Mr. Baucus is not planning to introduce legislation on the taxation of private equity funds and hedge fund managers. A spokesman for House Ways and Means Committee Chair Charles B. Rangel (D-NY) has similarly advised that there is no such pending legislation before that Committee. We are not aware of any formal action being taken in Congress along these lines as of the date of this article. Given the importance of this issue to private equity and hedge fund managers, we will of course continue to keep our clients apprised of developments as they arise.

*Stefan Boshkov, Partner*  
*Jennifer Kurtis, Counsel*

## Investment funds

### Proposed SEC rules affecting pooled investment vehicles and their investors

The Securities and Exchange Commission (SEC) has solicited comments on its recently proposed rules designed to provide heightened protection to investors in pooled investment vehicles. The first SEC proposal would extend the SEC's antifraud rules for registered and unregistered investment advisers to pooled investment vehicles as well as to investors and prospective investors in such vehicles. The second SEC proposal would apply a new investment holding threshold in addition to the existing "accredited investor" net worth and income thresholds to investors participating in pooled investment vehicles. While the new rules are

intended to provide private investors with more protection, they are likely to result in greater barriers to entry into the private investments market for some new and existing pooled investment vehicles and their investors.

### *Antifraud rule*

The SEC's proposed antifraud rule is meant to put to rest any doubts concerning the SEC's ability to bring enforcement actions against advisers in hedge funds or other pooled investment vehicles who defraud investors or prospective investors. The antifraud provisions of Sections 206(1) and 206(2) of the Investment Advisers Act of 1940 (Advisers Act) protect "clients" and prospective "clients" of an investment adviser. This rule followed on the heels of the decision of the DC Court of Appeals in *Goldstein v. SEC*.<sup>1</sup> The *Goldstein* court held that for purposes of Sections 206(1) and 206(2), a "client" is the fund itself and not the individual investors in the fund. The proposed new Rule 206(4)-8 under the Advisers Act is broader in scope and is aimed at protecting individual investors in a fund as well as any prospective investors.

In addition, the proposed rule would apply broadly to both registered and unregistered investment advisers and various types of pooled investment vehicles. The term "pooled investment vehicle" would include registered investment companies and private investment pools that are currently excluded from registration under the Investment Company Act of 1940 (Company Act) pursuant to Section 3(c)(7) (i.e., investment pools that are held exclusively by "qualified purchasers" and are not offered publicly) or Section 3(c)(1) (i.e., investment pools held by no more than 100 beneficial owners that are not offered publicly). In other words, the new rule would apply to mutual funds, hedge funds, buyout funds, private equity funds, venture capital funds and registered investment companies, but would not include offshore funds, mortgage REITs (real estate investment trusts), qualifying business development companies and structured finance vehicles excluded from investment company status.

Under the proposed rule, "it would constitute a fraudulent, deceptive, or manipulative act, practice, or course of

business for any investment adviser to a pooled investment vehicle to make any untrue statement of a material fact to any investor or prospective investor in the pooled investment vehicle, or to omit to state a material fact necessary in order to make the statements made to any investor or prospective investor in a pooled investment vehicle, in the light of the circumstances under which they were made, not misleading."<sup>2</sup> Unlike other antifraud rules, such as the familiar Rule 10b-5 under the Securities and Exchange Act of 1934, which applies to fraud in the offering and sale of

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securities, the proposed rule would apply to fraud in connection with offering, selling and even redeeming securities. Furthermore, the proposed rule does not require a showing that the investment adviser allegedly violated the rule acted with an intent to deceive, manipulate or defraud as in a Rule 10b-5 action. Finally, the proposed rule, unlike other antifraud statutes, does not give rise to private right of action against an investment advisor, leaving enforcement of the proposed rule only to the SEC.

### *"Accredited Investor" rules*

The second part of the proposed rules pertains to investment funds that rely on the exclusion from the definition of investment company under Section 3(c)(1) of the Company Act. For private offerings, advisers to these funds typically rely on the safe harbor provided under Regulation D of the Securities Act of 1933 (Securities Act), for offerings to "accredited investors" not involving a public offering. Rule 501 of Regulation D defines "accredited investor" as a natural person whose individual net worth, or joint net worth with the person's spouse, exceeds \$1,000,000, or whose individual income exceeds \$200,000 (or joint income with the person's spouse exceeds \$300,000) in each of the last two years and who has a reasonable expectation of reaching the same income level in the year of investment.

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<sup>1</sup> *Goldstein v. Sec. & Exch. Comm'n*, 451 F.3d 873 (D.C. Cir. 2006).

<sup>2</sup> Prohibition of Fraud by Advisers to Certain Pooled Investment Vehicles, 72 Fed. Reg. 2 (proposed Jan. 4, 2007) (to be codified at 17 C.F.R. pt. 275).

Under the proposed rules, a natural person investing in a Section 3(c)(1) fund would have to (i) satisfy the current criteria for “accredited investor” described above and (ii) hold at least \$2.5 million (subject to adjustment for inflation every five years beginning on April 1, 2012) in qualifying “investments,” individually or jointly, with the person’s spouse. A natural person meeting both thresholds would be

## the SEC believes that the growth in investor wealth, due in part to inflation and the increases in the values of personal residences, has increased the number of investors who are eligible to make investments

deemed an “accredited natural person” for purposes of the proposed rules and thus would be eligible to participate in Section 3(c)(1) funds. The proposed rules enhance the investor criteria for such funds because the SEC believes that the growth in investor wealth, due in part to inflation and the increases in the values of personal residences, has increased the number of investors who are eligible to make investments in pooled investment vehicles as “accredited investors.”<sup>3</sup> Because these private investment pools have become more complex and involve increased risk, the SEC is concerned that the net worth and income tests afforded by the “accredited investor” standard are no longer sufficient to protect investors. As such, the proposed rules do not “grandfather in” current accredited investors who are natural persons but do not meet the new accredited natural person standard. Therefore, such investors would be foreclosed from making future investments in private investment vehicles, including those in which they are currently invested.

The proposed rules would not apply to funds that rely on Section 3(c)(7) of the Company Act whose investors are already subject to the higher “qualified purchaser” investor standard under the Company Act. Under this standard, natural persons who invest in Section 3(c)(7) funds are required to own at least \$5 million in qualifying investments at the time of their investment. In addition, the proposed rules

would not apply to venture capital funds as the SEC recognizes the important role such funds play in the capital formation of small and emerging businesses. As defined in the proposed rules, the term “venture capital fund” would have the same meaning as “business development company” under Section 202(a)(22) of the Advisers Act. Generally, a “business development company” is a company organized and having its principal place of business in the United States that has invested 60% of its total assets in certain eligible portfolio companies and has provided significant operational assistance with respect to such eligible portfolio companies.<sup>4</sup>

Comments on the proposed rules were due on or before March 9, 2007. We expect that the proposed rules will generate substantial comments and may need to be modified prior to adoption. We will monitor the progress of the rules and will keep you apprised of these developments.

*John P. Beals, Partner*  
*Alison Spillane, Associate*

## Venture capital and emerging companies

### Indemnification agreements — not just for outside directors anymore

Traditionally, the indemnification agreement used in a venture capital financing transaction sets forth an agreement between the portfolio company, on the one hand, and certain of that portfolio company’s outside directors, on the other hand. This indemnification agreement is a stand-alone document according to which the portfolio company commits to indemnify these individuals (often, representatives of one or more of the portfolio company’s institutional fund investors) who, in exchange for such protection, agree to serve on the portfolio company’s board and actively participate in the overall management and decision making of the portfolio company. Indemnification agreements con-

<sup>3</sup> Staff Report to the U. S. Sec. & Exch. Comm’n: Implications of the Growth of Hedge Funds 95–96, available at <http://www.sec.gov/news/studies/hedge-funds0903.pdf> (2003).

<sup>4</sup> Investment Advisers Act of 1940 § 202(a)(22), 15 U.S.C.A. § 80b-2(a)(22) (West 1997).

stitute a part of the standard venture capital financing transaction document package and — while counsel for the investor and counsel for the company may negotiate the specific language, enforceability, reasonableness and fairness of a particular agreement — there is little doubt that in most financings this form of indemnification will be provided by the portfolio company or will risk a likelihood that the financing will not occur at all.

While these indemnification agreements between portfolio companies and individual representatives of investors are commonplace, venture capital funds have only recently begun to explore the use of so-called “Fund Indemnification Agreements.” Such agreements set forth indemnification to be provided by the portfolio company to an investor fund entity itself, and have increased in popularity as investor funds (recognized as deep pockets) have become more popular targets in lawsuits brought by shareholders of portfolio companies.

Despite being a relatively new development in the world of venture capital financing, Fund Indemnification Agreements have for quite some time been in wide use by institutions active in the later stages of private equity investment. There are many possible reasons for the delay in adopting this type of agreement at the venture-stage:

- venture funds may not have recognized that they themselves are targets, perhaps because the investment entities are not actively managing the portfolio company on a daily basis;
- venture funds previously did not see themselves as likely targets of shareholder activism, since the capitalization of a company at the early stage of investment is limited to a small number of shareholders;
- early stage venture capital funds have had more of an appetite for risk and for the sharing of risk with their portfolio companies than their later-stage brethren;
- venture investors have been slow to adopt some of the common elements of later-stage financing simply because they were not aware of their usage; or
- in a competitive market for deal flow, venture capitalists are reluctant to introduce a new document that is not likely to be perceived as company friendly.

Regardless of the reasons for past reluctance, venture capital funds have recently become more willing to request Fund Indemnification Agreements. Such agreements have been recognized as particularly desirable in down-round financings, which may signal an increased likelihood of future litigation. Going forward, as venture investment funds grow in size and shareholder plaintiffs grow more sophisticated in their approach, venture capital investors will be increasingly likely to make the receipt of a Fund Indemnification Agreement a closing condition.

There are certain obvious reasons that an investor fund can use to justify the requirement of such an agreement. Most significantly, fund investors become targets in litigation (particularly for speculative claims) not because they are necessarily at “fault,” but simply because they are viewed (accurately or not) as having substantial liquid resources. The requirement that the fund now direct resources toward the defense of a lawsuit was not part of the initial calculus that prompted its investment. The fund investor, after having completed the due diligence, negotiation and strategic work required to consummate an investment in a portfolio company, deserves the benefit of its bargain, which does not take into account the expense and risk associated with being named as a codefendant in a legal proceeding.

Stated most simply, the venture fund investor’s argument for protection parallels that of the individual board member or officer who requests (and inevitably receives) an indemnification agreement, to wit: highly successful (and, as such, substantially endowed) venture capital investment funds are

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reluctant to deploy capital into portfolio companies unless these funds are provided indemnification against inordinate risks of claims and actions against them arising out of their investment and share ownership in the portfolio company. Likewise, highly qualified and educated individuals are reluctant to put themselves at personal risk in running a company for mutual gain.

## Recent news

We are pleased to announce that **David Tamman** has joined our firm as a partner in our Private Company Transactions and LBO Groups, based in our Los Angeles office.

Portfolio companies, on the other hand, will likely counter that the addition of such agreements is not yet “market.” As articulated above, venture funds with clout are likely to act

## Fund Indemnification Agreements remain rare in A-round financings

as market leaders to bring this type of agreement into common use, and the definition of what comprises a “market” set of venture capital financing documents will evolve accordingly. Additionally, a portfolio company may rely upon a simple allocation of risk argument, stating that, to a certain extent, the portfolio company cannot control who may bring a lawsuit against it, and whether that litigant may name investor shareholders as defendants. Rather than indemnify a specific shareholder against such a potential occurrence, isn't this more equitably a risk shared by all shareholders? The acceptance by venture capital investors of the risky nature of their business is evident in the fact that Fund Indemnification Agreements remain rare in A-round financings — although this may also be the result of A-round investment funds frequently having smaller funds and thus shallower pockets.

If a Fund Indemnification Agreement is to be used, such indemnification should be provided in a separate agreement between the company and the fund investor. Practically speaking, as a standalone contract, the Fund Indemnification Agreement affords the investor fund more reliable protection than a similarly intended provision inserted into the portfolio company's certificate of incorporation or bylaws, because the standalone document cannot be amended without the approval of the investor fund.

Ultimately, to the extent that the circumstances of the contemplated transaction weigh in favor of the investment funds, or in cases where specific funds bring desirable intangibles, venture capital funds are likely to prevail in their fight for this increased indemnification. As use of the Fund Indemnification Agreement gains greater acceptance among top-tier investment funds, the concept will likely migrate into standard venture capital investing. Certainly, should litigation brought against portfolio companies and the naming of investment funds as defendants increase in frequency, it is reasonable to expect that requests for indemnification will similarly increase as investors seek to protect the benefit of their bargain from this newly emerging threat.

*Todd Tidgewell*

## Industry spotlight

### Private equity investment surges into the utility industry

The proposed acquisition of the Texas utility TXU Corp. by a private equity consortium led by Kohlberg Kravis Roberts & Co., Texas Pacific Group, and Goldman Sachs for \$45 billion, the largest private buyout in U.S. corporate history, highlights the recent changing ownership of the utility industry in the United States as private equity firms invest heavily in the electric and gas utility sectors. Relatively steady cash flow, increasing demand for energy that is exceeding available power supplies, changing federal regulation, and the abundance of investment funds have made utility assets attractive investments for private equity sponsors. As a result, private equity funds have provided a new source of needed capital for the utility industry.

Private equity funds have, for some time, been investing in unregulated electric generation plants. Now, private equity funds may be moving into regulated utility operations.

*Private equity investment in unregulated power plants and other utility assets has been steadily increasing.*

Since 2002, more than \$25 billion has reportedly been spent by private equity firms to buy power plants and other utility assets, according to industry sources. These investments have become attractive due to the increasing demand for electric power in many parts of the country, which is outstripping the supply of generation capacity. Some of the major private equity investments that we have observed in industry news reports are illustrated by the following:

- Goldman Sachs formed its GS Infrastructure Partners Fund at the end of 2006 with more than \$6.5 billion in capital to invest in electric, natural gas and water utilities as well as other infrastructure projects.
- Energy Capital Partners closed in late 2006 what it called “the world’s largest debut fund” for generation assets at \$2.25 billion and made a \$1.34 billion acquisition of the Northeast Utilities competitive generation assets. Northeast Utilities will use the proceeds to build transmission and distribution infrastructure over the next 5 years in Connecticut, Massachusetts and New Hampshire.
- ArcLight Capital Partners has raised \$3.73 billion for three energy funds, a significant portion of which has been invested in generation assets.

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- Tenaska Power Fund and an affiliate of Warburg Pincus announced in December 2006 that they have agreed to acquire three electric generation stations in Pennsylvania, West Virginia and Ohio from Dominion Resources.
- Wayzata Investment Partners completed the purchase of two Northern California power plants from NRG Energy in early January 2007.

- The Carlyle Group, Bain Capital and Thomas H. Lee Partners have also invested in power and natural gas assets.

In addition to purchasing existing assets, private equity funds have participated in building new “greenfield” projects. ArcLight announced in October 2006 that it had joined with Excel Energy to build a 550 MW gas-fired plant in New Mexico. The project company, Lea Power Partners is owned by ArcLight Energy Partners Fund III and is expected to be completed in the summer of 2008.

*The Energy Policy Act of 2005 has encouraged investment in the electric utility industry.*

The Energy Policy Act of 2005 (EPACT) replaced much of the Public Utilities Holding Company Act of 1935 (PUHCA) and made the Federal Energy Regulatory Commission (FERC) the primary regulatory authority for public utility holding companies. FERC has implemented policies set forth in the EPACT that have had the effect of encouraging investment in the electric utility industry, such as:

- making it easier for private equity firms to invest in utility assets by repealing much of PUHCA that removed some previous Securities and Exchange Commission barriers to ownership of utility assets,
- allowing higher rates of return for transmission assets, and
- streamlining merger review.

*As a result of the proposed acquisition of TXU Corp., more private equity funds may invest in regulated utility operations.*

In addition to its size, the proposed acquisition of TXU is unusual in that the acquirers sought the support of environmental groups and state government officials before announcing the deal. They obtained support from two leading national environmental organizations, the Natural Resources Defense Council and Environmental Defense, in part by agreeing to cancel all but 3 of the 11 coal-fired power plants that TXU had planned to build. The private equity sponsors hope to gain customer and legislative support

in Texas for the proposed deal by offering a rate reduction for some customers and proposing approximately \$400 million to fund renewable energy and energy conservation initiatives.

TXU Corp. was considered an attractive acquisition candidate because Texas has a deregulated market which, to some extent, is a captive market since it has few transmission interconnections to other states. Furthermore, market prices for power have generally been set by natural gas fired generating plants which can make lower cost coal-fired generation plants highly profitable.

Regulatory hurdles have blocked some previous efforts by private equity firms to purchase regulated utility operations. For example, in March 2005, Texas Pacific's bid for Portland General Electric was not approved by Oregon regulators. In 2004, an investor group led by KKR did not complete a bid to buy UniSource Energy Corp. after Arizona officials failed to approve the deal. Warren Buffett, however, was successful in buying the Oregon utility PacificCorp in 2006 for \$5.1 billion only after agreeing to upgrade the company's infrastructure facilities.

Ownership of regulated utility operations requires a great deal of sensitivity to state legislators, environmental groups and customer interests. In addition, regulated utility operations may result in lower returns than private equity funds

## Regulatory hurdles have blocked some previous efforts by private equity firms to purchase regulated utility operations.

have experienced in the past and longer-term investment horizons than is common for private equity firms. Already there have been questions raised as to whether the KKR Group will sell off or retain the regulated utility operations of TXU Corp., TXU Electric Delivery, which is considered to have lower returns than TXU's merchant power plant operations. Private equity funds may, however, be interested in utility investments for the same reason given by Warren Buffet when he was reported to say that a utility investment is "not a way to get rich, it's a way to stay rich."

While there are many opportunities, investment in utility assets and operations should not be undertaken without a team of experts experienced in power markets, generation plant engineering and design, environmental issues that range from environmental permitting to global warming, legislative relations and customer expectations.

*Rob Dewees – Partner, Energy and Environment Group*

*Elizabeth Whittle – Partner, Energy and Environment Group*

*Stephanie Murphy – Senior Reference Analyst*

## Recent news

We are excited to report that on March 24 our firm opened an office in **Chicago**. With this new office, we will be expanding our **Intellectual Property** practice by 17 attorneys in that field.

We are also excited to report that our firm has opened an office in **Silicon Valley**, home to many of the country's leading venture capital and investment firms, start-up technology companies, and Fortune 100 high-technology corporations.

We congratulate the following Private Equity, Business and Global Finance attorneys at Nixon Peabody who were elected to partnership at the end of 2006: **Patricia Dolan** (Public Company Transactions Group), **Christopher P. Keefe** (Venture Capital and Emerging Companies, Private Company Transactions and Leveraged Buyouts Groups), **John Koeppel** (Investment Funds Group), **Greg O'Shaughnessy** (Venture Capital and Emerging Markets and Private Company Transactions Groups) and **Stavros Adamidis** (Global Finance Group).

We are pleased to announce that **Daniel G. Schmedlen**, **Benjamin W. Lau**, and **Robert B. Anderson** have recently joined our firm as partners in the Global Finance Group.

## Upcoming events

### April 2007

**Charley Jacobs** of our Investment Funds Group will appear on a panel entitled “Funds of Funds Weigh in on Terms, Investor Relations” at the 19th Annual Buyouts Symposium East, **April 17-18** in New York City.

More information about this symposium is available at <http://events.tfn.com/bs2007e/>.

### May 2007

**Nixon Peabody** will be hosting a networking event in New York City for members of the private equity, investment banking and financial services community on Thursday, **May 3** at LQ NY (511 Lexington Avenue) from 6:30 – 10:30.

If you would like to receive an invite to this event or for more information, please contact David Reimer at [dreimer@nixonpeabody.com](mailto:dreimer@nixonpeabody.com).

**Dennis Drebsky** and **Bill Thomas**, of our Financial Restructuring/ Bankruptcy Group, will be speaking at the 2007 Dow Jones Distressed Investment Forum on Thursday, **May 24** at the Grand Hyatt in New York City.

More information about this event is available at <http://distressedinvestmentforum.dowjones.com/>.

## About Nixon Peabody

Nixon Peabody LLP is one of the largest law firms in the United States, with 700 attorneys collaborating across 25 major practice areas in 17 office locations, including Boston, New York, Rochester, San Francisco, Chicago, London, and Washington, D.C. The firm’s size, diversity, and advanced technological resources enable us to offer comprehensive legal services to individuals and organizations of all sizes in local, state, national, and international matters. Nixon Peabody was recognized by *FORTUNE* magazine as one of the “100 Best Companies to Work For®” in 2006.

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