PATTON BOGGS LLP

MAY 2013

This newsletter provides only general information and should not be relied upon as legal advice. This newsletter may be considered attorney advertising under court and bar rules in certain jurisdictions.

IN THIS ISSUE

DIGGING DEEPER: A Guide to Health Care Regulatory Due Diligence in Private Equity Deals 1

Policy Spotlight: Affordable Care Act 6

Case Spotlight: Best Practices in Down -Round Financings & Subsequent Exits 10

Dealmaker's Corner 15

Deal Spotlight 17

Tax consequences: Noncompensatory partnership options 18

A New Day for Patents 24

Event Spotlight: Health care Seminar 26

Patton Boggs Deals 27

CAPITAL INFUSION: PRIVATE EQUITY UPDATE

DIGGING DEEPER: A GUIDE TO HEALTH CARE REGULATORY DUE DILIGENCE IN PRIVATE EQUITY DEALS

By David McLean and Amy Kaufman

INTRODUCTION

Investing in the health care industry can be riskier and more complicated than investing in many other industries. Health care providers and suppliers, as well as those companies that interact with them, operate in an intense regulatory environment and are the subject of increased government scrutiny for fraud and abuse and other matters related to compliance. Therefore, any unsuspecting investor that makes a wrong move during the investigative stages of a transaction can find themselves in deep water after closing. An investor that seeks regulatory counsel to guide it through the transaction, however, can be in a better position to make informed business decisions. This article highlights key areas in which an investor can expect regulatory counsel to focus their efforts and some of the issues that an investor can expect to encounter along the way.

ASSESSING RISKS AND LIABILITIES

During the due diligence phase of a health care transaction, regulatory counsel will closely examine the target provider's past and current practices to assess the risks and liabilities an investor could face if the transaction closes. Counsel should present a thorough diligence request list to the seller for items such as commercial payer contracts, documentation of enrollment with Federal health care programs, contracts with physician referral sources, lists of referral sources, real property and equipment leases, licenses, audits, information about litigation and government investigations, a summary of any Health Insurance Portability and Accountability Act ("HIPAA") breaches and enforcement actions, and information about the provider's internal compliance program.

The provider's payer mix often guides regulatory counsel's review of documents because of its relation to the laws the provider must follow and the severity of the consequences that can result from a violation. Liabilities can be particularly significant when a provider enrolled in Medicare, Medicaid, or TRICARE violates the Stark Law and Anti-Kickback statute. Therefore, regulatory counsel often will focus part of the review in these areas if the target provider is enrolled in one of those Federal health care programs. While this article focuses on those two laws, the violation of other Federal and state laws can create significant liabilities as well.

The Stark Law prohibits physicians from referring Medicare and Medicaid patients for certain designated health services ("DHS") to an entity with which the physician or an immediate family member of the physician has a financial relationship, unless an exception applies. The Anti-Kickback statute is a criminal statute that prohibits the exchange (or offer to exchange) of anything of value in an effort to induce or reward the referral of Federal health care business. To evaluate the provider's compliance with these laws, regulatory counsel should analyze the provider's financial relationships with physician referral sources, as well as the incentives or inducements that the provider offers or provides to patients in order to generate business. The term "financial relationships" is interpreted broadly and can encompass relationships ranging from employment, professional services, or recruitment agreements between the provider and a physician, to equipment or lease agreements between the provider and an entity in which an immediate family member of a physician has an ownership interest.

A provider's compliance with the Stark Law and Anti-Kickback statute should matter to investors for three key reasons:

- → the penalties associated with violations,
- → the impact on future revenue streams, and
- → the effect on purchase price.

The penalties associated with a violation of these laws can potentially be damaging to a provider. A violation of the Stark Law can result in denial of payment, mandatory refunds of reimbursement money, civil monetary penalties, and/or exclusion from the Federal health care programs. A violation of the Anti-Kickback statute can result in a criminal conviction, civil monetary penalties (which could result in treble damages plus $50,000 *per* violation), and/or exclusion from the Federal health care programs. Notably, this risk is now present more than ever because of the government's increased interest in enforcement in these areas. As such, an investor should determine if it wants a provider to resolve any actual violations prior to closing, either by making a repayment for monies owed or by voluntarily disclosing a violation to the government and reaching a settlement agreement, thereby reducing the risk that a new owner will carry this type of liability going forward.

An investor must also consider what impact these violations might have on the provider's future revenue stream, one of the most important aspects of a buyout transaction involving leveraged financing. It might be

that a provider has been so successful in generating business in the past because it has been offering inducements that violate the Anti-Kickback statute. Even if the investor is able to account for past liabilities, it should be aware that the provider will have to change its practices immediately and should evaluate whether the provider will be able to generate sufficient revenue after closing. If not, the investment might no longer be attractive, or worse, the buyer might not be in a position to service its debt payments.

Finally, an investor should consider what effect, if any, these liabilities and changes in future practices have on the price it wants to pay to invest in the business. This dovetails with the discussion above related to future cash flows. While a dramatic impact to the cash flows may impact whether an investor wants to proceed with a transaction, it may be the case that an adjustment to the purchase price can be negotiated that will still cause the investment to be attractive to the investor.

NOTIFYING THE GOVERNMENT

Regulatory counsel will determine the types of government notifications and/or consents that are required in connection with the transaction as part of its due diligence review. This determination involves a close examination of the types of enrollments, state licenses, certificates of need, and accreditation, among other items, that a particular provider has on file.[1] An investor should pay close attention to this process for three key reasons:

- → government notification requirements could impact the way in which an investor should consider structuring the transaction;
- → such notifications could have an impact on the provider's ability to operate or bill a Federal payer for its services for a set period of time after closing; and
- → such notifications could impact the timing of the closing date.

At the beginning of the diligence process, regulatory counsel should work with corporate and tax counsel and the investor to determine the most appropriate way to structure the transaction. While the investor should take into account potential liabilities and the tax planning efforts of the parties when it considers whether an asset purchase or stock purchase is preferable, as stated above, government notifications also matter. For instance, the Centers for Medicare and Medicaid Services ("CMS") often require providers that transfer ownership as part of an asset purchase to apply for a new Medicare number.[2] If a provider transfers ownership as part of a stock purchase, however, CMS might treat the transaction as a "change of information," rather than a "change of ownership" (commonly referred to as a "CHOW"), and not require the provider to submit a new application. The same could be true for Medicaid, depending upon the state and the type of provider involved. Moreover, state licensing boards might require new licensure applications in connection with a transaction; however, a board might base its decision

[1] This scope of this review will vary by provider type.

[2] It is important to confirm that this general rule applies to the particular provider type involved in this transaction.

to require a new application on the level of corporate ownership affected by the transaction rather than on the type of transfer (asset vs. stock) that takes place.

In the event the chosen transaction structure triggers certain government notifications and/or new applications, the investor should be aware of the impact this decision could have on the provider's ability to bill a Federal payer for its services or operate after closing. It should also be aware that rules and exceptions to the rules in these areas will vary by state. In the Medicaid context, for example, a provider might be required to hold claims until an application for a new enrollment number is approved. This could result in a short-term depletion of the provider's revenue stream. In the licensure context, a provider might not be able to operate until its application for a new type of license is approved. Sometimes this interruption in service can be avoided by submitting new applications a significant amount of time prior to closing or by entering into a management agreement with the previous owner after closing, which can allow the new owner to operate under the old owner's license until the new one is approved. If any of these issues are of significant concern to the investor, it should consider structuring the transaction to mitigate the impact of these requirements.

The investor should also be aware that a government notification requirement can impact when a transaction will be able to close. Often a buyer must provide agencies with advanced notice of a transaction or obtain certain approvals before a transaction can occur. Therefore, an investor might not be able to move forward as quickly as it expected or planned. To avoid any confusion or surprises, however, regulatory counsel, the investor, and the provider should have a conversation about timing as early in the diligence process as possible.

By nature, a private equity investor desires to maintain the confidentiality of its own ownership structure, including the financial and personal information of its investors. Unfortunately, in the world of government notifications in health care transactions, maintaining such confidentiality is a challenge. Government agencies such as CMS, State Medicaid agencies, licensing boards, pharmacy boards, and others might require buyers to disclose direct and indirect owners (in some cases those with as little as a five percent ownership interest), as well as other principals, of the provider (after giving effect to the new ownership) in connection with required notifications and/or new applications. Therefore, while the rules vary by agency, an investor should not be surprised if the government requests this type of information, and should undertake to commence the diligence process as soon as possible in order to assess the approvals and notifications that might be required in connection with the transaction.

THE PURCHASE AGREEMENT AS THE "CATCH-ALL"

In an ideal world, regulatory counsel will learn about every aspect of a provider's business during the due diligence process. In reality, however, regulatory counsel will be dealing with imperfect information and will have the chance to review only the documents that the seller is willing to provide. The purchase agreement serves as one means for counsel and the investor to try to level the playing field with the seller. As such, regardless of how the transaction is structured, the purchase agreement should require the seller to make detailed and far-reaching

representations about compliance with health care laws. Additionally, the purchase agreement should hold the seller accountable for making any false statements relating to those representations and for any health care liabilities that regulatory counsel was unable to identify during due diligence in order to best ensure that the investor will have adequate recourse against the seller if any liabilities or "surprises" come to light after closing.

CONCLUSION

While health care deals can be intimidating to unfamiliar investors and often involve unexpected developments along the way, the process can be smooth if the investor learns to expect anything. By staying in front of the issues that are bound to arise, regulatory counsel can be in a position to timely and successfully navigate the investor through the regulatory minefield and successfully close on a timely basis, while at the same time reducing risk for the investor.

POLICY SPOTLIGHT: AFFORDABLE CARE ACT

EMPLOYER RESPONSIBILITIES UNDER THE AFFORDABLE CARE ACT AND THE IMPACT on PRIVATE INVESTMENT FUNDS

Implementation of the Affordable Care Act ("ACA") continues at an accelerated pace. Some of its most important provisions for employers are scheduled to take effect in January 2014. With the force of these provisions now less than a year away, employers need to understand their impact and begin to prepare now to comply with the new requirements. The article focuses on one particular aspect of the ACA's audit implication on private investment funds.

In deciding whether to offer health insurance coverage to its employees, an employer must determine whether it is subject to the penalties imposed by ACA's employer responsibility provisions. If subject to the penalties, the employer should calculate (i) the penalty it could face if it chooses not to offer coverage, as compared to (ii) the cost of offering health coverage to employees, discounted by the value generated by providing the coverage in the form of its wage effects and its impact on employee health and satisfaction.

The ACA imposes penalties only on employers with 50 or more full-time equivalent employees. To calculate full-time equivalent employees, employers must use the following formula:

$$\text{Number of full–time} \quad \left[\frac{\text{Sum of the hours worked by each part-time employee in a month (up to 120 hours/employee)}}{120} \right]$$

If this sum is equal to 50 or greater, a company will be subject to penalties if both (i) it does not offer health coverage AND (ii) any one of its full-time employees receives a federal premium tax credit to purchase coverage on an exchange. For example, for an employer with 45 full-time employees, and 20 part-time employees, each of whom works 110 hours per month, the number of full-time equivalent employees would be 45 + (2200/120), or 63.3. Because the employer's number of full-time equivalents exceeds 50, the employer would be an applicable large employer and would face penalties if any of its full-time employees receives a federal premium tax credit, even though it employs fewer than 50 full-time employees.

In calculating your number of full-time equivalent employees, be aware that the sum must include the employees of all entities in a "controlled group," as defined by Internal Revenue Code section 414. Your company may, therefore, be considered a large employer based on not only your employees but also the employees of your related entities. Section 414 defines controlled groups based on three types of relationships:

- A controlled group exists based on a parent-subsidiary relationship when a parent organization owns 80 percent or more of the equity in a subsidiary. If your company owns 80 percent or more of the equity in another company, that company's employees will count toward your number of full-time equivalent employees for the purposes of determining large employer status. Further, if that subsidiary owns 80 percent or more of the equity in another company or companies, those companies' employees must also be included within your controlled group.
- A controlled group exists based on a brother-sister relationship when the same five or fewer people, who must be individuals, trusts, or estates, together own at least 80 percent of the equity in each of two organizations and at least 50 percent of the ownership of the organizations is identical. For instance, three individuals, A, B, and C, might own stock in two companies, Y and Z. Y and Z are members of a controlled group if A, B, and C collectively own 80 percent of each company and at least 50 percent of the ownership of the companies is identical. If A owns 20 percent of Y and five percent of Z, B owns 10 percent of Y and 20 percent of Z, and C owns 50 percent of Y and 60 percent of Z, Y and Z are members of a controlled group. A, B, and C collectively own 80 percent of Y and 85 percent of Z. Additionally, 65 percent of the ownership of Y and Z are identical – A's five percent interest in Z is mirrored in Y, B's 10 percent interest in Y is mirrored in Z, and C's 50 percent interest in Y is mirrored in Z. If, however, B and C's ownership interests are different, such that B owns 10 percent of Y and 60 percent of Z and C owns 50 percent of Y and 20 percent of Z, Y and Z would not be members of a controlled group. Though A, B, and C would still collectively own 80 percent of both Y and Z, there would be only 35 percent identical ownership between the two companies.
- A controlled group also exists in the case of an "affiliated service group," where several service organizations regularly collaborate in the services they provide and are linked by at least 10 percent cross-ownership.

HOW DO THE "CONTROLLED GROUP" TESTS IMPACT PRIVATE INVESTMENT FUNDS?

This "controlled group" analysis is especially critical when examining whether private investment funds and their individual portfolio company investments are subject to the penalties imposed by ACA. Based on the first of the above described relationship tests – the parent/subsidiary relationship – to the extent that any private investment fund owns at least 80 percent of the equity in a portfolio company, that private investment fund will technically be aggregated with

that portfolio company as part of a controlled group and prospectively subject to the penalties imposed by ACA. However, private investment funds themselves (whether formed as limited partnerships, limited liability companies, offshore corporations or otherwise) generally do not actually have employees since they are only pools of capital, and those who manage (*i.e.*, "work for") a private investment fund are employed by the fund's sponsor and/or investment manager, which is a separate entity that does not, itself, have an ownership interest in the portfolio company under normal circumstances. Accordingly, to the extent a portfolio company has 50 or more full-time employees and a private investment fund with no employees owns at least 80 percent of the equity of that portfolio company, the private investment fund would be considered a large employer under the parent/subsidiary relationship test, but is not likely to be subject to penalties under ACA (the result may be different, however, in the rare case of a private investment fund that actually has employees).

Nonetheless, there may be other consequences to a private investment fund that would impact its bottom line from an economic standpoint. For example, if any of its portfolio companies acquired other companies, the same controlled group analysis using the parent/subsidiary relationship test would be applied in connection with those acquisitions. As a result, a private investment fund could be aggregated with the subsidiaries of its portfolio companies if the 80 percent equity ownership threshold is met in relation to the acquired subsidiaries. Any penalties imposed on the portfolio companies and their subsidiaries under ACA could, therefore, have a negative impact on the private investment fund's returns.

Another important consideration occurs in the case of many different portfolio companies that are commonly owned by a single investment fund and whether these different portfolio companies would be aggregated to create a controlled group. In this case, the brother-sister relationship test may be applicable, depending on the ultimate ownership of the fund. The requirement for the brother-sister test is that the common owners must be individuals, trusts or estates and that the same five or fewer people own at least 80 percent of each organization (with at least 50 percent ownership being identical). The only way to trigger this test in the investment fund context would require a "look through" to the ultimate ownership of the investment fund. The rules are not abundantly clear in describing circumstances as to when such a look-through would be imposed. To the extent that such a look-through were indeed prescribed, the nature and character of the investment fund's investors would need to be carefully examined. Accordingly, a private investment fund having an ownership structure that lines up with the test imposed by the brother-sister test (*i.e.*, five or fewer *individuals*, trusts or estates holding greater than 80 percent of the investment fund with at least 50 percent ownership being identical) should carefully analyze this rule with its legal counsel. Alternatively, the typical private investment fund that has an investor base consisting of several public and private pensions and other institutional investors *should not be captured by the brother-sister relationship test*. Given the critical nature of this issue, however, it is highly recommended that all private investment funds consult with legal counsel in order to analyze the application of this rule to their unique circumstances.

For a more detailed analysis of the ACA, including a discussion of required coverage amounts, penalty calculations, eligible employees and tax implications, please see the Patton Boggs Client Alert dated March 26, 2013. A link to the Alert can be found here.

PATTON BOGGS LLP

CASE SPOTLIGHT: BEST PRACTICES IN DOWN - ROUND FINANCINGS & SUBSEQUENT EXITS

DOWN-ROUND EQUITY FINANCINGS AND SUBSEQUENT EXIT TRANSACTIONS: BEST PRACTICES FOR PREFERRED INVESTORS AND THEIR BOARD DESIGNEES

By: Akash Sethi and Ryan Mitchell

Today's middle market private equity landscape is as diverse and varied as it has ever been. With new portfolio investments scattered across a multitude of varying industries, it is clear that investor confidence has improved dramatically since the onset of the Great Recession. Yet, despite the general renewed confidence among private equity investors, one thing has and will continue to remain the same – not all equity investments are wildly successful (at least for some classes of shareholders).

Those who have been involved in the private equity space for any period of time are likely familiar with "down-round" equity financings and their impact on subsequent exit transactions. A down-round equity financing transaction is one where the target company has a "pre-money" valuation that is lower than the "post-money" valuation following its most recently completed round of financing. In other words, the target company has a lower valuation now than it did at the time of the most recently completed financing, such that the securities purchased in the current round are effectively "cheaper" based upon the lower valuation. Such down-round equity financings often serve to substantially dilute the equity positions of prior investors, as well as grant substantial management and economic rights to the investors who participate. Among other things, the end result is often that the down-round investors receive significant board representation in addition to substantial liquidation preferences (often 2.0-3.0x or more) on their invested capital, which reduces the expected returns of non-participating shareholders. As a result, down-round financings can result in preferred investors taking management control of a company that enables them to drive an exit transaction where the company is sold at or below the liquidation value of the preferred equity issued in the down-round. Consequently, preferred investors experience a positive return, while the holders of junior equity securities receive very little or no proceeds from a sale, barring a substantial turnaround of the company and the opportunity to sell for an optimistic (and often unrealistic) premium.

At first glance, the scenarios described above would likely seem grossly unfair to the common shareholders (who often include, at least in part, the individuals who initially founded the company); however, down-round financings often provide a critical capital injection into a company, without which it would not survive, and these "last dollars in / first dollars out" (or "LIFO") arrangements are typical constructs in most investment transactions. The necessity for such financings may be the result of poor management by the founders, general economic deterioration or otherwise. In any event, the investors in a down-round financing are taking on substantial risk by committing capital to a distressed entity, and therefore expect a

high rate of return, hence the aforementioned liquidation preferences that are commonplace.

Preferred investors and their board representatives should be well versed with respect to the fiduciary duties that directors owe to the company and its shareholders, or risk finding themselves in a situation similar to directors in the recent Delaware case of *Carsanaro v. Bloodhound Technologies*[3], which serves as a bleak reminder of what not to do in cases of down-round financings and exit transactions. While different states impose varying duties on directors, the majority of an investment fund's portfolio companies are often governed by Delaware law, which is the focus of this article. Under Delaware law, a director is bound by the following duties of loyalty, care and disclosure:

The duty of loyalty requires that directors act in good faith and in the honest belief that a particular transaction is in the best interests of the company and its shareholders. Among other things, this duty requires a subordination of personal interests to the interests of the company and its shareholders.

The duty of care requires that directors exercise care in the performance of their responsibilities, meaning that such directors make a reasonable effort to consider and evaluate all material information when making decisions in their capacity as directors.

The duty of disclosure requires directors, when seeking shareholder action, to disclose to shareholders all material facts that are relevant to the action for which the directors are seeking shareholder approval.

In the event a director fails to comply with these fiduciary duties when taking a particular action, the action taken can be subject to invalidation and the director may face personal liability for the consequences of the action taken. Of particular importance to private investment funds making preferred investments in portfolio companies, the Delaware Court of Chancery has held that directors owe these fiduciary duties to both preferred and common shareholders, but where a right claimed by preferred shareholders is a preference against the common stock, it will generally be a director's duty to prefer the interests of common stock to the interests of the preferred stock, where a conflict exists. Certainly, this may come as a surprise to some. If a down-round equity financing is completed, and the company is ultimately successful thereafter, any shareholders that did not participate in the down-round may very well allege that the approval of the down-round transaction was tainted by the involvement of "interested directors" who breached their fiduciary duties to the company's existing shareholders by authorizing the transaction.

Generally, director decisions are shielded by the "business judgment rule," which is a presumption that directors acted on an informed basis, in good faith and in the honest belief that the action taken was in the best interest of the company. However, the business judgment rule is not applicable in interested director transactions. In the case of such interested director transactions, the interested directors bear the burden of establishing the "entire fairness" of the transaction. Typically, an interested director transaction is one in

[3] *Carsanaro v. Bloodhound Technologies Inc.*, Del. Ch., C.A. No. 7301-VCL, 3/15/13.

which (i) certain directors have a material financial interest in the transaction that is not shared by the company and its shareholders and (ii) the materially self-interested directors: (a) constitute a majority of the board, (b) control and dominate the board as a whole, or (c) fail to disclose their interests in the transaction where a reasonable board member would have regarded the existence of their material interests as a significant fact in the evaluation of the proposed transaction.

To prove the entire fairness of a transaction, one must show the existence of fair dealing as well as fair price. With respect to the fair dealing component, this involves an analysis of procedural matters such as how the transaction was timed, structured and negotiated, and how the approvals of the requisite directors and shareholders were obtained (including whether adequate disclosures were made in connection with it). With respect to the fair price component, a court will determine fair price as an amount that is within a range that a reasonable person with access to relevant information might accept.

So what are preferred investors and their board designees to do? While there is never a guarantee that a given action will be fully-insulated from a shareholder challenge with respect to the entire fairness standard, the list below sets forth some recommended steps that should be considered in connection with evaluating and approving, as applicable, any down-round financing or sale of the company at or below the preferred liquidation preference:

→ Ensure that there are no more attractive alternatives available. This should involve a thorough canvassing of the market to determine what alternatives are available, with the board's findings to be thoroughly documented and included in the minutes of the board meetings.

→ Have multiple board meetings to evaluate available alternatives and make decisions, including specific discussions regarding the impact on junior equity classes. By holding multiple, well-documented meetings the board will be better positioned to argue that a thorough evaluation and decision-making process was undertaken. Additionally, the earlier the evaluation process can begin, the better, as the company is more likely to have a greater number of alternatives (with better terms) to choose from if a proper amount of time is allotted to the process.

→ Offer minority shareholders the right to participate in the down-round on a pro rata basis. By offering all shareholders the right to participate, the investor(s) leading the down-round will be viewed more favorably (and less like the bully on the block that is intentionally washing out the minority positions of others). Moreover, it becomes more difficult for a minority shareholder to argue that a fair price was not obtained when such shareholder, in fact, rejected that price.

→ Appoint a special committee of disinterested directors to evaluate the transaction. A court will be less likely to find that a director acted improperly in approving a particular action if such approval was based on an unbiased recommendation from a bona fide special

committee that was appointed to independently evaluate the transaction.

- → Obtain a fairness opinion or an independent appraisal from an investment bank or independent advisor to support the valuation of the company upon which the transaction is based.
- → Provide for a nominal "carve-out" for common shareholders in connection with sale transactions at or below the preferred liquidation value, such that the common shareholders receive at least some proceeds from the sale.
- → Include a well-crafted drag-along provision in shareholder agreements. While not necessarily determinative, the presence of a drag-along provision can arguably serve as a good fact for the investor(s) leading a sale transaction. To the extent a sale transaction is being effectuated by using such a drag-along provision, ensure that the parties entitled to exercise the drag-along right comply strictly with its requirements.
- → Use discretion when taking actions that, while contractually permitted, may be viewed with disfavor by a court. For example, a preferred investor may have a broad contractual right to amend the portfolio company's operating/governance documents, including the ability to eliminate notice requirements or similar rights otherwise provided to holders of junior classes of equity. Unless absolutely necessary to consummate a particular transaction, such actions should be avoided as they may trigger an increased level of judicial scrutiny.
- → Attempt to secure a disinterested third party to lead any down-round financing. It will be much more difficult to argue that a director was breaching his or her duty of loyalty to the company and its shareholders if the transaction is negotiated at arms' length with an unaffiliated third party.
- → Solicit the approval of the disinterested shareholders and distribute robust information statements to all shareholders with respect to the contemplated transaction, including unambiguous explanations of the anticipated effect on all classes of equity interests.
- → Document, document, document! It is absolutely critical to maintain detailed records setting forth the alternatives considered (including all efforts made to locate prospective investors/purchasers, whether undertaken by financial advisors or otherwise), the actions taken and the underlying rationale for them.

In summary, down-round financings (as well as subsequent exit transactions that result in most or all of the sale proceeds being allocated to preferred investors) are not uncommon, and carry with them the risk that a class of junior equityholders may bring a challenge. Practically speaking, it would be rare for all of the above recommended actions to be taken in connection with a particular transaction, given the associated time and expense (and in some cases, futility). For any number of reasons, certain of these actions may or may not be feasible or desirable in a given scenario. Nevertheless, preferred investors and their board designees should endeavor to employ as many of these strategies as are practicable in a given

situation, or risk greater exposure to shareholder litigation and increased judicial scrutiny.

DEALMAKER'S CORNER

In this issue's installment of "Dealmaker's Corner," we had the opportunity to visit with Kyle Bradford, Managing Director with American Capital, Ltd., concerning the pharmaceutical services industry.

Capital Infusion: What are the significant benefits of outsourcing services in the pharmaceutical industry?

KB: There are many benefits and I think you will see outsourcing continuing to build on its growth that has been going on for years. Two of the main benefits that pharmaceutical companies realize are a reduction of fixed costs and more cost flexibility. This helps companies maintain margins and increase profitability, which has become increasingly important over the years as the pharmaceutical industry has evolved and become more competitive with the advent of the small biotech and midsize pharmaceutical manufacturers that operate, in many instances, a fully outsourced model. In the 1990's and the early 2000's, there were very large blockbuster drugs driving an incredible amount of growth for pharma companies and many of those drugs have seen patent protection expire recently. The loss of these big "cash cows" with a relative slowing of development of new blockbuster drugs has contributed to the rise in outsourcing. In addition, novel new compounds are becoming more complex and more targeted, focusing on smaller populations. This trend will only continue, and specialized Contract Development and Manufacturing Organizations ("CDMOs") are in a unique position to capture increased share as they have the technical capabilities to develop complex and unique compounds.

Capital Infusion: In what other ways do service providers help companies in the pharmaceutical industry?

KB: As drugs become increasingly more complex and targeted, pharma companies cannot often rationalize having all of the necessary technology "in-house," and so they look to the providers who have varied technologies available for instant utilization. Also, in today's environment with increased scrutiny by the Food and Drug Administration (FDA), the cost and timeframe of getting drugs to market has increased substantially. Outsourcing has allowed pharma companies to become more nimble to address this reality, offering companies the ability to lower employee count and become more virtual and flexible.

Capital Infusion: How have you seen the pharma services industry evolve over the years?

KB: It was probably 20 years ago when you really started seeing the industry take off and we've seen it play out on chemical entities or small molecule drugs. Today, I suspect more than half of all clinical trials, as well as greater than half of the manufacturing of small molecule drugs, are now being outsourced. I contrast this with the biologic space, where a much smaller percentage of the manufacturing is being outsourced right now. However, you are starting to see more specialized, biologic-focused CDMOs and so, over the next decade, I think you will see the percentage of biologic CDMO demand grow like we have seen in the chemical space.

Capital Infusion: How did the recent recession affect the outsourcing industry?

KB: The recession definitely affected the industry, particularly on pre-clinical R&D spending, Where we witnessed a pretty significant drop in pre-clinical R&D spending after the recession. Pharma companies started really focusing their R&D dollars on later stage products and so the earlier stage R&D got hit hard. That decline seems to have bottomed and I would expect that segment to start coming back over the next 5 years or so. Obviously, drug development is not going to go away, and so people are eventually going to have to start reinvesting in the earlier stage molecules to get them in the pipeline and in clinical trials. Right now, pharma companies seem focused on drugs that are further along and closer to commercialization; trying to get them out to market in order to start realizing returns.

Capital Infusion: Have you seen service providers moving more toward specialty areas as opposed to trying to be more of generalists?

KB: I think that really varies by provider. You have the larger players who are able to be larger and more generalists. They are acquisitive and buying smaller companies that are specializing in order to acquire certain capabilities instead of developing them. We certainly see smaller players that are popping up and focused on areas such as genomics, proteomics and combinatorial chemistry. As they build this expertise, you will see larger players coming in and making acquisitions to further diversify their offerings to the industry. I expect to see more consolidation taking place, driven by other dynamics as well such as credit availability, cash on the balance sheet, and increasing market levels and confidence.

Capital Infusion: One of the most significant issues facing the whole health care industry is the implementation of "Obamacare." How do you think outsourcing has been impacted by this legislation?

KB: As with the entire industry, it is the overall uncertainty that also leads to more conservative behavior from pharma companies, which causes lower spending on R&D and obviously impacts the outsourcing market. With greater clarity, you should see further improvement in R&D spending.

Capital Infusion: What other significant challenges are outsource providers facing today?

KB: Competition, and in particular, Asian competition, has been a significant challenge and it certainly depends on where you are focused. While international low-cost competition is present, anecdotally, we are starting to see projects return to the U.S. as a result of better quality, a creep up in prices overseas and IP leakage. Outsource providers also continue to need to be aware of and accommodate the increased FDA scrutiny that impacts all the players in the market. Collocation in North America and Europe, the centers of drug development, is very important in the development process, especially for small and mid-sized specialty pharma and biotech.

DEAL SPOTLIGHT

PATTON BOGGS ADVISES ON INNOVATIVE HEALTH CARE TRANSACTION

Patton Boggs recently advised Satori Capital, a Dallas-based private equity firm, on its acquisition of Longhorn Health Solutions, Inc. Longhorn is headquartered in Austin, Texas and is a leading direct-to-home provider of consumable medical supplies and durable medical equipment. Longhorn also recently launched a pharmaceutical division that serves the entire state of Texas. Longhorn employs a unique business model in which it brings its medical products directly to the homes of Medicare, Medicaid and privately insured patients utilizing vans dispatched from its warehouses located throughout Texas, a model that has been called the "future" of patient provided health care.

While financial terms of the transaction were not announced, Longhorn's founder and Chief Executive Officer Britt Peterson maintained an ownership position in the company and will continue as its CEO. The transaction was particularly notable for the complex health care regulatory hurdles that had to be overcome and addressed in order to maintain continuity of Medicare and Medicaid provider status, as well as preserve the company's competitive bidding arrangements and other aspects of its business and operations.

The Patton Boggs attorneys advising on the transaction worked closely across several different practice groups, including private equity and corporate finance, health care, public policy and tax, to achieve the most efficient and beneficial outcome for the overall transaction – taking both its client's, as well as the seller's, interests into account. The transaction was particularly challenging given the short time frame surrounding a closing at the end of December. In addition to the looming fiscal cliff which was motivating buyers and sellers across all industries to urgently close transactions and putting a strain on resources of financiers, lenders and investors, the year-end holiday season is always a difficult environment to coordinate the necessary Federal and state regulatory notices, licensing and approvals that are involved in the acquisition of a health care service provider such as Longhorn.

The closing of the Longhorn transaction was a testament to the hard work, perseverance and skill of all of those who were involved in pushing it successfully across the finish line. "Only 14 days passed from the time we selected a lender to the time we completed the investment," said John Grafer, a Principal at Satori. "We appreciated the focus and intensity with which the Patton Boggs team worked to help us complete the investment before the holidays."

TAX CONSEQUENCES: NONCOMPENSATORY PARTNERSHIP OPTIONS

By George Schutzer, Sean Clancy and Lindsay Faine

The Department of the Treasury and the Internal Revenue Service issued final regulations, effective February 5, 2013, concerning the tax consequences of noncompensatory options and convertible instruments issued by a partnership or limited liability company, such as warrants. Among the various provisions covered, the final regulations include a characterization rule to determine whether a noncompensatory option is treated as a direct interest in the issuing partnership. These new regulations have very significant importance to, among others, private investment funds that either are prohibited from receiving Unrelated Business Taxable Income (UBTI) or have a strong investor mandate or desire to limit exposure to any UBTI. These regulations will cause funds with foreign and tax-exempt investors to revisit their procedures for determining whether and how to acquire warrants in connection with loans to portfolio companies that are treated as partnerships for tax purposes.

A key provision of the regulations implements a new test to determine whether a noncompensatory warrant issued by a partnership or limited liability company taxed as a partnership would be considered a partnership interest upon grant or other "measurement event." If two conditions are satisfied, a noncompensatory warrant will be considered a direct interest for tax purposes. The first condition requires that "the noncompensatory option (and any agreement associated with it) provides the option holder with rights that are substantially similar to the rights afforded a partner." A "penny" warrant, which is most commonly utilized as the typical "equity-kicker" received by a lender in a financing transaction, appears to satisfy the first condition[4], so the status of a penny warrant as a partnership interest is likely to depend on the application of the second condition, which requires that: "There is a strong likelihood that the failure to treat the holder of the noncompensatory option as a partner would result in a substantial reduction in the present value of the partners' and noncompensatory option holder's aggregate Federal tax liabilities." This article focuses on the application of the second condition, referred to in this article as "the present value test."

---

[4] The regulations state that a noncompensatory option provides the holder with rights substantially similar to a partner if (i) the option is reasonably certain to be exercised or (ii) the option holder possesses partner attributes. The regulations provide guidance for determining whether an option is reasonably certain to be exercised. Under that guidance, it appears that an option with a very low exercise price will be considered reasonably certain to be exercised. A holder of a "penny" warrant might be able to argue in certain cases that, despite the apparent economics of the warrant, it is not reasonably certain to be exercised because the holder is precluded by its own organizational documents from holding an interest in a partnership or LLC operating a business and the only likely exit strategy is redemption or sale of the warrant. An analysis of that possible argument is beyond the scope of this article.

The new regulations state that the determination of whether the present value test is satisfied "is based on all of the facts and circumstances, including—

- "(i) The interaction of the allocations of the issuing partnership and the partners' and noncompensatory option holder's Federal tax attributes (taking into account tax consequences that result from the interaction of the allocations with the partners' and noncompensatory option holder's Federal tax attributes that are unrelated to the partnership);
- "(ii) the absolute amount of the Federal tax reduction;
- "(iii) the amount of the reduction relative to overall tax liability; and
- "(iv) the timing of items of income and deductions."

The regulations require that the analysis look through pass-through entities such as partnerships, trusts, limited liability companies and S corporations that may be partners. In many cases, the present value test will be difficult to apply because the results depend on tax characteristics of partners of which the potential warrant holder may not be aware, assumptions about the taxable income and losses, including amount and type of income, of the partnership, and assumptions about the exit strategy of the warrant holder and of the partnership. Nevertheless, we are providing some general guidance below that may be helpful in trying to apply the test.

- **Step 1**: Determine whether the partnership is likely to generate tax losses for a period of time and whether the losses will be significant. The analysis of the use of losses can be distinctly different than the analysis of the use of income.
- **Step 2**: Determine what type of income the partnership is likely to generate such as ordinary income, capital gains, and passive income that is not included in unrelated business taxable income of tax-exempt investors (such as interest, dividends and royalties).
- **Step 3**: Assess the tax positions of the warrant holder or the partners/members of the warrant holder. Are they individuals, corporations, pension funds, governmental entities or tax-exempt entities? If the warrant holder is a corporation, does it have NOL carryovers that can absorb income without any current tax consequences (or relatively de minimis tax consequences resulting from the alternative minimum tax)?
- **Step 4**: Assess the tax positions of the partners/members of the partnership.

The following table points to factors that would lead to a favorable result (not satisfying the present value test) or an unfavorable result (satisfying the present value test) for a penny warrant issued to a partnership by a partnership that is expected to have taxable income each year and for which there is no exit strategy or expectation of a sale of the partnership or its assets in the short run.[5]

---

[5] It is possible that if the warrant holder and partnership expect a sale of the partnership or its assets in the short term, the tax consequences of a potential sale need to be taken into account in the analysis. The table below focuses primarily on tax consequences from the operation of the partnership or LLC.

INCOME PRODUCING PARTNERSHIP

	FAVORABLE FACTORS	UNFAVORABLE FACTORS
Issuing Partnership or LLC	None of, or only a small portion of, equity interests in the issuing partnership or LLC held by entities described in the box to the right. A substantial percentage of partnership interests held by: → Corporations in full-tax position (no NOL carryovers and taxed at a 34 percent percent or 35 percent percent federal rate) → Individuals who are taxed at the margin at the highest individual marginal tax rates (unless partnership expected to generate substantial dividend or long-term capital gains income). → Foreign investors with effectively connected income. → Partnerships with partners (or LLCs with members) described in the preceding bullets.	A substantial portion of the equity interests in the issuing partnership or LLC held by: → Tax-exempt partners (unless (i) partnership is engaged in a trade or business, (ii) partnership does not generate significant passive income that is exempt from the unrelated business income tax, and (iii) tax-exempt partner does not have losses from other unrelated business activity). → Governmental entities (including government pension funds). → Individual partners who are not taxed at the margin at the highest individual marginal tax rates. → Corporations with NOL carryovers or that are minimum-tax taxpayers. → Individual partners if partnership is expected to have significant capital gain and/or dividend income. → Partnerships with partners (or LLCs with members) described in the preceding bullets.

	FAVORABLE FACTORS	UNFAVORABLE FACTORS
Partnership or LLC Holding Warrant	A substantial portion of the equity interests in the warrant holder are held by: → Tax-exempt partners (but only if (i) the issuing partnership is not engaged in an unrelated trade or business, (ii) the tax-exempt partners has substantial losses from other unrelated trades or businesses, and/or (iii) the issuing partner is generating substantial passive income that would be exempt from the unrelated business income tax). → Governmental entities (including government pension funds). → Individual partners who are not taxed at the margin at the highest individual marginal tax rates. → Corporations with NOL carryovers or that are minimum-tax taxpayers. → Individual partners if holder is expected to have significant capital gain and/or dividend income. → Partnerships with partners (or LLCs with members) described in the preceding bullets. Partners described in the first two bullets (and partnerships with such partners) would be the most beneficial and would carry the greatest impact when performing the analysis.	None of, or only a small portion of, the equity interests in the warrant holder held by entities described in the first two bullets in the box to the left. Substantial percentage of equity interests in the warrant holder held by: → Corporations in full-tax position (no NOL carryovers and taxed at a 34 percent or 35 percent rate) → Individuals who are taxed at the margin at the highest individual marginal tax rates (unless partnership expected to generate substantial dividend or long-term capital gains income). → Foreign investors which would have effectively connected income if the warrant holder is treated as a partner of the issuing partnership but would not have effectively connected income if the warrant holder is not treated as a partner. → Tax-exempt entities that would be subject to unrelated business income tax at a 34 percent or 35 percent rate on their allocable share of substantially all of the income of the issuing partnership if the warrant holder were treated as a partner. → Partnerships with partners (or LLCs with members) described in the preceding bullets.

Note that the present value test requires a **strong likelihood** of a **substantial reduction** in taxes if the warrant holder is not treated as a partner. *Therefore, if as a whole the partners of the warrant holder would bear about the same tax liability with respect to an allocable portion of the income of the issuing partnership as the partners of the issuing partnership would bear if the income was allocated to them rather than the warrant holder, the present value test is not likely to be satisfied and the warrant holder would not have to be treated as a partner.*

If the issuing partnership is expected to generate tax losses for an extended period of time and the losses may have a greater present value than the income generated by the issuing partnership before the expected disposition of the business, the expected redemption of the warrant, or another expected "exit," many of the factors in the table above would flip, and the following additional considerations would need to be taken into account:

- → Individuals, trusts and closely held corporations are subject to the passive loss rules. Those rules may restrict or limit the ability of individuals, trusts and closely held corporations to use losses from a trade or business conducted by the partnership unless they have income from other sources or are actively involved in the partnership's trade or business. Therefore, it would be helpful to have partners whose use of losses is blocked by the passive loss rules in the issuing partnership and unhelpful to have them in the warrant-holder partnership.
- → Application of at-risk rules, basis rules, and partnership allocation rules, which may operate to limit the losses allocable to or usable by particular partners of the issuing partnership and the warrant-holder partnership.

When undertaking an analysis of the present value test, one must also look at the rights that the warrant holder would have if it exercised the warrants. For example, if the warrant is for a class of partnership interest that only participates in distributions resulting from the sale of substantially all of the assets of the issuing partnership, one should not assume that if the warrant holder were treated as a partner it would have a pro rata share of the all of the income of the issuing partnership. Instead, it is more likely that it would only have a pro rata share of the undistributed income of the partnership. This may be material in determining whether the failure to treat the warrant holder as a partner results in a substantial reduction in tax liability.

This article provides only a flavor of factors that may be taken into account when assessing whether a warrant is likely to pass or fail the present value test. Other factors may also play a role in determining whether a particular warrant will pass or fail the test. For example, it may be necessary to compare the tax consequences of a potential exit strategy. Each penny warrant must be examined separately, but an overall evaluation of the composition of a warrant holder-partnership may provide a good indicator of whether its warrants can generally be expected to pass or fail the test. The factors provided in the table above are intended to provide general guidance but should not be strictly relied upon when making a determination as to whether a warrant would be classified as a

partnership interest for federal income tax purposes. Rather, we recommend that persons making this determination consult with their tax and legal advisors to ensure that all the facts and circumstances relating to the warrant ownership and the issuing partnership can be fully considered. The tax and finance team at Patton Boggs is available to assist warrant holders and potential warrant holders in undertaking an analysis of whether a warrant will be considered a partnership interest.

To ensure compliance with requirements imposed by the IRS, we inform you that any tax advice contained in this communication (including attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed herein.

A NEW DAY FOR PATENTS

By Robert Johnston III

As of March 16, 2013, all the provisions of the Leahy-Smith American Invents Act ("AIA") have become effective. The AIA creates a new patent system for the United States with important ramifications for all technology companies.

THE UNITED STATES IS NOW UNDER A FIRST-INVENTOR-TO-FILE SYSTEM

Before the change, the American patent system was a first-inventor-to-invent system. Under this old system, in a competition between independent inventors, the first individual or individuals to invent were generally awarded the patent. Thus, individuals who were first to invent but second to file at the United States Patent and Trademark Office ("USPTO") were able—potentially—to receive the patent. No more.

Under the AIA's new first-inventor-to-file system, the first inventor to file a patent application in the United States will be awarded the patent. This is a momentous shift from the first-inventor-to-invent system. The first-inventor-to-file system applies to U.S. patent applications that contain, or contained at any time, at least one claim having an effective filing date on or after March 16, 2013. Furthermore, unlike under the first-inventor-to-invent system, inventors under the first-inventor-to-file system are not able to use the invention date to avoid prior art that appears between the invention date and filing date.

A LARGER UNIVERSE OF PRIOR ART

The universe of prior art available for comparison to the invention has increased significantly as of March 16. This may make it more difficult to obtain a patent. Under the old law, an inventor had one year from when the invention appeared in a publication or was used or sold (each constituting prior art) to file a patent application. This one-year period was known as a "grace period." Under the new provisions, the blanket one-year grace period is gone. Any prior art available before the filing date is now available to apply against the patent application with one important exception. The exception provides that if the invention was directly or indirectly disclosed within one year of the filing date by the inventor, the inventor will not be blocked by prior art appearing between the disclosure and the filing date. The exact scope of this exception is ill-defined and should not be relied upon until the courts interpret it.

The AIA also expands the universe of prior art by eliminating what was called the Hilmer Doctrine. Under the long-standing Hilmer Doctrine, only published U.S. applications and international applications that designated the United States as recipient were available for use as prior art *as of their initial filing date*. Now, published patent applications and patents—regardless of where filed or in what language they are filed—are available as prior art effective as of their initial filing date.

The AIA has also removed geographical limitations that existed for certain prior art. Under the old law, public use and sales activities could not be used as prior art if the activities occurred outside the United

States. Now, the relevant provision has no geographical restriction.

POST-GRANT REVIEW

Sometime after March 16t, we will see the new Post Grant Review ("PGR") process used to challenge the validity of issued patents upon any grounds of patentability (novelty, obviousness, lack of enablement, etc.). The PGR provides a mechanism for challenging the validity of patents at the USPTO instead of the federal courthouse. To use a PGR, the petitioner must show that it is "more likely than not that at least one of the claims challenged is unpatentable." Moreover, a PGR must be initiated within nine months of a patent grant and is only applicable to patents issued under the new first-inventor-to-file system. Because of this latter requirement, we will most likely not see a PGR for at least one or two years.

RECOMMENDATIONS

Under the new law, you should file as soon as possible after creating a new invention. Filing processes should be reviewed and streamlined. Furthermore, you should discuss the filing timeline with your attorney on each patent application.

You should also consider monitoring patents issued to your competitors and evaluating opportunities under the PGR proceedings to challenge a competitor's intellectual property before it can create problems for you in the marketplace. A timely filed PGR may help you to avoid high-cost litigation down the road.

EVENT SPOTLIGHT: HEALTH CARE SEMINAR

On April 25, Patton Boggs presented a seminar consisting of two panels addressing important emerging topics in health care that impact business. The seminar consisted of two panels, one covering implementation of the Affordable Care Act ("ACA") and the other covering trends in health care investigations and enforcement activities. Former Senator and Senior Counsel John Breaux kicked off the event by discussing the political climate for health care issues and health care companies. The first panel covered topics including Medicaid expansion, health insurance exchanges, new taxes and fees that originate in the ACA, the essential health benefits package, and other issues that impact employers. The second panel covered the increased scrutiny on health care companies, the importance of a robust compliance program, trends in congressional investigations, and trends in civil and criminal enforcement activity in health care. For [audio] of the full seminar, please click here http://bcove.me/5u3tfyf0.

PATTON BOGGS LLP

PATTON BOGGS DEALS

PENINSULA CAPITAL PARTNERS	PENINSULA CAPITAL PARTNERS	PENINSULA CAPITAL PARTNERS
Subordinated debt and private equity investment to facilitate the acquisition of Whitewater Brands, in partnership with Rock Gate Partners, LLC. *Confidential*	Mezzanine and private equity investment to support a leveraged buyout by The LIT Group, L.L.C. The LIT Group provides nationwide deposition and litigation support services to law firms, Fortune 500 companies and regulatory agencies. *Confidential*	Mezzanine and private equity investment to support a leveraged buyout by Farren International LLC. Farren International provides commercial trucking and brokerage services, as well as niche logistics such as rigging, millwright and heavy hauling. *Confidential*
AMERICAN CAPITAL, LTD.	**THE MEADOWS, A PORTFOLIO COMPANY OF AMERICAN CAPITAL, LTD.**	**ZERO EMISSION ENERGY PLANTS LTD.**
Acquisition of Cambridge Major Laboratories, Inc., a leading global provider of complex chemistry-based outsourcing services to the pharmaceutical and biotechnology industries. *$212,000,000*	Acquisition of Remuda Ranch, an inpatient and residential center for women, adolescents and children suffering from eating disorders and related issues. *Confidential*	Formation of joint venture with Todd Corporation to construct a methanol production facility in Louisiana that will convert natural gas into 5,000 metric tons per day of methanol and will be the largest methanol production facility in North America when completed. *Confidential*

ORIX PRIVATE EQUITY	ORIX MEZZANINE & PRIVATE EQUITY INVESTMENTS	SATORI CAPITAL
Investment in R2integrated, a leading digital and social marketing agency. *Confidential*	Mezzanine and private equity investment for the acquisition of Sierra Engineering and Sierra Petroleum Services, Ltd. by Corinthian Capital Group, LLC and its management. Sierra provides engineering and consulting services to the oil and gas industry. *Confidential*	Acquisition of Austin based Longhorn Health Solutions Inc. , a direct-to-home provider of consumable medical supplies, durable medical equipment, and pharmaceutical prescriptions. *Confidential*
FIRST PLACE FINANCIAL CORP.	**PACIFIC PREMIER BANCORP, INC.**	**SEACOAST CAPITAL**
Sale of substantially all of its assets, including all of the outstanding shares of its wholly owned bank subsidiary, to Talmer Bancorp, Inc. pursuant to Section 363 of the U.S. Bankruptcy Code.	Acquisition of First Associations Bank, a Texas-chartered specialty bank focused on home owners' association management services. *$56,700,000*	Private equity investment in Northwest Cascade, Inc., a provider of diversified commercial, industrial and residential services, and construction of municipal sewerage and commercial and residential wastewater infrastructure. *Confidential*
AMERICAN CAPITAL	**ALCHEMY SYSTEMS, LP**	
Acquisition of ASAP Industries, a leading independent manufacturer and refurbisher of high-pressure flow control products for the global oil and gas industry. *$89,000,000*	Disposition of Alchemy Systems (Alchemy) of Austin, Texas, a provider of food and workplace safety training solutions delivered through a software-as-a-service (SaaS) model, to The Riverside Company. *$56,700,000*	

PATTON BOGGS LLP

EDITORS

For more information, contact your Patton Boggs LLP attorney or the authors listed below.

DAVID MCLEAN
dmclean@pattonboggs.com

JON FINGER
jfinger@pattonboggs.com

ADAM CONNATSER
aconnatser@pattonboggs.com

ATWOOD JETER
ajeter@pattonboggs.com

RANI GUERRA
rguerra@pattonboggs.com

ABU DHABI
ANCHORAGE
DALLAS
DENVER
DOHA
DUBAI
NEW JERSEY
NEW YORK
RIYADH
WASHINGTON DC