ITSO

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15 June 2006

Marlene H. Dortch, Secretary
U.S. Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Notice of *Ex Parte* Meeting - IB Docket No. 05-290

Dear Ms. Dortch:

On June 15, 2006, Julie Reese, Deputy Director General and General Counsel, and Jose Toscano, Director of External Affairs, of the International Telecommunications Satellite Organization (ITSO) met with Angela E. Giancarlo, Acting Legal Advisor to Commissioner McDowell.

During the meeting, the participants discussed the following documents, as submitted to IB Docket No. 05-290 by the U.S. Department of State on March 7, 2006: (i) the "*Legal Opinion of Kirkpatrick & Lockhart Nicholson Graham LLP on the Risk of U.S. Bankruptcy Laws to the Continuity of Public Service Obligations*," and (ii) the "*Decisions of the Twenty-Ninth Meeting of ITSO's Assembly of Parties*," including:

> Para. 37(3): "to request the United States and the United Kingdom, in their capacity as the selected licensing jurisdictions and "Notifying Administrations" for the orbital locations and frequency assignments transferred in accordance with Article XII of the ITSO Agreement (the "Common Heritage"), to communicate to the appropriate authorities the Assembly's desire that:"
>
> (a) "remedies in the nature of those advised by Kirkpatrick & Lockhart Nicholson Graham … are implemented to assure that the Public Services Agreement and its obligations will survive a bankruptcy proceeding post-PanAmSat acquisition, including adherence to Lifeline Connectivity Obligation (LCO) contracts currently in effect with LCO-eligible customers;" and
>
> (b) "the conditions on the licenses issued by the United States and the United Kingdom to Intelsat (to use the INTELSAT "Common Heritage" orbital positions) clarify that no entity that is not bound by the Public Services Agreement can be considered a "successor" of Intelsat, LLC."

Para 27(c): "that an extraordinary meeting of the Assembly of Parties [scheduled for July 19-21, 2006] should be held to reaffirm the oversight function of ITSO and review whether corrective measures have been taken. In the case of an unsuccessful outcome of the above mentioned process, the Director General should prepare recommendations to remedy the situation for consideration by the Parties."

As the above document indicates, no country, including the United States, took exception to the above decisions.

ITSO also discussed the following articles from the Wall Street Journal:

- "*High-Risk Debt Still Has Allure for Buyout Deals*," Henny Sender, Wall Street Journal, June 13, 2006, page C1.

- "*Takeover Artists Quench Thirst*, Henny Sender, Wall Street Journal, January 5, 2006, page C1.

Finally, in the context of the extraordinary meeting of the Assembly of Parties referenced above, the participants discussed the importance of working with the U.S. Party in its role as the primary Notifying Administration for the Parties' Common Heritage.

Please contact the undersigned with any questions.

Sincerely,

Julie A. Reese

Julie A. Reese
Deputy Director General and
General Counsel

Attachments: Wall Street Journal articles referenced above.

cc: Angela E. Giancarlo, FCC
Ambassador David A. Gross, U.S. Coordinator. International Communications & Information Policy (CIP), U.S. Department of State
Steven A. Lett, Deputy U.S. Coordinator, CIP, U.S. Department of State

THE WALL STREET JOURNAL. ONLINE

June 13, 2006

High-Risk Debt Still Has Allure For Buyout Deals

Worries Over Inflation, Economy Fail to Curb Investors' Hunger For Potentially Troubled Loans

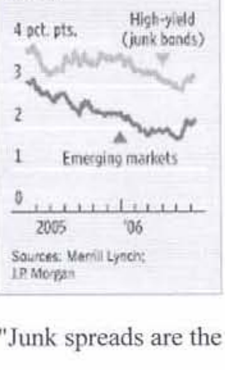
By HENNY SENDER
June 13, 2006; Page C1

At a time when stock markets across the world are spooked by the contradictory demons of higher inflation and lower economic growth, the risky end of the corporate-debt markets has barely winced.

Some market analysts are flummoxed that the reassessment of risk, especially in emerging-market bonds and stocks, has largely ignored U.S. and European corporate debt. The resilience of poorly rated corporate debt, including so-called junk debt, which has a higher likelihood of default than does investment-grade corporate debt, has buoyed private-equity firms. They are plowing ahead with ambitious takeover plans of companies that often involve loading them up with debt.

Relative Calm

Spreads over Treasurys on U.S. high-yield and global emerging-markets bonds



Sources: Merrill Lynch; J.P. Morgan

The ability of corporate-debt markets to resist the global-market jitters underscores a thirst for returns among hedge funds and other investors. But with the Federal Reserve expected to push short-term interest rates higher from their current 5% level, that may not be true much longer as lower-risk investments become increasingly attractive.

The enthusiasm in risky corporate debt is demonstrated by the spread between the yields of safer Treasurys and corporate debt at the other end of the spectrum. Bigger yields generally reflect the risk investors are taking on. During the recent emerging-markets tumble, the spread between U.S. Treasurys and junk bonds barely budged, indicating corporate-debt investors are still unfazed by the recent gyrations in other risky investments.

"Junk spreads are the dog that did not bark," a research report from HSBC Holdings PLC notes.

"In the past, when [short-term] rates moved up, spreads widened," said Michael Powell, head of global markets for HSBC in London. "But not this time."

At least so far. The Fed has marched short-term rates to 5% from 1% since June 2004. Despite the tightening campaign, a lot of money continues to slosh around the world looking for good investments. For now, investors are more eager to finance risky, debt-heavy private-equity deals than to buy safer Treasurys. "Lenders are still lapping up risky assets" like junk-rated bonds, said Steve Miller, head of Standard & Poor's Leveraged Commentary & Data unit. "You can't get returns on lending to investment-grade corporations."

There is so much money available to finance deals that just after the outsize **Kinder Morgan** Inc. buyout, which involved a total of about $22 billion in debt and equity, was announced at the end of May, **Bank of America** Corp.'s Banc of America Securities unit revised upward the size of companies in its list of potential candidates for buyouts. Now, the list embraces companies with a total value of $25 billion ($15 billion in debt, $10 billion in equity) in the U.S., while the comparable figure for Europe is €27.5 billion, or about $35 billion.

Today, more than half of all so-called leveraged loans, or loans for companies considered below investment grade, carry ratings of only single B. By definition, a single-B rated company has a more-than-13% change of defaulting within three years, according to S&P.

Moreover, the average debt burden on low-quality companies has steadily risen in the past few years. Today, many companies the buyout firms own carry debt loads of a fairly high eight times their earnings before interest, taxes, depreciation and amortization, or Ebitda. Private-equity firms bidding for Spanish-language media company **Univision Communications** Inc., of Los Angeles, say they are being offered financing that would permit a debt load of 12 times Ebitda as they spar over that company.

Meanwhile, the terms governing loans to debt-laden companies are increasingly generous. Some lenders are even doing away with standard loan conditions to win financing deals. Such relaxed terms reflect the intense competition to finance private-equity deals.

"There is a race to the bottom, as many banks give the issuer whatever they want," Mr. Miller said.

It isn't just banks eager to lend feeding the froth. Demand also comes from new groups of investors, including hedge funds and other money managers, who slice and dice these loans and sell them off in packages called collateralized-loan obligations or collateralized-debt obligations.

"The new technology for credit and the ability to slice and dice precisely has created more demand for credit products and new investors," said Mr. Powell. The CLO and CDO creators have taken debt that rarely traded and made it easier to trade, driving down prices and returns in the process.

"The risk appetite continues," research from Barclays Capital notes. Barclays says investors still have a huge appetite for the riskiest slices of these new structures, the so-called first-loss pieces, despite the high risk involved.

Investor demand has driven down the yield on debt from relatively lower-quality companies, thereby forcing investors seeking better returns to bid for debt from ever poorer-quality companies.

In Europe, the hunger for risk is even more extreme because the debt market has been dominated by private-equity firms issuing debt on their newly acquired companies. In recent months, such issues have accounted for 50% of all high-yield debt and 80% of so-called leveraged loans.

"Companies are already over-leveraged," said Peter Bacon, who runs the European operations for GSO Capital Partners, a New York investment firm that specializes in credit. "But issuers can bully the banks. And the pricing keeps going down because hedge-fund lenders need to put money to work and they need yield."

At some point, the current conditions will turn ugly as higher interest rates and slower growth start to pinch debt-laden companies. The wizardry that has gone into creating these new structures means there will be little warning when the turn comes. That is because one of the more popular structures, so-called PIK, or payment-in-kind, loans, allow private-equity firms to load up their portfolio companies with debt that they defer repaying.

Such back-ended structures can amount to a cynical bet that, by the time the real burden of repayment comes, the private-equity firms no longer will be the owners. Meanwhile, investors find PIKs attractive because they offer generous yields. There have been about a dozen such deals this year in the U.S. and Europe.

In addition, part of the traditional early-warning system of the debt markets comes when ailing companies ask lenders to relax loan conditions. These days, terms have become even more relaxed, or even nonexistent. Such deals have been a significant feature of the market this year, with more than $14 billion in the issues, compared with $8.4 billion in the eight prior years.

All this means that when defaults come, they will come suddenly. Moreover, recoveries are likely to be lower. That is because there are so many layers of debt, compared with previous cycles.

Also, private-equity firms have taken a lot of cash out of their portfolio companies while putting more debt on the balance sheet, leaving less for creditors when these companies finally hit the wall, said Mr. Miller.

It is tough to predict when the turn will finally happen. The smart money is starting to plan for less-robust debt markets.

"Today the environment is frothy, but we assume we will have to exit our companies in a more normal environment," Tony James, president of private-equity firm Blackstone Group said at a recent conference.

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Today: Mutual Funds Quarterly Review, Section **R**

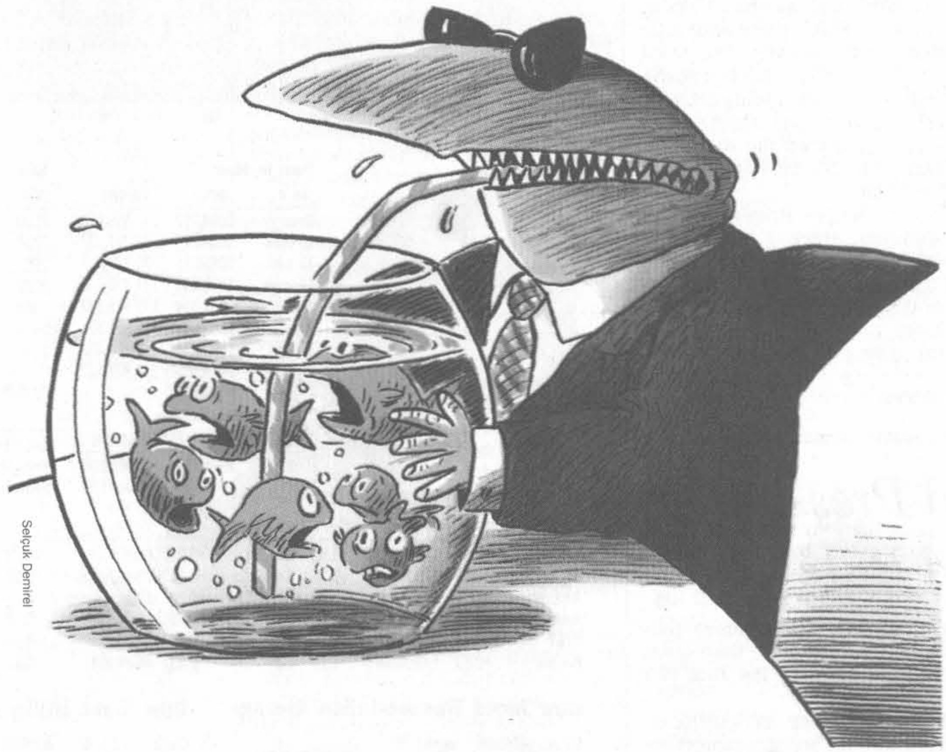
MONEY & INVESTING

THE WALL STREET JOURNAL.

Takeover Artists Quench Thirst

Many Private-Equity Firms Drain Out Dividends and Fees, Saddling Companies With Debt

By Henny Sender



DEALS & DEAL MAKERS

THE INK HAD BARELY dried on the sale documents about a year ago when the new private-equity owners of satellite operator Intelsat—**Apax Partners** Inc., **Apollo Management**, **Madison Dearborn Partners** and **Permira Advisers**—paid themselves a $350 million dividend financed with newly issued Intelsat debt.

In a technique practically unheard of just five years ago, private-equity firms, emboldened by easy financing, are paying themselves lavish dividends and fees from the companies they acquire. Typically, private-equity firms have generated returns by acquiring companies with a mix of cash and debt, taking them private, restructuring them and then either taking them public or selling them.

But a favorable financing environment has given rise to a high volume of dividends and fees, often paid well ahead of any operational turnaround, primarily through the aggressive issuance of debt by the acquired companies. A spokesman for Apollo, which led the Intelsat transaction, declined to comment.

In the past two years, private-equity firms garnered more than $50 billion from so-called dividend recapitalizations, according to Standard & Poor's Corp. By contrast, there were virtually no such dividend financings just five years ago. As much as 50% of the returns that buyout firms have paid their investors in the past two years came from such dividends, financed mostly with new debt, according to calculations by some private-equity firms.

The pace of the dividends is dizzying. **Blackstone Group** bought Celanese Corp. for $3.4 billion in June 2004, contributing $650 million of the purchase price. In the nine months following the closing, Celanese paid Blackstone $1.3 billion in dividends.

Meanwhile, **Thomas H. Lee Partners**, **Bain Capital** and **Providence Equity Partners**, along with Edgar Bronfman Jr., closed their purchase of Warner Music Group in February 2004. The group put in $1.25 billion of equity, more than one-third of the total purchase price. Two months later, Warner Music paid its new owners $200 million from the proceeds of a financing. Three subsequent dividend payments through May 2005 netted the investors an additional $1.23 billion. A Thomas H. Lee spokesman notes that some of those payments came out of cash flow rather than debt.

Some worry that by heaping enormous debt onto their portfolio companies to help pay the dividends, private-equity firms heighten the risk that the companies may fail if the economy stumbles. Should it "be about how far you can push things or should it be about how much flexibility you give your companies to deal with the unexpected?" asks Josh Lerner, a professor at Harvard Business School who has done research on the performance of private-equity firms. "You can see reason to worry in how much [money] they are pulling out."

But the private-equity firms say that, in general, they are doing what they are supposed to do: make

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Thursday, January 5, 2006

Private-Equity Firms Drain Fees

Continued From Page C1

money for their investors.

Consider PanAmSat, which a **Kohlberg Kravis Roberts** & Co.-led investment group bought in August 2004 for $4.3 billion. In September 2004, the company issued $250 million of notes to pay a dividend to the buyers.

In March 2005, the company filed to go public, planning to use proceeds to pay off some debt and pay its owners an additional $200 million.

A spokesman for KKR adds that, over the course of about a year, debt at PanAmSat fell by $1 billion after the payout.

In August 2005, private-equity controlled Intelsat announced it was acquiring PanAmSat, creating the world's largest satellite-services operator.

Dividends aren't the only way private-equity firms mine their portfolio companies. Fees levied on portfolio companies, while small compared with the dividends the private-equity firms extract, also are growing as the size of buyouts swells. That, of course, is on top of the 20% to 30% of the profits on any deal that goes to the private-equity firm.

First there is a management fee, generally set at 1.5% of the total value of any individual deal. That is supposed to cover the operating costs and infrastructure of the private-equity firm: everything from office rent to the analysts who scour the financial statements of potential targets.

Then there are the fees the firm receives every time it does a deal. Firms also charge fees for advising portfolio companies every time these companies do a financing, even when 100% of the money raised may go to a dividend for its private-equity parent.

In addition, there are monitoring and oversight fees charged as a percentage of earnings, usually amounting to a couple of million dollars a year, as well as the usual fees for those who sit on the boards of the portfolio companies. And finally, when the portfolio company is sold or taken public, the private-equity firms may well charge a termination fee.

As the deals and the overall sums involved grow, the fees grow accordingly and become a profit center in their own right. "The fees were generally set when these organizations were smaller," says Harvard's Prof. Lerner.

The real problem is that the rising level of fees can undermine a private-equity firm's interest in turning around a portfolio company. For example, in its first quarter after listing in 2005, Celanese reported a net loss, partly because of $45 million in fees it paid to Blackstone and partly because of rising interest costs. A spokesman for Blackstone declined to comment.

The massive growth in fees has some investors irked. "Why do they need to get paid by their portfolio companies when they are already paid by their limited partners?" asks Bill Johnston, founder of **Bayon Capital** in San Francisco, which often invests in the publicly listed companies of private-equity firms.

Some private-equity firms agree. **Warburg Pincus** and **Vestar Capital Partners** are among those that don't generally charge their portfolio companies monitoring, financing-advisory or termination fees.

Good or bad, the fee and dividend boom may not be sustainable. Market conditions are deteriorating. Interest rates are going up.

The bond market is less enthusiastic about buyouts. It isn't clear to whom the buyout firms can sell all the companies they've bought over the past two years—except to each other.

That isn't likely to mean great bargains or great profits for either side.

Private-equity firms "say they have figured out how to do buyouts," says Prof. Lerner. But recent performance "has more to do with the capital markets than any lesson learned."