



Private Equity Sound Bite

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Anti-trust liability: Lessons from Goldman Sachs

In April we witnessed The European Commission impose a fine of €37.3 million directly on Goldman Sachs, holding the investor partly responsible for participation by its former portfolio company, Prysmian, in a cartel it ran with ten other producers of high voltage power cables. The European Commission justified making Goldman joint and severally liable for part of the fine imposed on Prysmian by the fact that during the period when Goldman was an investor in Prysmian, Goldman exercised decisive control over Prysmian.

The case is a stark warning to private equity investors that they may be held directly liable by competition authorities for anti-competitive activities of portfolio companies, even in cases where they do not hold majority stakes, if the terms of their investment enable them to control, either alone or jointly with other investors, the commercial policy of the investee company. The case also demonstrates that authorities are ready to pursue former investors retrospectively if anti-competitive activities were undertaken by a portfolio company during the period in which an investment was held.

Private equity investors should therefore take particular care in due diligence to look for signs of anti-competitive behaviour and satisfy themselves that sales and commercial teams are pursuing only legitimate strategies.

Post close, investors with access to management information, and in particular board representation must use their positions to verify the absence of any unlawful activity, and to ensure effective compliance policies are in place.

If you would like to discuss this further, contact Edward Miller on emiller@reedsmith.com or +44 020 3116 3470.

Transaction Highlights

Recent deals across our platform

OAK HILL ADVISORS

A team led by Panos Katsambas successfully advised Oak Hill Advisors on its joint venture with listed Norwegian firm Odfjell SE, a leading player in the global market for seaborne transportation and storage of chemicals and speciality bulk liquids. The joint venture involves Oak Hill and its partner, Breakwater Capital, taking a 50% interest in Odfjell's existing liquefied petroleum gas and ethylene business and the injection of additional funding to acquire four new 22,000 cbm LPG/E gas carriers.

PARQUEST
CAPITAL

A Paris team led by counsel Franck Coudert advised a consortium of investors including LGT Capital Partners, Idinvest and Five Arrows in connection with their investment in a new €300 million fund raised by Parquest Capital (the spin out from ING Group's Parcom Capital, previously named ING Parcom Private Equity).



A London team including new leveraged finance partner Ben Davis, Perry Yam, James Cross and Nick Williams advised new client BlueBay Asset Management on its financing relating to the £80m acquisition of UK pub chain Amber Taverns by MxP Partners. The Blackpool based business, which has 95 pubs, was previously backed by Legal and General Capital (LGV). We are delighted to have advised the BlueBay Direct Lending Fund on this significant transaction.

Expanding our Funds Team

Winston Penhall, Matt Evans (re)join the London team



We are delighted to welcome Winston Penhall and Matt Evans back to the firm. Winston, a partner, has a broad funds practice, advising on the formation of alternative investment funds including hedge funds and private equity funds; the establishment of onshore and offshore investment managers; the review and negotiation of fund wrapped and managed account investments for institutional investors; and the drafting and negotiation of manager and fund service provider agreements.



Joining Winston is associate Matt Evans. Matt focuses on fund and manager formation, institutional investor advice and ISDA negotiation.

With the banking sector continuing to see very high capital requirements for their lending businesses, funds are increasingly becoming important alternative providers of finance. Following the growth of our private equity, structured finance and leveraged finance practices, we are seeing an increasing need from our clients for funds expertise.

London Employment Seminar

2nd July 2014

The London Employment Group is hosting a three part seminar aimed at in-house counsel, HR professionals and managers covering current hot employment topics. The programme includes the following three sessions:



How to change terms and conditions of employment and employee benefits – This session will look at what employers have to do to implement changes to employees' contracts of employment and the potential issues that can arise. Additionally, the session will address how to make changes to employees' benefits with a particular focus on pensions.

How to protect your business – The session will discuss employee competition including recent topical issues surrounding 'bring your own device' policies and use of social media, such as LinkedIn.

How to deal with stress, bullying and harassment – This session will detail how to deal efficiently with allegations of bullying and harassment in the workplace with a focus on those which are alleged to have caused work related stress.

For further information or to register your attendance, please email events@reedsmith.com