

2018 Spring Investment Forum Summary

Chicago – Our Kind of Town



2018 ACIC Spring Investment Forum Summary April 19-20

By Richard Rejino

The ACIC returned to their home away from home, the Four Seasons Hotel in Chicago, for the 2018 Spring Investment Forum. The ACIC drew its largest spring meeting attendance since 2010, with 184 participants. This year, the event was organized by co-chairs, William H. Bulmer, *The Prudential Insurance Company of America*, and Catherine C. Hood, *Pillsbury Winthrop Shaw Pittman LLP*, who can best be described as “pre-crastinators,” according to ACIC Administrator, CJ Marchain, as they were extremely organized and Johnny-on-the-spot ready to carry out their duties.

The theme for the meeting centered on *Chicago – Our Kind of Town*, and members were treated to a good bit of swag, including a functional, easy-to-stow-away ACIC bag, an ACIC umbrella and a tour guide of Chicago.

The opening day was marked by a special breakfast meeting, held in the State Room, to welcome new members, first-time attendees, and lawyers who were new to investment counsel. Tina Smith, *Thrivent*

Financial, Brenda Page, *The Hartford Financial Insurance Group*, Chris Dallas, *Pacific Financial Insurance Company*, and Armando Gamboa, *Prudential Financial, Inc.*, greeted approximately thirty members and shared their ACIC experiences and membership benefits. It was by all measures a successful event and a great recruiting tool.

The program included nine substantive and educational CLE sessions. The ACIC extends its gratitude for the excellent programming to the meeting co-chairs, the Education and Development Committees, and the many speakers and moderators who deserve much credit for effecting such an outstanding schedule.

Thursday, Day One

After the welcoming remarks and announcements, the morning kicked off with the traditional Market Update. Adding continuity to the program, each session included a Chicago reference or quote that was loosely tied to each session, and the popular real-time audience polling feature returned for another repeat performance. A new app called *Attendify* was used, which turned out to be a fantastic addition to the conference and was well received by the attendees.





Session 1: The meeting began with a **Market/Washington Update**. The session was led by moderator Alfredo Cantoral, *PPM America, Inc.* with panelists, William Vainisi, *The Allstate Corporation*, William T. White, *Bank of America Merrill Lynch*, and Natasha Granholm, *PricewaterhouseCoopers LLP*. Reflective of how the Trump administration is altering the political, regulatory and economic landscape, and most significantly, the tax overhaul, it posed the question: will 2018 be better, worse, or the same for your business? The discussion included an overview of the impact these changes are having on the market, the general atmosphere in Washington surrounding the current administration and working with Congress, 2018 market expectations, and the major highlights of the tax reform for the remainder of the year. Rounding out the session was a brief Q & A from audience members.



Session 2: Next on the program was the first of two related sessions: **Private Equity – Mezzanine Part 1: Issuer Entity Structure, Financial Analysis, and Deal Documentation**. This session reviewed three areas of private equity and mezzanine investments. It began

with in-depth discussion on equity financing, which considered corporation or “Pass-Through” entities, tax considerations on U.S., UBTI and ECI-sensitive investors, new partnership audit rules, and the effect of rate changes and other provisions from the recent tax reform. In addition, fiduciary obligations subjects including potential waiver of sponsor duties and conflicts of interest for board members and observers were analyzed. Completing the presentation was a review debt financing and mezzanine debt considerations. The session was ably moderated by Jenna Jenson, *Thrivent Financial*, and panelists included Peter Mugo, *Barings*, Stephen Szejner, *Prudential Capital Group*, Kevin Knohl, *Schiff Hardin LLP*, and Wayne Pressgrove, *King & Spalding*.



Session 3: Ferris Bueller’s infamous quote, “*Life moves pretty fast. If you don’t stop and look around once in a while, you could miss it,*” aptly described the third session of the day, **Energy Industry Landscape Changes and Financing Opportunities**. Moderator Rachael L. Lichman of *Baker Botts L.L.P.* led panelists, Barry Worthington, *U.S. Energy Association*, Kenneth Jay Fatur, *J.P. Morgan Securities LLC*, and Lilia Alonzo, *Mayer Brown Mexico, S.C.* in an examination of the recent technological advancements in oil and gas exploration and development, disruption in the commodities and financial markets, and other factors that have contributed in a new energy industry landscape. The panel considered the lingering effects of the historic downturn in commodity prices and resulting consequences to banks and capital providers, while also highlighting domestic and international private placement opportunities presented by the steady recovery in commodity process.



Session 4: After lunch, **Project Finance in the Private Placement Market – Search for Long-Term Yield in Power Sector** began the afternoon. Panelists Bruce Bedwell, *Chapman and Cutler LLP*, Jason Todd, *Pacific Life Insurance Company*, Amy Maloney of *Latham & Watkins LLP*, and Roald Nashi, *Kirkland & Ellis LLP*, astutely moderated by, Michael T. Reese, *Pillsbury Winthrop Shaw Pittman LLP*, led a discussion based on the subject that is on everyone's mind: "sustainability." The panel addressed pertinent questions relating to the need for private placement market financing and "green bonds," and how they differ from traditional bank financing. They identified trends in the U. S. power sector, including how increased natural gas production have made coal less competitive, nuclear development, political support for renewable resources, and their decreasing costs. Other issues included a look at typical project finance structure, hybrid project financings (i.e. private placements & credit facilities), what investors want and back leverage financing. The panel also addressed special purpose entities, comparison to typical corporate finance structure, security packages, risk adjusted returns, financing structures and other common risks.



Session 5: A continuation of part one, **Private Equity – Mezzanine Part II: Private Equity Investments and Acquisition Financing** delved into issues and concerns that are encountered when institutions harvest these types of investments and bring them to market. Using a hypothetical scenario that illustrated an investor group pulling out of an investment situation gone bad, moderator, Seth Bryant, *Bryant Rabbino LLP*, and panelists Marco Ferri, *Avila Rodriguez Hernandez Mena & Ferri LLP*, John D. Hollinrake, Jr., *Dorsey & Whitney LLP*, and Stephen Amdur, *Pillsbury Winthrop Shaw Pittman LLP*, took the audience through exit and liquidation strategies, managing post-exit liabilities, and the expanding role of representation and warranty insurance. These included topical discussions on transfer restrictions and exit triggers, potential exit routes such as IPOs, leveraged recap and spinoffs, tax considerations and liability issues, and representation and warranty insurance – who pays for it and why it's helpful for sellers and buyers.



Session 6: The last session of the day ended with the well-received: **Ethics Panel: Anti-Bias and Diversity Initiatives**. Framed within a quote from the Blues Brothers: "And remember...that no matter who you are

and what you do to live, thrive and survive, there're still some things that makes us all the same..." moderator Gail C. Bent, *Allstate Investments*, and panelists, Joel Stern, *NAMWOLF*, LaVon M. Johns, *Quintairos, Prieto & Wood & Boyer, P.A.*, and Leslie Richards-Yellen, *Hogan Lovells US LLP*, delved into why diversity and inclusion efforts are critically important for success in all business endeavors, with the legal profession lagging behind other professions. The panel provided an overview of the state of diversity in the legal profession and why there is a disparity. They cited several forms of unconscious bias and reviewed the business case for diversity, as well as offering what an effective diversity and inclusion program look like in the legal profession.

Thursday Evening Reception

The day ended with the traditional evening cocktail reception that took attendees through a neighborhood tour of Chicago cuisine, which including staples such as deep-dish style pizza, classic miniature Chicago hotdogs, Italian beef sandwiches, delicious Chicago style cheese cake and macarons. The Street Jackson Band provided blues music, further enhancing the festive atmosphere.

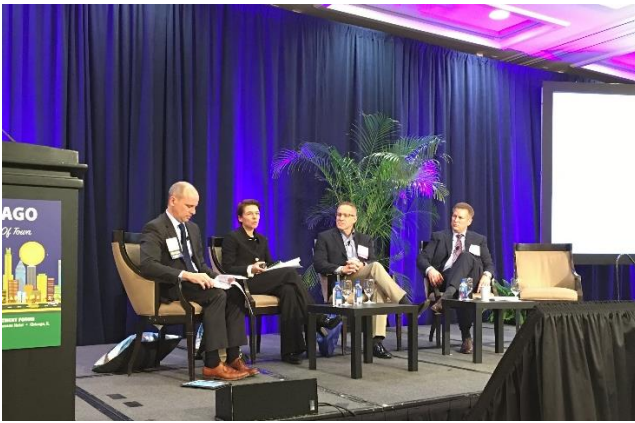


Friday, Day Two

Following breakfast, Tony Yager, *Chapman & Cutler LLP*, presented the meeting co-chairs, Bill and Cathy with their awards, and CJ Marchain, *ACIC Administrator*, presented them with two commemorative pillows to help them recover from chairing the meeting.



Session 7: Case Study: Restructurings and Inter-creditor Issues. Moderator Renee Daily, *Morgan, Lewis & Bockius LLP*, and panelists, Ana Alfonso, *Willkie Farr & Gallagher LLP*, Bob Swindell, *GLC Advisors & Co. LLC*, and Aaron Wernick, *Metropolitan Life Insurance Company*, examined in detail intercreditor issues raised in the context of a mega-workout case study. Offering practical advice about getting organized and providing a roadmap for working through a restructuring, the panel reviewed turf battles between banks and noteholders, skirmishes among noteholders holding multiple notes and highlighted issues of control among different classes of creditors.



Session 8: Update: Private Ratings, Europe & Swaps was the subject of the next session. Inspired by the metaphor of window shopping down Michigan Ave, moderator Richard E. Buckley, *Prudential Financial, Inc.*, and panelists Patricia Volhard, *Debevoise & Plimpton LLP*, Gregory Remec, *Fitch Ratings*, and Charles Kolin, *Greenberg Traurig, LLP*, updated the audience in three central areas: Ratings Methodology, which included financial and legal analysis behind private bond ratings; Regulatory Developments in Europe, which examined MiFID II and Brexit impact on debt markets; and Swap Breakage: the new model form swap indemnity language, which reviewed the Swap language changes made to the Model Form.

“In Chicago, not only your vote counts, but all kinds of other votes – kids, dead folks and so on,” set the tone for discussing four major areas of complying: (1) Forming the Noteholder Group, which addressed applicable ethical rules regarding multiparty representations, the importance of disclosure and informed consent and confidential information; (2) Intercreditor Issues such as confidentiality, duty of loyalty and other ethical issues; (3) “New Money” issues; and (4) Debt Trading and New Note Holders, which tackled the questions of when does the representation change or end and who is the client. The panel ended with a summary and conclusion, which emphasized the importance of communication, constant vigilance and suggestions for best practices.



Session 9: The ACIC fall meeting concluded with an ethics session, **From Rules to Reality – How to Comply.** Led by moderator Sarah Smith, *Akin Gump Strauss Hauer & Feld*, and panelists John D. Inwood, *Voya Investment Management LLC*, Alfredo R. Perez, *Weil, Gotshal & Manges LLP*, and Mary Carey, *Cigna Corporation*, the panel discussed how Chicago, with a diverse mix of neighborhoods, has grown and thrived with people living and working together while maintaining their individuality. The Dick Gregory quote: