



MINUTES OF THE ANNUAL SUMMER MEETING

June 11 & 12, 2014

Attendance: See attached spreadsheet.

General Topics

New Membership Requests: Ohio National, Conning, State Street. They must apply, provide proof of activity in the primary private placement market, and then Board must approve. (Board subsequently approved Ohio National's application on 6/18/14.)

Treasurer's Report: Only 2 companies left to pay annual dues. Have already received Ohio National's new membership dues. Project a cash balance of ~\$21,000 at year end, contingent on what the group decides with respect to a website.

Legal Committee Reports:

Counsel Feedback: Stuart Shepetin provided an update on the ACIC meeting that he and Dawn Crunden attended a few months ago.

- Reviewed results of a survey regarding outside counsel's willingness to hear and provide feedback on terms, etc.
- Outside counsel mentioned that:
 - A) They prefer to hear from investors earlier, rather than later, in the deal circle process.
 - B) They also want feedback on the style/content of the issues memo.
 - C) They want investors to make it clear when we expect counsel to raise an issue with an issuer.
 - D) For all practical purposes, it is best to dual-track comments and request for changes with both investors' counsel and with the agent bank.
 - E) Outside counsel wants investors to present feedback on counsel performance to the agent banks.
- ACIC is willing to partner with PPIA in thinking about a formal way to solicit feedback on outside counsel and share that feedback with counsel in a constructive manner.
- Ultimately, we are making progress here, but slowly. We need to keep providing feedback both to the agents and to outside counsel, if we hope to see any improvement in service.

(Shy of changing the model to one where investors select their own counsel and pay for counsel's service.)

- Also, most investors want to know what concerns other investors are raising with outside counsel. In most cases, counsel are willing to share those concerns on a very high level (without divulging which shops raised a specific issue).

OFAC Questionnaire: Sasha Kamper and OFAC Committee provided an update on where we are in crafting a standardized OFAC questionnaire for borrowers.

- 2nd draft has been distributed for comment. Would like responses in 2 weeks (June 27th).
- Team will create a 3rd draft, and send to Bingham, PPIA membership and ACIC for review. Assuming minimal changes to the third draft, we would then share with the agent banks.
- Discussed as a group whether we should shoot for lowest common denominator, or higher level questionnaire. Most felt a comprehensive questionnaire would be best—will rely heavily on AIG's counsel for guidance/judgment.
- Intent is to have companies answer the questions once, and then post to Intralinks for all to see.

Model Form Update: ACIC has completed its draft of the Model Form X update, and is looking for feedback from our group. There was no presentation, but the team will be meeting during the last week of June to go over issues and provide feedback to ACIC.

NAIC/SVO Committee Reports:

NASVA/SVO Update: Brian Keating and Brian Roelke attended the NAVSA Conference, and a group, led by John Petchler, met with the new Chair of the NAIC. The team provided updates of their meetings.

- **Filing Exempt/Private Ratings:** The SVO doesn't recognize the concept of "Filing Exempt;" so, NASVA is reluctant to discuss this matter in depth with the SVO. That said, they are willing to work with PPIA on a common FE letter format that all shops would accept.
- The SVO's preference is to rate every security, or keep track of every independent rating for securities. Therefore, if we want the Filing Exempt process to go smoothly, they would like to retrieve some sort of automated feed from the agencies, with the private letter ratings for each CUSIP (similar to public bond process).
- The group discussed whether this automated approach is feasible. Currently, it may be problematic; since, some of the agencies are now reluctant to post private ratings letters even on Intralinks w/out investors agreeing to hold harmless and strict confidentiality language. It was decided that perhaps this issue is best suited for NASVA to handle.
- In the interim, the only solution for a smooth filing exempt process is to continue to remind our respective back offices of the rules, and apply them consistently across shops.
 - o CUSIP-specific rating (pari passu public rating won't do)
 - o Some indication that the rating will be maintained over time
- **Filing Costs:** The SVO will be looking at the filing model and the attendant fees with that process. Currently, the SVO thinks its fees are in-line, except for initial filing fees which do not fully cover its costs. The SVO will also consider whether the current mechanism, where the lead pays the entire filing cost, is appropriate and investigate ways to share the costs pro rata amongst all investors.

- **Annual Review Process:** It was noted that changes may be happening to the annual “material change” review for the SVO. Currently investors are just required to rep. that there has been no material change in credit quality in the last year and there has been no material amendment. The SVO would like to move this to a place where investors provide a credit update memo that describes any change in credit quality and the nature of any amendment that happened in the last year.
- **Establish a Relationship:** The membership agreed that it makes sense to have more of an ongoing dialog with the SVO, and we will invite them to meet with us at the January private placement conference.

Local GAAP:

- The SVO wants training on local accounting practices and how they differ from US GAAP/IFRS, in order accept local GAAP.
- Steve Collins (Prudential) led the charge, working with the SVO to get German GAAP approved, and is now working on French and Netherlands-based GAAP. These latter two Pru expects to have approved by late fall or early next year.
- The ACLI hired Deloitte to do the training, and Pru and ACLI agreed to backstop the fees. Fees were:
 - o Germany: \$60,000 + out-of-pocket expenses
 - o France: \$50,000 + out-of-pocket expenses
- The membership discussed the possibility of sharing the fees around at the industry level. No consensus was achieved here. Ultimately, one member suggested that perhaps the SVO should bear the cost going forward and then pass it on through filing charges.
- Pru is also working to educate the SVO on the new Canadian GAAP (ASPE). Steve doesn't think the bar is as high here, given that the SVO is already comfortable with traditional Canadian GAAP.

Industry Committee Reports:

Investor Survey: Was presented again. 35 completed surveys, although a couple of the larger market participants did not participate this year.

Society of Actuaries Survey: The third-party data analysis group hired to analyze data has been having trouble finding consistency amongst participants as to what counts as a default. They are currently working with individual investors to resolve, and the work continues without a final date for completion.

Topical Committee Reports:

PPIA Website:

- The group looked into the option of sharing space on ACIC's website. Drawbacks were lack of a PPIA "landing page" (Does this hurt our branding efforts?) and maintenance costs of \$300-\$500/mth that we would have to share.
- The team then discussed the option of hiring a "Web chat" company to help us develop a website and maintain it. There are two options:
 - o Static Website (\$800-\$1,000 in development costs + \$200-\$300/yr in maintenance)
 - o Dynamic Website (\$1,000-\$1,500 in development costs + \$300-\$500/yr in maintenance)
- The membership was in favor of moving forward with our own Dynamic website. The Board will discuss and vote on the idea.

Intralinks Website Changes: Intralinks site is migrating to a new URL that has the word "download" in the address. This is causing firewall issues at some companies. Each institution may need to work with its internal firewall police to specifically list the new Intralinks URL as a "non-blocked" site.

PPIA Conference: A group presented a case for evaluating whether PPIA should throw its own annual private placement conference (without IIR to host/organize).

- This proposal evoked a fair amount of discussion amongst the membership.
- Questions that would need to be answered, before committing:
 - o Who would sponsor our conference?
 - o What is the appropriate attendance fee?
 - o How would it be structured? What would people like to achieve as far as content/entertainment?
 - o How much would it cost to hire a professional conference coordinator?
- While no consensus decision was made, there was enough interest to approve that a team formally research the possibility and cost/benefit of throwing on a conference. That group will present at our January meeting in Florida. Luke Stifler will lead the group.
- Chip suggested that PPIA may want to plan on 2-years of lead time, should the organization decide to organize its own conference, given his experience of time commitment/planning involved with ACIC's annual conference.
- The conference sub-committee will focus first on a survey via Survey Monkey to learn what the membership wants.
- PPIA will meet with IIR in January to "air grievances" and express the membership's concerns. In the meantime, all members are encouraged to contact IIR's representative to provide feedback on their annual conference (see below.)

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Summary of PPIA/Banker Meeting in January:

- PPIA met with the five largest agent banks in January to discuss issues (BofA, JP Morgan, RBS, Barclays and Citi).
- Generally the meeting was well, and we will continue to meet at the annual conference.
- The agents like the idea of a common OFAC questionnaire and are anxious to see a draft.
- They encouraged us to provide feedback on outside counsel, as they do have some ability to influence companies on whom to pick.
- We discussed concerns that the info provided at due diligence seems to be getting lighter. One banker brought up that the level of pre-circle due diligence has increased over the years, such that a lot of due diligence topics have already been covered.
- We raised the concern of uneven quality of representation in co-agented transactions. While investors should make every attempt to work through their assigned agent, if that agent is being unresponsive, all the banks recognized that it's then acceptable to contact the other bank.
- When asked what things investors could do better, the responses included:
 - o Frustration that more people don't participate in on-site due diligence and annual investor update calls. Many companies question whether these are truly valued by investors; so, we need to take advantage of the opportunities to the greatest extent possible.
 - o Trying to limit the number of pre-circle questions. (If it's a nice-to-know vs. a need-to-know, perhaps it can wait until post-circle due dil.)
- Investors noted that more advance notice of due diligence trips would be desirable

Interaction Committee Reports:

Amendments and Due Diligence Best Practices Documents: These have both been circulated for comment and are about ready to be broadly distributed. Please provide any feedback to Dawn Cruden or Ned Ferguson right away. Otherwise, these are complete.

Private Ratings Letters/Confidentiality Requirements:

- The membership discussed recent problems experienced with private ratings letters. The agencies in Australia, specifically, are adding material qualifiers to the ratings, including: hold harmless language, inability to share the rating with regulators, auditors, and secondary market purchasers, and in one case, a company was able to share the rating but not the letter with investors.
- NY Life took the lead in the Flinders Ports deal to work with Moody's and have some of the Intralinks confidentiality restrictions removed. An ad hoc group was formed to partner with NY Life in taking a more systematic approach to the problem. (This group meets in early July.)

Other:

- Jamie Egbert from JP Morgan contacted PPIA regarding a protocol for private placements with currency swaps.
- The following investors have been identified to work with JP Morgan on this topic: Mary Beth Cadle (Nationwide), Post Howland (NY Life), Jerry Herman (AIG).

- With respect to communication during the deal marketing process investors noted the following:
 - o A desire to see the most recent Compliance Certificates for a company as a closing document (to see how covenants are calculated).
 - o A desired for all information to be shared with investors simultaneously (as opposed to some investors receiving information prior to others). For instance, while there was some disagreement among the group, most investors would prefer to have a master Q&A list posted to Intralinks.
 - o A desire to have definitions of key terms (Primary Credit Facility, Debt, EBITDA, etc.) as a standard part of the Term Sheet.

Dated: October 20, 2014



Sasha Muir Kamper, Secretary