Two Spheres of Equity

Restructuring through public and private channels.

STORY BY CHUCK GREEN

Anticipation might compel ketchup lovers to wait, but in terms of public equity versus private equity it seems to be more about immediate gratification, according to local experts.

Public equity is ownership of any public equity security (the stock of any company, which trades on an exchange or over the counter). These companies all have some obligation to file information with the **Securities and Exchange Commission** (SEC). Private equity refers to investments in the securities of private companies, which could be made as venture capital (typically in high-growth companies) or as leveraged buyout type investments (typically in slower growth, mature businesses).

"Private equity groups have been very active in doing acquisitions of public companies and taking them out of the public market," says Craig Evans, a partner with the law firm of **Stinson Morrison Hecker LLP** in Kansas City. "Those have been going on for a few years and have been robust." He believes that lately, however, that activity "might have tapered off a little bit. I think a lot of the private firms are going to see how the debt markets settle out as they look at these transactions."

On the other hand, more hedge funds are looking for a short-term turn around and quick profit. "Sometimes these firms come in and buy a small stake, maybe five or six percent then try to use their leverage to cause the company to make changes." He notes that often means selling-off shares and trying to capture that premium in a short period of time "rather than purchasing the entire company, holding and building it and then perhaps selling it or taking it public again later," much like what private equity companies do. "The activist, hedge fund type investor is not thinking long term," Evans says.

So far in 2007 in the U.S., there have been just under 5,000 mergers and acquisitions worth more than $1.32 trillion through September 17 and 742 buyouts valued at $449 billion through the same time frame, according to **Dealogic**. Bush Helzberg, portfolio manager with **Helzberg Angrist Capital LLC** in KC believes activist investors like **Breeden Capital Management LLC**—which recently garnered the votes of **H&R Block** shareholders to place three nominees on Block's board—have helped influence the recent momentum in public equity, but part of their purpose has been frozen with the recent slowdown. "In some ways, part of the allure of the activists was that they would force a sale of the company and the private equity buyers were ready to buy. [Consequently], an arrow in their quiver has been temporarily removed."

As to the suggestion that large leveraged buyouts are momentarily on hold until the financing market normalizes, Helzberg says it's important to keep in mind there is still $400 billion committed to buyout funds. "The financing markets have seized up, and it might take a year, but I assure you, they'll be back," he says.

Overall, Helzberg believes restructurings in general are easier to perform under the take-private model. "The buyers have complete control," he says. "In the case of Breeden, he doesn't even have a majority of the board. Their ability to restructure is not guaranteed, and they have the liability of being on a public company board. The activist model is still in the early days." **KCB**

ACTIVIST INVESTORS ARE TRYING TO INFLUENCE BUSINESS STRUCTURES BY INVESTING IN THEIR STOCK. PRIVATE EQUITY GROUPS BUY THEM OUTRIGHT AND THEN RESTRUCTURE.