Lead Left Interview – Scott Gluck (Part Two)

THE LEAD | July 15, 2014

This week we continue our conversation with Scott Gluck, counsel at Venable LLP. Venable is a law firm with 600 attorneys in nine US offices. Scott assists private equity funds on a variety of corporate, legislative and regulatory matters.***Second of two parts – View part one***

The Lead Left : *Is there anything of interest in the on-deck circle?*

Scott Gluck: One proposal [HR 1105] exempts PE firms from having to register with the SEC. It has passed the House but gotten nowhere in the Senate. Depending on the results of the November elections it might have a better shot next Congress. The President has said he would veto such a bill, so it's still an uphill battle.

TLL: *How about Volcker?*

SG: Volcker is analogous to the Affordable Care Act – it's here to stay.

TLL: *Lovely. Are there any other Dodd-Frank issues in the wings?*

SG: Other than HR 1105, there are a few odds and ends. For example, there's a modification clarifying that end-users of derivatives not to have to post margin for certain swaps that hedge commercial risk. It is a huge issue, as U.S. companies could be required to collectively post billions of dollars in margin for swaps that are designed to hedge risks. Requiring them to post margin would create a disincentive for them to enter into the swaps, even though the swaps are hedging risk. The whole thing is kind of backwards.

TLL: *You have to wonder how all these new regs will impact capital formation, thus the economy.*

SG: Dodd-Frank has made it a more difficult environment to raise capital. The JOBS Act has helped, certainly, but the heighted regulatory climate and slow growth is a tough combination. The new Congress that will be coming in after the November elections might also help.

TLL: *This may be a silly question, but are there any positive impacts by all this regulation?*

SG: There are some positive benefits in terms of reducing systemic risk, but unfortunately I think the bill goes too far in terms of regulation. Typically after a major bill like this technical amendments are made to the bill to eliminate unintended consequences, but that hasn't happened here – at least yet. The hope is that at some point the pendulum will swing bank and we'll be able to deal with the negative consequences of Dodd-Frank.

TLL: *Now for our final question: What's been the biggest surprise for you in all this?*

SG: Having followed private equity for many years, you tend to assume that everyone knows at least the basics about the industry, but that really isn't the case. And I hate to say it, but it's really the industry's fault. When Congress equates private equity to hedge funds, you know there's a problem in communication.

TLL: *You've heard Rep. Schweikert's comment about Congress…*

SG: Yes. He said that Congress is divided between those members who have HP-12C calculators and those who don't. And unfortunately, the former category is outnumbered.

TLL: *So to speak.*

SG: (laughing) Yes, exactly!

Contact: Scott E. Gluck
SGluck@venable.com
Phone: (202) 344-4426
Website: http://www.venable.com/