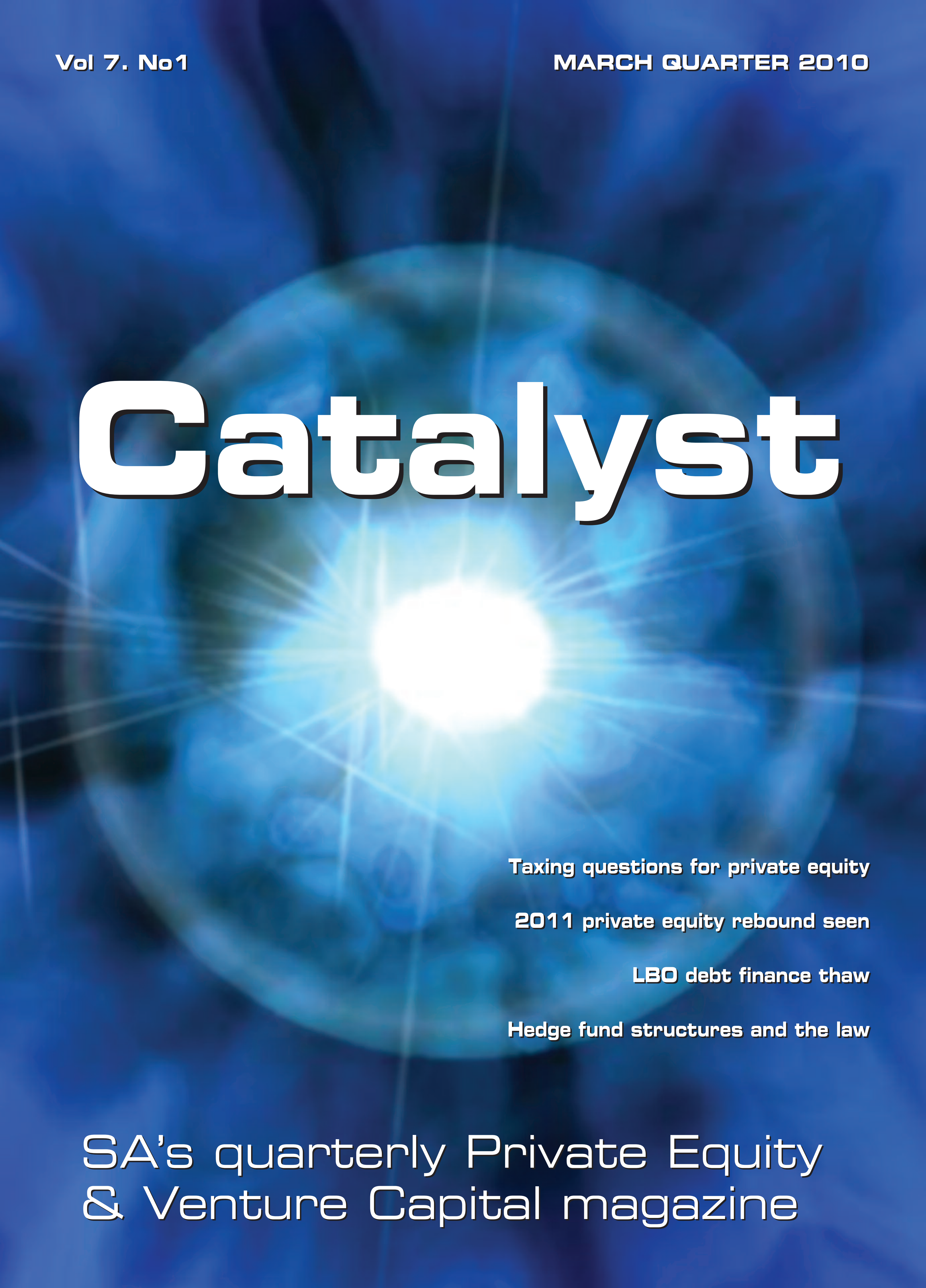

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MARCH QUARTER 2010

Catalyst

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SA's quarterly Private Equity
& Venture Capital magazine

Catalyst

From the Editor's desk

Though fund raising and buyout activity was muted during the first quarter there is plenty on which to focus the industry's collective attention at present – particularly the draft Regulation 28 of the Pension Funds Act released for public comment in February.

The draft Regulation 28 gives effect to Section 36(1)(bB) of the Pension Funds Act 1956, which provides that *"the Minister of Finance may make regulations limiting the amount and the extent to which a pension fund may invest in particular assets or in particular kinds or categories of assets, prescribing the basis on which the limit shall be determined and defining the kinds or categories of assets to which the limit applies."*

In the memorandum accompanying the draft, the Treasury sets out the proliferation of exotic asset classes such as derivatives, structured products and foreign investments, as one of the key reasons for the amendments.

Put plainly, this raises palpable concerns for private equity because the Treasury is looking at placing restrictions on asset classes that use gearing. Under the current regulatory regime, pension funds are allowed to invest only a paltry 2,5% in "other asset" classes, including private equity. It is hoped that this will be increased to 5% but the draft is unclear about this. In fact, the draft makes no direct mention of private equity at all, not even amongst the definitions.

Jarred Glansbeek of Riscura, an independent consulting and risk services company, told Giulietta Talevi in a *Summit TV* interview in late March, that he had some reservations about the proposed amendments. "For me the biggest single thing is they've been quite restrictive on the investment types – I don't think they've recognised that South Africa is a society like the rest of Africa where unlisted investments are crucial.

Glansbeek makes a good point. South Africa's political masters have banged on about how investments need to be made in public projects to provide much needed infrastructure and services to the masses. What better way of achieving this than by increasing the prudential limits placed on the vast lakes of pension fund money floating around looking for a healthy, albeit slightly riskier, return?

A 2009 OECD working paper entitled "Pension Fund Investment in Infrastructure" provides a carefully drilled-down analysis of the benefits, risks and trends regarding this form of investment:

As the need for investment in infrastructure continues to grow, private sector financing for infrastructure projects has developed around the world. Given the long-term growth and (potentially) low correlation aspects of infrastructure investments, pension funds have also shown interest in increasing their exposure to this area, along with their move into alternative assets… if governments wish to help infrastructure developers tap into potentially important sources of financing such as pension funds, certain steps can be taken

Perhaps a better way of regulating the pension industry would be to focus more on transparency in the investment rather then placing a blank template of restrictive limits on funds. Granted the draft does mention a look-through principle, which will go a long way to achieving this, but then limits must be reduced. That said, a draft for comment cannot be too specific, according to Asisa (Association for Savings and Investment SA) CEO Leon Campher.

Meanwhile, the industry waits with some anticipation for the all important detail. ◆

Catalyst

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When tax advisors or SARS officials talk about "effective management," they do not mean how efficient, competent or capable your management team is

Effective management is not always a good thing

Tanya Engels

In a tax context, the concept of "effective management" means something completely different from the commercial interpretation. It is quite important to understand this distinction, because not to do so may result in an unanticipated and unwelcome tax liability in South Africa. This article explores the impact of the tax concept of "effective management" on private equity funds, in particular on the so-called "dual fund structure."

If a company or a trust is "effectively managed" in South Africa, irrespective of where the company is incorporated or where the trust was formed, it can become tax resident in South Africa. This means that the company or trust becomes subject to tax in South Africa on its worldwide income, regardless of where the source of that income is[1].

So what does "effective management" mean? Most tax authorities today interpret effective management as the place where strategic decisions are made, which would usually equate to the place where the board of directors meets on a regular basis. However, the South African Revenue Service (SARS) prefers a different interpretation. In an Interpretation Note[2] issued on the topic, SARS indicates that the place of effective management would be where the strategic decisions are *implemented*, not made.

> **"...a successful argument that "effective management" is located in South Africa may result in the GP's full income becoming subject to tax in South Africa"**

One can think of the management of a company as a pyramid – the apex of the pyramid represents top-level management, which would usually be represented by where the board of directors meets. These meetings and the decisions made there would usually represent where the strategic direction of the company is set. The foundation of the pyramid, in turn, represents the day-to-day management of ongoing operations. "Effective management," according to SARS's interpretation, would be somewhere in between these two, where the strategic direction and decisions are *implemented*.

If one wants to apply this to a practical example, consider a company that manufactures widgets. Top-level management is where the directors decide that the strategy of the company should be to manufacture pink widgets, because there is a much bigger market for pink widgets than for any other colour. Day-to-day management would be where the managers of the factory supervise the daily manufacturing of pink widgets, deals with customers, places orders, etc. But effective management would be where the executive directors or senior managers *implement* the company's decision to manufacture pink widgets – for example,

Engels

where the decisions are made as to where the factory should be situated, what manufacturing process to use, the machinery that should be acquired or replaced, the marketing campaign to be followed, etc.

Of course, the determination of where effective management is located can be quite subjective. Also, in the above example it is fairly easy to distinguish effective management from top-level management or day-to-day management. However, this distinction is not always so unambiguous.

This is particularly true for private equity funds. Applying this line of thought to a private equity fund, one may decide that the strategic direction of the fund is, for example, to acquire investments in a specific industry, such as mining or renewable energy, to make investments within certain agreed parameters, and to have a specific exit strategy. Day-to-day management may be where the performance of portfolio investments is monitored, tracked and reported on, on a regular basis.

Effective management, however, could be argued to be where decisions are made such as whether or not to acquire a particular investment, or whether or not to dispose of a particular investment. In a private equity fund context, it is generally the general partner (GP) of the fund that is responsible for making the ultimate investment and disinvestment decisions on behalf of the partnership. Thus, the place where the GP makes these decisions could be argued to be where the fund *itself* is effectively managed.

So if the fund is effectively managed by the GP, and the GP is based in South Africa, the fund may be regarded as being a South African tax resident. This should have little consequence for a wholly South African fund with South African investors.

However, there may be unanticipated consequences where the fund is a so-called "dual fund." A dual fund allows South Africans as well as foreign investors to invest in a fund that holds a portfolio across multiple jurisdictions. A typical dual fund structure involves more than one investment vehicle – one established in South Africa, and one (or more) established offshore, generally in a tax-efficient country such as Guernsey, Jersey, or the Cayman Islands. The two (or more) fund partnerships typically enter into a co-investment agreement in terms of which they agree to invest and disinvest in the same portfolio companies at the same time. There would generally be a GP, therefore, in South Africa (for the South African fund) as well as a GP in the offshore jurisdiction (for the offshore fund).

If the South African GP makes all the investment and disinvestment decisions, and the offshore GP merely "rubber-stamps" them, an argument could be made that the activities of the South African GP also represents the "effective management" of both the offshore GP and the offshore fund in South Africa.

Whether or not there are any South African tax consequences, depends to a large extent on the type of vehicle that was used to form the GP or the fund. For example, partnerships are, from a South African tax perspective, "fiscally transparent." This means that one "looks through" the partnership to the ultimate partners in order to determine whether a tax liability arises. Where one is dealing with such a fiscally transparent entity, it will be more difficult for SARS to argue that the ultimate investor is effectively managed in South Africa, particularly if the investor's investment in the fund is only a portion of its overall business activities[3].

However, for the offshore GP, which is likely to ultimately be a company whose sole business purpose is the making of investment/disinvestment decisions, a successful argument that "effective management" is located in South Africa may result in the GP's full income becoming subject to tax in South Africa.

It is, therefore, crucially important to carefully evaluate the decisions that are made in South Africa and to ensure that the directors or managers have a good understanding of the potential tax liability that could arise as a result of their activities in South Africa.

Engels is a Director: International and Corporate Tax, KPMG Tax Services

1 If an entity establishes tax residence in South Africa by virtue of effective management, another country may also claim that the entity is tax resident there because the entity is incorporated or established there. In cases where two countries attempt to argue that an entity is tax resident there, one would look to a double tax agreement between the two countries to resolve the issue. Generally, a double tax treaty will award residence to the country where the entity is effectively managed.

2 Interpretation Note 6, dated 26 March 2002

3 In this case, however, the offshore investor may end up having a permanent establishment in South Africa. This also has South African tax consequences, albeit not on the same scale as effective management. Refer to the article on this topic titled "To PE or not to PE, that is the question" in Volume 10: No 4.

Private Equity in sub-Saharan Africa is poised for a strong comeback in 2011, according to a survey of Private Equity stakeholders conducted by KPMG in South Africa

KPMG survey points to sub-Saharan private equity rebound in 2011

More than 70% of the 119 Private Equity industry executives who participated in the interactive survey conducted by KPMG at the Unquote Private Equity Congress in Cape Town in mid-February expected the larger R3bn plus deals to start making a comeback from 2011 onwards, coinciding with a convergence of the pricing expectation between buyers and sellers.

The current price expectation gap has acted as a drag on the market. Almost half of respondents put the gap at between 20% and 30% with a further 19% putting the gap at more than 30%.

Sellers appear to believe in yesterday's prices, or tomorrow's improved prices, and remain reluctant to sell. But many potential sellers also seem to be waiting for prices to harden with only 8% of fund managers expecting to focus their attention on disinvestments over the coming 12 months.

"The South African Reserve Bank has been looking to make it easier for Private Equity funds to do deals north of South Africa for some time, so this is a very positive move for Private Equity in Sub-Saharan Africa as a whole."

– JP Fourie

Warren Watkins, head of Private Equity for KPMG in South Africa and the Africa region observes that "the private equity market in Sub-Saharan Africa over the past two years has been characterised by unwilling sellers and an inability of fund managers to invest their funds. As a result, the appetite for deals has been reined back significantly. But while market participants remain cautious about 2010 a consensus is building that 2011 is likely to show a robust increase in activity."

Market statistics collated by KPMG's South African firm and the South African Venture Capital & Private Equity Association (SAVCA) show fund-raising activity in Sub-Saharan Africa almost tripled from US$800m in 2005 to more than US$2,2bn in 2008. During the first half of 2009, fundraising reached US$1bn, equivalent to the same period in 2008.

In terms of single-country funds, South Africa continues to lead the region, representing 11 percent of all funds raised by dollar value in 2008. Some of the biggest brands on the continent, including Brait Private Equity and Ethos Private Equity are rooted in the South African market.

Private Equity investments in the region totaled US$2,9bn in 2008, down slightly from a peak US$3,4bn in 2007. However this was largely led by South Africa with more than US$2bn of the investment activity or more than 70% of the capital invested in Sub-Saharan Africa in 2008. In terms of volume, South Africa accounted for 56% of all investments in 2008 and 67% through the first half of 2009. Final statistics for 2009 as a whole are expected to show a significant drop in activity.

The largest buyouts of recent years were also done in South Africa, including the Actis-led consortium's US$700mn acquisition of electrical engineering group, Actom South Africa (formerly known as Alstom), in August 2008, which scooped the Catalyst Deal of the Year award that same year and Pamodzi Investment Holdings' US$348m acquisition of Cooke assets from gold producer, Harmony Gold, in November 2009.

Measures announced in the South African Budget to reform exchange control regulations were welcomed by J P Fourie, Chief Executive of SAVCA, as giving a further boost to a recovery of the Private Equity market. "The South African Reserve Bank has been looking to make it easier for Private Equity funds to do deals north of South Africa for some time, so this a very positive move for Private Equity in Sub-Saharan Africa as a whole," he said.

But he cautioned that any recovery would be gradual. "While we echo the views in the survey that the signs are good for a recovery in 2011, there won't be a quick uptick. It is going to take time."

When the market picks up, 36% of those polled thought manufacturing and infrastructure would top the list of choices for investment, closely followed by Retail and Healthcare (27%) and Banking, Financial Services, Telecoms and

Warren Watkins

IT (23%).

The overwhelming majority (69%) of fund managers polled at the conference said they planned to invest in equity as opposed to distressed debt over the coming 12 months with more than 80% expecting to have invested their current funds within four years.

Despite 40% of respondents citing portfolio company non-performance as the biggest issue currently facing private equity funds, 6% of fund managers said their attention would be focused on raising new funds and on new investments in 2010 rather than portfolio management.

It is clear that while the South African market will continue to dominate private equity investment in the region in the immediate future, in the longer term, South African fund managers see opportunities in the rest of sub-Saharan Africa.

Almost half of those surveyed cited investment in sub-Saharan Africa, excluding South Africa, as the next meaningful opportunity. Nearly 60% plan to raise funds focused on sub-Saharan Africa over the next three years and to invest in sub-Saharan Africa over the next 12 months.

"Many Private Equity funds globally see emerging markets as a significant growth area and it is inevitable that South African fund managers, with their particular understanding of the region, will look for investment opportunities in Africa as a whole to harness that growth," said Watkins. ◆

This article was issued by KPMG

With the eating habits of a growing number of South Africans moving towards a combination of health and convenience foods, investors are queuing up to invest in companies operating in the fresh convenience food sector

Private equity takes a healthy bite

One of these is Agri-Vie, the sub-Saharan private equity fund investing in food and agribusiness that has announced it has acquired a substantial equity stake in Dew Crisp for an undisclosed amount. Dew Crisp has an estimated 28% share of the major supermarket convenience salad market in South Africa.

Agri-Vie is a private equity investment fund focused on agribusiness with a mission to generate an above average investment return, as well as demonstrable socio-economic development impacts through its equity investments. The fund was initiated by SP-aktif and Sanlam Private Equity with the cooperation of South African and international investors as well as the Makotulo BEE Consortium

> **"Dew Crisp pioneered the convenience salad concept in South Africa and has done exceptionally well"**

Avril Stassen, investment adviser at Agri-Vie, says the changes in local eating habits follows similar trends globally, as people move towards eating fresher ingredients and away from processed foods.

He says a burgeoning South African middle to upper class will serve to increase demand for Dew Crisp's products. "Recent studies have shown the number of affluent South Africans is not only far higher but growing faster than previously thought. Coupled with a change in lifestyles that has seen a rise in single-person and double income households and more education about the benefits of healthy eating habits, this indicates huge potential for the convenience salads market."

When Dew Crisp began nearly 30 years ago, convenience salads were not available in South Africa. "Dew Crisp pioneered the convenience salad concept in South Africa and has done exceptionally well in building an enviable reputation among all the major supermarket chains, as well as supplying salad items to fast food chains and the food services market."

These strong relationships have cemented Dew Crisp's presence within the South African market, helping the company to achieve a compound growth rate of 20% over the last five years, despite tough conditions and a flat market since 2008.

"Dew Crisp has significant room for expansion in South Africa given the relative infancy of the concept, so there is fantastic potential to grow the business further as this demand continues to increase," says Stassen.

Bruce Glazer, Joint MD at Dew Crisp, says the company stands out from its competitors as it is vertically integrated, being active in the farming, processing and distribution of its goods. "Most producers are also based either in Gauteng or the Western Cape but as we operate in both provinces, we are able to diversify our operations and improve distribution times."

One of Agri-Vie's key mandates is to combine agribusiness investments that have strong growth potential, whilst also making a positive impact on the local communities in which they operate. Dew Crisp fulfils this by playing a major role in job creation, employing 600 direct employees mainly in rural areas, as well as sourcing produce from previously disadvantaged farming groups.

Avril Stassen

"We farm about 55% of our own produce requirements," says Michael Kaplan, Joint MD at Dew Crisp. "The remaining 45% is from other farming sources and we aim to procure as much as possible from black farmers and farming groups. We are currently working on a number of joint ventures in order to achieve this aim."

Dew Crisp is also responsible for running an accredited training scheme for the vegetable farming and convenience salad preparation sub-sector. "We are currently looking to formalise this scheme, which provides invaluable training to workers and we are in talks with a higher education institution to initiate a joint venture in this regard," says Kaplan.

In one of the first positive signs that the private equity buyout market is awakening from a three-year slumber, Brait announced at the very end of the first quarter that it was leading a consortium of private equity funds in the buyout of Freeworld Coatings, a former Barloworld subsidiary

LBO debt financiers' sticking their toes in the water

Of course there was talk some years ago, when Barlow's still owned Freeworld, that private equity might be sniffing around to do an asset strip of the conglomerate (which never materialised), so this particular asset has been on the radar for some time.

Catalyst will only be talking to the Brait team about its investment decision in the next issue due to the sensitivity at this early stage of the transaction.

However, Catalyst did manage to talk to Johannes van Zyl, head of leveraged finance at Nedbank Capital, the debt funders of the Freeworld transaction, about what the deal portends for banks; especially those merchant banks seeking to finance the debt components of leveraged buyouts.

A leveraged buyout (or LBO) occurs when a financial sponsor acquires a controlling interest in a company's equity and where a significant percentage of the purchase price is financed through leverage (borrowing). The assets of the acquired company are used as collateral for the borrowed capital, sometimes with assets of the acquiring company. The bonds or other paper issued for leveraged buyouts are commonly considered not to be investment grade because of the significant risks involved

"The 2008 financial crisis in international markets brought an end to a relatively short but intense trend of aggressively increasing leverage multiples in the South African LBO debt market," explains van Zyl.

Van Zyl believes that this frothy situation was due to a confluence of international external factors.

"This trend was partly a result of greater involvement in the local market by international banks and arrangers bringing multiples and debt levels which were then becoming the norm in the US and Europe, but which have since shown to be inappropriate for many of the transactions.

"In addition, the very strong wave of liquidity available pre-crunch and international optimism combined to result in many transactions not standing up to the effects of the international financial crisis. Some Private Equity sponsors and Mezzanine providers lost value and many high yield bond holders traded out of positions at substantial discounts."

> **"We would expect the markets to normalise further on the assumption that no further substantial shocks impact South Africa's main export markets."**
>
> **– Johannes van Zyl**

Van Zyl observes that the local market never reached the same precipitous extremes, "but certainly produced a few transactions at total leverage levels unlikely to be repeated anytime soon."

Edcon certainly springs to mind in this regard and it is said that bond holders would have been lucky to get 20c out of the rand on their positions.

"Nedbank Capital remained cautious during this period, declining to pursue some of the more aggressive transactions. As a result, we had a healthy base upon which to continue our responsible lending in the acquisition and leveraged finance space even during the so-called frozen period."

In the meantime markets have been showing signs of returning to normality and the Freeworld transaction is an example of this.

Van Zyl attributes this to the fact that both lenders and private equity sponsors see greater visibility of earnings coming back.

"As is the case with Freeworld Coatings, a further important positive contributor to transactions is the strength of existing banking and lending relationships bringing with it improved comfort with management and projected financial performance.

"However, this does not imply that we have achieved a low risk environment," he cautions, "but rather that well structured and priced transactions can be arranged and placed in the market, based on solid due diligence work. We would expect the markets to normalise further on the assumption that no further substantial shocks impact South Africa's main export markets."

This caveat clearly signals how fragile the recovery is at this stage and private equity players will be watching the Greek tragedy unfold with some concern as the EU represents South Africa's largest trading partner. At the time of writing it was still unclear as to whether the proposed Greek bailouts would prove successful. ◆

On 29 August 2007, amid growing concern about the perceived lack of transparency in the South African hedge fund industry, the FSB published its long-awaited regulations (the Hedge Fund Regulations) governing South Africa's hedge fund industry and, in particular, the conduct of what is referred to as hedge fund financial services providers or 'hedge fund FSPs.'

Hedge fund structures and the law

Michael Denenga

The regulation of the hedge fund industry is regarded as being particularly important due to the fact that investors in hedge funds stand to suffer substantial losses.

Prior to the publication of the Hedge Fund Regulations, hedge fund managers (as with any other investment managers) were required to be licensed as discretionary financial services providers under the FAIS Act. In terms of the Hedge Fund Regulations, however, hedge fund managers are now regulated as a separate category of financial services provider.

Broadly speaking, the Hedge Fund Regulations have sought to regulate the establishment of certain 'fit and proper requirements' for hedge fund managers, the procedures which hedge fund managers are required to follow in order to obtain authorisation to act as such, and the creation of a Code of Conduct for hedge fund managers.

> **"The regulation of the hedge fund industry is regarded as being particularly important due to the fact that investors in hedge funds stand to suffer substantial losses"**

The Fit and Proper Requirements make it obligatory for anyone managing a hedge fund to apply to the FSB for a Category IIA financial services provider licence applicable to all persons who conduct the activities of a hedge fund manager. Category IIA financial services providers are required to possess a track record of managing particular hedge fund strategies and are required adequately to demonstrate knowledge, skill and competency in managing all instruments and asset classes comprising a hedge fund portfolio as optimised by and in conjunction with the requisite hedge fund strategies employed from time to time.

In addition, an applicant for a licence to act as a Category IIA financial service provider, as well as any key individual of the applicant, is required to display certain character qualities such as honesty and integrity and to meet certain academic requirements.

Anyone intending to establish a hedge fund should also take into account that the hedge fund industry has effectively regulated itself for a while. There exists a depth of knowledge and guidance, particularly in the form of the South African Chapter of the Alternative Investment Management Association ('AIMA'), a global, not-for-profit organization that was set up to represent the global alternative investment management industry and provides a centre of knowledge for professional investment practitioners. It provides education, information and research on key issues and is in close communication with the FSB on all regulatory aspects, expectations, aims and objectives affecting the hedge fund industry.

AIMA's members include hedge fund managers, institutional investors, pension fund managers and consultants, administrators, auditors, lawyers, prime brokers and other service providers.

Many forget that, when trading in listed securities, hedge fund managers are required to comply with the South African common law and statutory provisions applicable to market manipulation and market abuse. It's advisable to obtain advice from lawyers on the common law requirements. Hedge fund managers will also have to consider that South Africa has had insider trading legislation for the past 30 years. With effect from 1 February 2005, the Insider Trading Act was repealed and its provisions incorporated into the Securities Services Act with some refinements. The criminal penalty for committing market abuse practices has been increased substantially to a fine not exceeding R50 million and/or imprisonment for a period not exceeding ten years.

The market abuse provisions of the Securities Services Act are limited to those securities that are dealt in on a regulated market (whether domestic or foreign), but will apply even if the actual dealing takes place over-the-counter. Provision has been made for both criminal and civil actions to be brought against any person who contravenes the market abuse provisions. The Securities Services Act also prohibits the making of false, misleading or deceptive statements, promises and forecasts.

When setting up hedge funds one must remember that South Africa currently has exchange controls aimed at controlling the country's foreign currency reserves. The Minister of Finance has, in recent years, announced significant relaxations to the exchange controls and has indicated that the exchange controls which remain on large movements of capital will increasingly give way to procedural and prudential supervision.

The Exchange Control Regulations apply to South African residents only. In terms of the regulations, the manager of a local hedge fund is permitted to invest a total of 20% of its total assets in offshore investments.

Taxation of hedge funds depends on the vehicle used for the fund. Where the fund is structured as a company it will constitute a separate taxpayer which will be liable for corporate tax and STC. This is a tax inefficient fund, particularly where the investors include tax exempt institutions or non-residents who may not be liable for South African tax.

If the fund is structured as either a vesting or a discretionary trust it will also constitute a separate taxpayer. To the extent, however, that income received by or accrued to the trust vests in the beneficiaries, either in terms of the trust deed or on exercise of the trustee's discretion, it will not be subject to tax in the trust, but will be deemed to have been received by or accrued to the beneficiaries.

Each beneficiary will then be subject to or exempt from tax on that income, depending on its own tax status. Similarly, any capital gains realised by the trust which vest in South African beneficiaries will be disregarded in the trust and accounted for by the beneficiaries. Capital losses realised by the trust remain trapped in the trust and cannot be utilised by the beneficiaries. Capital gains which vest in non-South African beneficiaries are subject to tax in the trust. There are various other tax consideration depending on whether the trust is a bewind trust or whether an en commandite partnership stricture is utilised. These will be important considerations in the overall structure.

All advisory, management and performance fees charged by a local investment manager to the fund will constitute income accruing to the investment manager.

Michael Denega

Hedge fund regulation will in all probability increase in line with worldwide trends. It is important to keep a look out for developments in such regulation including the proposal to regulate hedge funds products. This debate is currently underway with the FSB and will in all probability lead to new regulations soon. ◆

Denenga is founding partner of the Corporate Counsel, a niche consulting company specialising in financial services law

SOUTH AFRICA PRIVATE EQUITY DEALS Q1 2010

NATURE	PARTIES	ASSET	ADVISERS	VALUE	DATE
Acquisition by	Agri-Vie	equity stake in Dew Crisp	Bowman Gilfillan	not disclosed	Feb 3
Sale by	Link Private Equity to Aurora Empowerment Systems	45,7% stake (90 106 335 shares) in Labat Africa	Vunani Corporate Finance; Arcay Moela; Eversheds	R4,5m	Feb 9
Sale by	Labat Africa to Link Private Equity	all assets, subsidiaries and liabilities	Vunani Corporate Finance; Eversheds	R6,6m	Feb 9
Sale by	Pamodzi Investments to BlueBay Asset Management, Capitau SA Partnerships and management and staff	77% stake in Foodcorp	Capitua; Nedbank; J.P.Morgan; Rand Merchant Bank; KPMG; Cliffe Dekker Hofmeyr; Paul Weiss; Shearman & Sterling	R637,43m	Mar 10
Acquisition by	Saphirefield Investments from Freeworld Coatings minorities	shares not already held in Freeworld Coatings	Rand Merchant Bank; Deutsche Bank; Standard Bank; Read Hope Phillips; Cliffe Dekker Hofmeyr; Webber Wentzel	R1,72bn	Mar 31

International round-up

The mergers and acquisition market might be poised for increased activity during the first half of 2010, according to the year-end 2009 Dealmakers Survey ***(not to be confused with this magazine: ed)*** by the Association for Corporate Growth and Thomson Reuters.

More than three-quarters of deal makers, 82%, expect an increase in mergers activity over the next six months. That's a jump from 56% six months ago.

Despite the optimistic outlook, the mergers and acquisition environment remains weak. Nearly all deal-makers, 87%, say the current M&A environment is fair or poor. That sentiment hasn't changed much in the past year with 88 percent saying it was fair or poor in mid-2009 and 86% in December 2008. ◆

Dealmakers in China may well find a lot of the action this year in an unlikely place according to ***Reuters***.

If the private equity industry's instincts are correct, that place will be the publishing and media industry in the communist nation, where news and content are often censored.

More than a dozen private equity funds, including one backed by China Construction Bank, are raising local currency yuan-denominated funds, likely worth over billions of dollars, to invest in media-related sectors.

Reuters reports that some influential China funds, for example, Hony Capital, backed by top PC maker Lenovo Group Ltd, have already raised a yuan fund which last year bought a minority stake in IPO-ready Phoenix Publishing & Media Group, a major publisher in the eastern Chinese province of Jiangsu near Shanghai.

"The logic of the deal is very simple -- You invest ahead of its IPO and you believe the media market in China is going to have big potential in the next few years," said one private equity source close to Hony, which counts the Bill & Melinda Gates Foundation Trust as an investor in a dollar fund.

This source and other sources interviewed by *Reuters* for the story did not want to be named due to the sensitive nature of media-related topics in China. ◆

The Financial Times reported in January that the forth-coming rounds of fund raising will separate the buy-out industry's sheep from its goats as increasingly choosy investors decide which groups deserve to be given more money to invest and which should be left to wither away.

Some groups have already been forced out of the market. In the UK, Candover terminated its new €3bn (£2,66bn) buy-out fund this month after struggling to meet its own €1bn commitment.

Alchemy Partners has suspended new investments until at least 2011 after its founder Jon Moulton's shock departure plunged it into crisis earlier this year.

Next year, scores of private equity groups are expected either to exhaust the capital available in their existing funds or to reach the end of their fund's investment period.

This is likely to push some of the world's biggest buy-out groups – including Kohlberg Kravis Roberts, BC Partners, and EQT – to take the plunge and start fundraising in 2010. ◆

According to data released in March, the US private equity industry is showing signs of a solid turnaround in deal activity. According to ***Pitchbook News***, an independent private equity-focused research firm, 210 private equity investments have been completed or announced so far in 2010. February accounted for almost half of the total with 90 completed or announced deals, a nice improvement over the 77 deals last February.

Trends are beginning to emerge such as the attractiveness of the commercial services (45 deals), health-care (30 deals) and information technology (27 deals) industries, as well as the increasing number of add-on deals, totaling 71 or 44% of all buyouts to be exact. ◆