



Jason Boyea and Christopher Mozingo Author "Private Equity in 2009 - 9 Tips for Protecting Your Investment, Your Rights and Your Designated Directors"

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By Jason R. Boyea and Christopher M. Mozingo (Portions of this article have been published in the May-June 2009 Deal Lawyers Newsletter.) Many investment professionals are expecting a difficult and challenging 2009. According to the third annual National Venture Capital Association (NVCA) 2009 Predictions Survey, 93% of venture capitalists believe it will be more difficult to sustain existing portfolio companies in 2009 and 96% believe new companies will have a more difficult time raising equity financing. Many articles have been, and will continue to be, written on the current down market and global financial crisis from a private equity perspective, ranging in topics from causes of the crisis and its conditions to market trends and outlook for the future. This article is not intended to be a spotlight on the 2009 private equity market, but instead seeks to provide a timely sampling of some "back to basics" practice tips in the context of a typical private equity deal. The practical tips should be carefully considered and addressed in light of the current economy and market conditions. The challenging market conditions that private equity funds will face in 2009, in an already Darwinian industry, cannot be ignored. This article intends to give proper attention to some fundamentals or "best practices" that will help protect a private equity investor's investment, its contracted-for rights and its designated directors.

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