

## ■ ■ Securities & Finance

Since the early 1950's we have provided a full range of corporate and securities law representation to public and private business entities. Jones & Keller has served as securities counsel to a large number of publicly traded companies, investment funds, mutual funds, underwriters and investment bankers, providing counsel in public and private offerings, mergers, acquisitions, corporate restructurings, spin-offs and going private transactions.

Attorneys in the Jones & Keller securities and finance practice group have extensive experience working with the U.S. Securities and Exchange Commission and state securities regulatory agencies, and some have spent significant portions of their careers working at the SEC. Some of our attorneys were Certified Public Accountants and some have MBAs, and assist and consult with accounting firms on legal issues.

Our clients range from smaller and middle market companies, to large institutions and venture capital funds. We represent issuers, underwriters, placement agents, investment advisers, broker-dealers and purchasers in public offerings and private placements of debt and equity securities, including initial public offerings, shelf offerings, private placements and Rule 144A re-sales, exchange offers, cross-border securities offerings, and offerings as part of mergers and acquisitions.

We also help our clients with regulatory and enforcement actions, including preliminary SEC staff inquiries, compliance issues, formal investigations, civil investigations and administrative proceedings before state and federal securities authorities. We have extensive experience in compliance with federal securities law, including continuous disclosure and periodic filings, proxy statements, enforcement defense and insider trading rules.

We advise our clients on a broad range of corporate and securities matters, including:

- going private transactions
- management buy outs
- anti-takeover defenses
- fiduciary duties of management
- tender offers
- stock repurchase programs
- corporate recapitalizations
- stock exchange and self-regulatory organization listing and compliance programs
- structuring of stock, debt and partnership or LLC interest offerings
- partnership roll-ups
- employee stock ownership plans
- voting trusts
- dividends and stock splits
- dissolution and liquidation of entities

The firm participates in the prosecution and defense of securities fraud and RICO actions, consults for litigation attorneys in these matters and is active in FINRA, MSRB and AAA arbitration forums.

We provide assistance to boards of directors and committees of independent directors in conducting internal investigations of potential violations of law and possible violations of the anti-fraud, Sarbanes-Oxley and other reporting requirements under securities laws.

We represent both domestic and foreign issuers, and have represented issuers from Australia, Canada and the United Kingdom.

### **Broker-Dealer and Investment Adviser Formation and Representation**

Jones & Keller lawyers have extensive experience in the formation, registration and representation of registered broker-dealer firms and affiliated persons, and investment advisers. Our experience includes broker-dealer formation, compliance, mergers and acquisitions and dissolution; investment adviser formation and compliance; disciplinary hearings before the SEC and NASD involving firms and registered representatives; and securities arbitrations before the NASD, NYSE and National Futures Association.

### **Capital Markets**

#### **Debt and Equity Offerings Private Placements**

Jones & Keller attorneys act as lead counsel in transactions ranging from financing and investments by venture capital and private equity firms to public offerings and structured debt securities. We have extensive experience representing both investment institutions and companies seeking private equity financing. We also frequently represent companies seeking private equity investment, ranging from start-up private companies to mature public companies seeking private capital.

Capital formation and finance have become increasingly complex, particularly since the enactment of the Sarbanes-Oxley Act. Today, corporate finance may include all or a combination of hedge fund and venture capital debt or equity, mezzanine debt, commercial paper, and tax-benefit transfers.

Our attorneys provide assistance and expertise in all manner of equity and debt securities, including private placements and public offerings, Rule 144A resales, shelf registrations, project finance, debt restructuring and workouts, securitizations and medium-term note programs.

### **Corporate Governance and Compliance**

#### **Internal Investigations Officer and Director Responsibilities Special Committee Representation**

As a result of the Sarbanes-Oxley Act of 2002, regulators such as the Securities and Exchange Commission, the New York Stock Exchange and the NASDAQ Stock Market have adopted comprehensive requirements for public companies, and state and federal regulators have increased enforcement efforts. We have broad experience advising boards of directors and committees on issues such as fiduciary duties, standards of conduct, liability, and executive compensation issues, and a number of our lawyers have served on boards or as general counsel, providing us an appreciation of the need to integrate corporate governance and strategic planning for business success.

Jones & Keller provides a multidisciplinary team of lawyers to counsel our clients on corporate governance, internal investigations and compliance programs. Our lawyers assist corporations in developing customized compliance and ethics programs and policies that address issues arising under the Sarbanes-Oxley Act, securities laws, antitrust, employment, health care and privacy laws. In addition, we provide training assistance to directors, senior executives and employees in implementing their compliance and ethics programs.

Our clients include public and private companies and non-profits, as well as boards of directors, audit committees and special committees. We have experience conducting internal investigations, including employee whistleblower programs, Section 10A of the Securities Exchange Act and other sensitive matters.

Recent representative work includes:

- Representation of numerous public companies in development of governance guidelines, audit, compensation and nominating committee charters, and corporate codes of conduct in response to the Sarbanes-Oxley Act.
- Representation of private companies and nonprofit institutions considering voluntary adoption of corporate governance standards similar to those imposed on public companies under the Sarbanes-Oxley Act.
- Representation of public companies in connection with successful requests for SEC no-action letters and negotiations with shareholder proponents for withdrawal of shareholder proposals.

### **Venture, Hedge & Private Equity Fund Formation and Representation**

Jones & Keller regularly represents private equity, hedge funds, venture funds and individual and institutional venture capital investors in all types of private equity transactions. We work with clients on all aspects of private equity transactions, including fund formation, investments, financings, acquisitions and sales.

We regularly advise our clients on private equity, hedge and venture fund formation, the preparation of private offering documents and fund partnership or operating agreements. We have extensive experience representing fund investments in other private equity funds, negotiating the terms of their investments and matters related to investment control, reporting and economic rights.

We frequently represent private equity firms and their investment funds respecting investments in portfolio companies. We help our clients structure the initial term sheet, conduct legal and business due diligence, and draft and negotiate definitive investment documents. We provide continuing representation to fund clients in the management of their investments, and in connection with exit transactions.

### **Initial Public Offerings**

When clients decide the time is right to access the public equity markets, Jones & Keller has the experience they need. We assist our clients from the very beginning of this complicated and daunting process, advising on underwriter selection, negotiation of the underwriting agreement, development of the registration statement, directors and officer's questionnaires, and providing memoranda and education to the client regarding the many compliance aspects of a newly public company, such as periodic reporting, public disclosures, internal controls, restrictions on insider trading, ownership reports, short-swing profits restrictions, stockholder reports and dealing with analysts, stockholders and the press.

### **Mergers and Acquisitions**

M&A transactions, whether structured as asset or stock transactions, and regardless of the size of the entities, can be very complex. Our lawyers have many decades of experience in M&A transactions, including contested and negotiated acquisitions and tender offers, takeover defenses, leveraged buyouts, corporate spin-offs, corporate auctions, and strategic acquisition and divestiture programs.

Due to the complexity of these transactions, we often support our M&A activities with lawyers from our various practice groups, including tax, technology, intellectual property, litigation, benefits, antitrust, real estate, utilities and transportation. We draw on lawyers in the firm with broad and diverse industry experience to implement due diligence investigations, identify and resolve legal obstacles to the parties' desires, and help find solutions to intractable problems.

We work closely with our clients to achieve the business objectives that drive merger and acquisition transactions, and help them identify and implement acquisition financing, comply with and obtain appropriate clearance under tender offer, registration, proxy and other securities law requirements, and identify and resolve

post-transaction integration and assimilation problems.

Merger and acquisition transactions are seldom constrained by national borders, and we have represented both buyers and sellers in acquisitions, divestitures and joint ventures worldwide.

### **Mutual Fund Representation**

Jones & Keller lawyers regularly represent retail and institutional mutual funds and investment companies in formation, registration and compliance, and represent managers, administrators, underwriters, distributors, and independent directors and trustees with regard to complex issues arising under the Investment Company Act of 1940 and the Investment Advisers Act of 1940.

### **Securities Enforcement Defense**

In today's aggressive securities enforcement climate, Jones & Keller is well positioned to provide experienced representation and insight on all manner of enforcement investigations and actions. The firm participates in the defense of securities enforcement actions, consults for litigation attorneys in such matters and is active in FINRA, MSRB and AAA arbitration forums. Lawyers at Jones & Keller have many years of experience representing organizations and individuals under investigation or the subject of enforcement proceedings by the Securities and Exchange Commission, state securities regulators, or industry self-regulatory organizations. Our clients have included broker-dealers, investment advisers, investment companies, hedge funds, publicly held companies, banks, insurance companies, accounting firms, law firms, and their officers, directors, partners and employees.

Whenever possible we strive to reduce potential damage to reputation and business prospects that can accompany a securities enforcement action by advising our clients on steps they can take before regulators have decided whether to proceed. In that regard we provide expert advice on internal investigations, and remedial action and self-reporting when appropriate.

In the event of enforcement action our lawyers have experience defending clients before the SEC, FINRA and other federal and state securities regulators. Several of our lawyers have extensive experience serving in senior positions with the SEC and other regulatory agencies, providing us valuable insight into the regulatory decision-making process.

We have represented clients in enforcement matters, such as insider trading, improper revenue recognition, improper sales practices, inadequate disclosure, conflicts of interest, excessive markups and advisory fees, misleading statements and practices, inadequate supervision of securities professionals and ineffective compliance programs.

We have also represented mutual funds in matters such as market timing, late trading, revenue sharing, directed brokerage, sales of separate classes of mutual fund shares, and compliance with break-point obligations and federal and state securities laws and regulatory requirements.

### **Securities Filings and Continuous Reporting**

We help our clients navigate the complex world of securities filings and reporting, including federal reporting requirements such as proxy statements, annual, and quarterly reports, and the reporting requirements imposed by stock exchanges. We help our clients implement systems and controls to ensure compliance with applicable reporting requirements, and provide advice and assistance respecting:

- Periodic Reporting (Forms 10-Q, 10-K and 8-K)
- Proxy Solicitation and Proxy Statements
- Public Disclosures (Rule 10b-5 Duties)
- Regulation FD Compliance
- Rule 14a-8 Shareholder Proposal Issues
- Regulation 13D/G Compliance

## **Start-Up and Early Stage Financing**

Jones & Keller lawyers have been entrepreneurs and executives with start-up companies, and have many decades of experience with the unique demands of starting and financing a business. We understand the unique obstacles faced by entrepreneurs and have the experience to help them surmount these obstacles and achieve their business objectives.

Our highly experienced securities lawyers help emerging companies develop their capital structure, negotiate with angel investors or venture capital firms, and allocate and structure founder's share ownership. We help our clients identify financing options, including venture capital investments, private and public offerings of debt and equity securities, bank financing, and strategic alliances. We also have strong working relationships with venture capitalists, investment bankers, hedge funds and other funding sources.

## **Structured Finance**

### **Asset Securitization**

Jones & Keller represents issuers, underwriters, trustees, and servicers in public and private structured transactions, dealing with securities, bankruptcy, servicing and rating issues. We have been lead counsel on unique and innovative asset-backed securitizations, assisting our clients in capital formation through a variety of structures and assets.

### **Project Finance**

Jones & Keller lawyers have represented owners, investors and lenders in infrastructure project financings, including recourse and non-recourse development, construction and financing of mine development projects, oil and gas projects, power generation, telecommunications, chip manufacturing and natural gas transportation.

## **Attorneys**

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