

# Growth Capital Investor

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## Privatizations Accelerating Among U.S.-listed China Issuers

by Joe Gose

Shell shocked by short sales, intensified regulatory scrutiny, plunging valuations and an inability to raise money, beleaguered China-based companies that came to the U.S. public markets over the past five years are trying to get back to private life.

A lot of investors would be happy to help them out the door as quickly as possible. Many issuers went public through reverse mergers and enjoyed hefty share price increases as they jumped from trading on over-the-counter markets to listing on U.S. exchanges. But short sellers alleging fraud at some of the companies in late 2010 and 2011 sparked an 18-month-long sell off of the entire group – even among Chinese issuers that completed conventional underwritten IPOs – as the Securities and Exchange Commission and shareholders targeted the firms.

In 2011, shareholders filed 33 class actions against Chinese issuers that entered U.S. exchanges via reverse mergers, up from nine in 2010, according to a report by the Stanford Law School Securities Class Action Clearinghouse and Cornerstone Research. That accounted for 17.6% of all federal securities class actions in 2011.

Although the research noted that the velocity of suits was slowing – 24 of the actions were filed in the first half of 2011 – Chinese issuers are still under fire. In May, shareholders of China Natural Gas Inc. (CHNG) filed a class action

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## Growth Capital EPPs 2012



Source: PlacementTracker, a service of Sagient Research

## Tonga Ruling Sheds Light on Bad Old Ways of PIPE Market

by Brett Goetschius

Whatever the relative merits and ultimate disposition of the legal arguments Cannell Capital intends to use to appeal yet again a federal judge's ruling that the San Francisco-based hedge fund manager violated the Section 16(b) short-swing insider trading rule and is liable to disgorge nearly \$5 million in profits from a 2004 variable-priced convertible financing of a small Texas-based digital mapping company called Analytical Surveys, the public appeals by J. Carlo Cannell that his fund's investments were long-term value-based investments that "saved the company" don't pass the sniff test. Indeed, the most cursory inspection of the events that transpired at Analytical Surveys in the aftermath of Cannell's involvement illustrates much of what is wrong with the structured PIPE market, then and now, from the perspective of shareholders seeking sustained growth of common equity.

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# Facebook Fuels Bubble Bursting Anxiety

Many technology observers for more than a year warned that valuations in the social media and related Internet sectors were a bubble ready to burst.

They pointed to multiples that were between 50 times and 150 times forward earnings estimates at **LinkedIn** (LNKD), **Groupon** (GPN) and **Zynga** (ZNGA). The analysts also cited the fact that angel investors were doling out up to \$2 million to social media companies and those related to the sector – five to ten times higher than a typical angel round during the dot com bubble.

**Facebook** (FB), however, was largely heralded as the one issuer that deserved the pre-IPO valuation hype. Now the company's initial public offering IPO dud has ratcheted speculation that Internet company valuations are about to go over the cliff and that development-stage issuers need to tone down funding expectations.

"Since the Facebook IPO hype was hype, I think now you'll see – or at least should see – more sober public and private valuations for companies like this," said Paul Meeks, senior analyst and director of institutional investing at Bellingham, Wash.-based **Saturna Capital**. "They won't be trading like supermarkets, but I don't know that they'll be trading at the same high levels they were, say, (in early May)."

Indeed, investors had already voiced concerns over growth prospects at some social media companies and the broad market sell-off of late hasn't helped perceptions. Since Facebook's IPO, LinkedIn's market capitalization has slipped 6% to \$9.74 billion, for example, while Zynga's has fallen 21% to \$4.1 billion and Groupon's has dropped 10% to \$6.7 billion.

Meanwhile, an email by Paul Graham, a partner at Mountain View, Calif.-based technology incubator Y Combinator, sent ripples through the sector in early June when he warned portfolio companies that they would face decreased funding in the near future as the exuberance among venture capital investors faded.

David Broadwin, a partner in the Waltham, Mass.-based office of **Foley Hoag**, suggested that inaction on tax legislation could also stifle venture capital investment as the presidential election approached. Tax cuts enacted during President George W. Bush's first term are set to expire at the end of the year, which would raise rates on capital gains and income, among other levies.

Some venture capital investors are worried that higher taxes will lead to a continued stock market slide, which could create an even tougher climate for exits, said Broadwin, who heads the law firm's Emerging Enterprise Center and specializes in venture capital and emerging growth company transactions.

"If the scenario plays out, you should expect to see a drop in overall venture activity and a reduction in the frothiness of the market in the second half of this year and into the first half of 2013," he said. "There will be fewer deals at lower valuations."

Signs of a slowdown have already started to emerge. Venture capital investors completed 758 transactions valued at nearly \$5.8 billion in the U.S. in first quarter this year, down from 861 deals totaling \$6.2 billion a year earlier, according to the National Venture Capital Association.

On a global scale, however, Internet companies still accounted for more than a quarter of venture capital deal and dollar volume through May 10 this year, according to Prequin, a data miner that focuses on alternative asset investments.

Speaking at the D10 Conference in late May in Rancho Palos Verdes, Calif., Mary Meeker, a partner with venture capital firm **Kleiner Perkins Caufield &**

**Byers**, noted that her firm was having a hard time getting comfortable with high valuations among private technology companies.

While her presentation pinpointed the opportunities in mobile ecommerce applications as smartphone users swell in number, it also recognized that the average revenue per mobile user lagged the size of sales generated by desktop users.

Not everyone buys into the argument that young social networking issuers and related companies are doomed. Investors such as Sergio Monsalve of **Norwest Venture Partners** and Glenn Solomon of **GGV Capital** recently expressed doubt about whether private valuations would really suffer in the coming months, especially for quality technology issuers, according to *Technology Spectator*.

Additionally, Broadwin acknowledged that he had yet to see a material shift in deal metrics. One reason for that, he suggested, comes down to the structure of venture capital funds coupled with the way many Internet companies develop and the momentum behind them.

With a typical life of 10 to 12 years, venture funds are looking for shorter investment horizons, he said. Unlike clean tech or biotech investments, investments in Internet companies with advertising-based revenue models don't require as much capital, or 10 to 15 years to develop their products.

"These little social networking companies don't need labs or facilities, they just need cubicles and telephones," Broadwin said. "If you have a credible story and business plan, you'll have people lined up around the block to fund it."

Merger and acquisition activity in the Internet sector hasn't slowed, which could persuade venture funds to keep investing in private companies at frothy levels. Facebook's offer in April to pay \$1 billion for San Francisco-based photo-sharing application developer Instagram initially provided venture capital firm **Andreessen Horowitz** \$78 million on paper – a 312% return on its investment of \$250,000 – although it has slid some since the IPO.

That prominent deal aside (Andreessen Horowitz is getting beef for not investing more), other transactions include **Salesforce.com**'s \$689 million buyout of New York-based social media marketing company Buddy Media and **Oracle**'s \$700 million acquisition of Collective Intellect, a social media and text-mining analytics company based in Boulder, Colo. Oracle also is buying Atlanta-based social media marketer Virtue for a reported \$300 million.

Yet M&A momentum is at risk in the current climate, too, Saturna Capital's Meeks' cautioned.

"Venture funds are always desperate about realizing value from their portfolio companies, so they'll be looking at every possible method of exit," Meeks said. "But I think selling companies may become just a little bit less attractive. It's just not what's happening with Facebook, but it's what's happening around the world with Europe and all the other economic issues." —JG

## Hedge Funds Claim Hyperdynamics Misled Investors

Four hedge funds have filed a lawsuit alleging that **Hyperdynamics Corp.** (HDY) fraudulently misled investors in order to close a funding round. The Houston-based oil explorer intentionally dragged its heels on exploratory drilling, knowing poor results would have scared off investors, according to allegations in the suit filed by **Iroquois Master Fund, Hudson Bay Capital, Cranshire Capital and Kingsbrook Opportunities Master Fund**.

The suit was filed on May 9 in the New York State Supreme Court. Another suit by an individual investor is ongoing in Houston's U.S. District Court, where a third class action was also filed in May.

Hyperdynamics has raised about \$246 million via stock and convertible debt offerings since 2000, according to PlacementTracker. Prior to the offering the funds sued over, Hyperdynamics raised \$143.75 million in a CMPO/overnight offering in March 2011. Investors included **UBS O'Connor, AQR Capital Management, and Citadel Advisors**.

In 2010, regulatory filings say, the company sold a 23% interest in its offshore rights to Dana Petroleum in a \$19.5 million stock and cash transaction.

Hyperdynamics formed in 1996 to acquire internet businesses, obtained acreage offshore the Guinea Republic in a 2002 purchase from USOil Corp., and started its first well in the final quarter of 2011. The company recorded a \$129 million loss for the nine months ending in March 2012, regulatory filings say.

The four funds are suing about representations the company made in the process of obtaining a \$30 million stock and warrant registered direct offering at the end of January. When negotiations took place, the funds allege, the company said it was at least a month away from the 3,600 meter target depth of its offshore well in Africa's Republic of Guinea and that it could not foresee developments that could lead to a material adverse effect on operations in the near future.

Yet the complaint alleges that shortly after the deal closed on Feb. 2 Hyperdynamics increased its drilling rate from 23 meters per day to an average of 260 meters, announcing on Feb. 13 that the target depth had been reached. Two days later, the company issued a press release stating that the well did not contain commercial grade oil, and the company's share price fell 29% the next day.

The deal was priced at \$3.50, and prices fell from \$3.37 to \$2.60 when the direct offering was announced on Jan. 30. After the company announced that it had not found useable oil, prices continued falling to the 80 cent level when the suit was filed in May. The NYSE has warned the company that it will be delisted if its stock price does not rise above the \$1 level in six months.

The funds allege that Hyperdynamics executives and board members knew prior to the deal's close that the well would prove unproductive and that a decision was made at a board meeting to withhold information from the investors. The suit seeks at least \$18.5 million in damages.

While under different management, Hyperdynamics was sued over U.S. operations in 2006 by **Trendsetter Investors LLC**, a group formed to purchase an interest in Hyperdynamics' Trendsetter properties in Louisiana. The suit was filed in the U.S. District Court in Houston.

Trendsetter Investors alleged that Hyperdynamics fraudulently exaggerated its oil fields' value in order to obtain capital by selling a 49% interest. The suit claimed Hyperdynamics offered misleading assay results and falsely claimed the region could produce 1.47 million barrels of oil.

Hyperdynamics said in a 2007 regulatory filing that it settled the suit by issuing stock and warrants to Trendsetter Investors.

Hyperdynamics and counsel for the funds did not respond to inquiries.

### Felix Facebook Funds Fined \$250,000 by FINRA

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FINRA settled an enforcement action with secondary market player **Felix Investments**, which did not deny allegations that it sold interests in private placements without registering the securities or determining whether they were appropriate for investors. The company and four brokers agreed to pay a \$250,000 fine and make changes to their compliance procedures.

Felix brokers "pitched their unregistered offerings to over 1,000 people, often through mass mailings of boiler-plate email, without first establishing a substantive relationship with each person solicited," according to FINRA findings. One principal also employed cold calls to tout the risky investments, according to FINRA.

The company also downplayed risks inherent in the investments and did not disclose facts relevant to the sales, FINRA alleged. Over 2,000 emails and a public presentation "made exaggerated, unwarranted and misleading statements and claims, and omitted material facts in violation of NASD rules," FINRA says.

Felix violated general solicitation provisions of the Securities Act of 1933 in 2009 and 2010, when it sought investors for two funds that were designed to buy pre-IPO shares of Facebook, according to the enforcement action. Sales of such private company shares into the second market received extensive publicity as holders of Facebook and other "hot" pre-IPO tech firms sold shares at prices revealing rapidly increasing valuations in such companies.

Until regulations were relaxed by the JOBS Act, private companies risked being forced to report financial data to the Securities and Exchange Commission if they exceeded 500 shareholders. Vehicles like the two Felix funds formed so the funds could acquire the private company shares without greatly boosting the number of shareholders. Any number of individuals could then purchase an interest in the funds without increasing the issuer's shareholder base.

The risks inherent in purchasing volatile, illiquid shares in private companies with limited financial disclosure also received publicity, and in March of this year the SEC took legal actions

against three secondary market brokers, Felix Investments, **SharesPost** and **EB Financial Group**.

The SEC suit against Felix is ongoing, and the company successfully sought an extension until June 29 to answer the commission's complaint.

The other two firms agreed to register as broker dealers. EB Financial agreed to pay about \$210,000 in disgorgement and a \$100,000 fine. SharesPost and its founder agreed to pay \$80,000 and \$20,000 civil penalties respectively.

### Law Firm Fights Back in PIPE Dissipation Case

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Investors in a \$12.5 million PIPE issued by **Aamaxan Transport Group** (AAXT) allege an individual involved in the deal stole the proceeds through ATM withdrawals and other personal transactions. **Deheng Law Firm** recently asked the court to be dismissed from the case on the basis that actions of a former employee close to the deal did not make the firm liable for the dissipation.

The case began in September 2010, when investors filed suit in a New York U.S. District Court and then submitted an amended complaint a few weeks later. The complaint was dismissed, but the investors were allowed to file another complaint. Deheng is seeking to dismiss.

The PIPE took place in 2008, when funds including **Alder Capital Partners**, **Pope Investments**, **Chestnut Ridge Partners** and **Paragon Capital** purchased convertible preferred stock from Aamaxan (a Delaware corporation with operations in China). Aamaxan planned on using the funds to purchase an interest in Shanghai Atrip Medical Technology Co. Ltd., which distributes medical equipment and runs dialysis clinics around Shanghai.

Deheng provided legal advice to Shanghai Atrip, the investors claim.

After fees were paid to investor counsel **Guzov Ofsink**, investment bank **Belmont Partners** and Deheng, court papers say, the remaining \$10.13 million were placed in a bank account in the name of Asia Business Management Group Ltd., a subsidiary of Kamick Assets Ltd., whose owner Shao Gan Hua agreed to sell Kamick's equity in return for shares of Aamaxan stock. (The Shanghai Atrip transaction involved the complex sale and transfer of interests among several entities.)

Shao improperly retained control of the Asia Business Management account according to the funds' suit, which alleged Shao proceeded to embezzle the PIPE proceeds.

Some elements of the deal were a complex scheme designed to allow Shao and Deheng partner Helan Lv to steal the PIPE proceeds, the investors' lawsuit alleges. The investors also alleged that Guzov Ofsink and Belmont Partners were also to blame for the embezzlement, but those parties succeeded in having the case against them dismissed.

The missing funds were allegedly squandered by Shao, according to the investors, who also claim some of the money went

to Jerga Management Ltd., where Lv is a director. Lv is also Shao's wife, according to an amended complaint. The investors claim the Deheng firm and its partners were all responsible for Lv's actions.

A Sept. 9, 2011 note on the Deheng website says the firm never had a partner by the name of Helan Lv. Subsequent pleadings from the firm have taken issue with the funds' efforts to depict a conspiracy involving Lv and the firm.

Most recently, on May 21, Deheng filed additional papers in support of a motion to dismiss the case. The firm continues to advance jurisdictional arguments, and at the same time it says the funds have failed to state a precise claim or demonstrate fraudulent intent on the part of the law firm.

The plaintiffs' allegation that Deheng advised Shao to embezzle lacks "particularized facts forming the basis for the belief that Deheng provided that advice," according to Deheng's citation of the judge's opinion that dismissed the first complaint.

The opinion also says plaintiffs' last complaint failed to posit a reasonable motive for Deheng's alleged involvement in the embezzlement. In any case, the opinion said, "plaintiffs have failed to link any alleged omission by Deheng with the apparent decision by others to embezzle funds out of the . . . bank account."

Counsel for the parties did not respond to inquires, and it remains unknown whether any of the PIPE proceeds can be retrieved.

### OrbiMed Says Special Deal Structure Hijacked

Healthcare investor **OrbiMed** is accusing competitor **BB Biotech AG** of improperly replicating the structure of a hybrid financing first proposed by OrbiMed to medication maker **Intercell AG** (INRLY). BB Biotech allegedly induced Intercell to end negotiations with OrbiMed and "enter into an identical transaction with BB Biotech, OrbiMed's direct competitor, on the basis of unique terms that defendants misappropriated directly from OrbiMed," according to a civil suit.

The suit, naming Switzerland-based BB Biotech and its chairman of the board Thomas Szucs, was filed on May 24 in the New York State Supreme Court. A spokesperson for BB Biotech declined to comment as did a spokesperson for Intercell, which is not named in the action.

Szucs is also the supervisory board chairman of Intercell, the suit says.

New York-based OrbiMed says that it has years of experience structuring transactions in which it offers debt and equity financing in exchange for royalty payments. The company's website says it currently has \$5 billion under management. Data from PlacementTracker shows the company is an active player in the PIPEs market, where it has invested \$442 million since 1996.

In March, the complaint says, OrbiMed and Intercell executed a confidential summary of an arrangement where OrbiMed would provide financing and receive royalties from vaccine sales. "The anticipated Intercell financing was an important

opportunity for OrbiMed's business because it presented an innovative and novel 'royalty-debt' structure for a publicly traded company," according to the suit. The deal was to involve a €10 million term loan and € million stock purchase.

OrbiMed alleges that Szucs, after agreeing to terms, engaged in a "brazen act of self-dealing" that involved using his role at Intercell to violate confidentiality provisions and disclose the confidential terms to BB Biotech.

"Defendants then used this confidential information to induce Intercell to abandon its late-stage negotiations with OrbiMed and enter into a nearly identical transaction with a fund that is BB Biotech's wholly-owned subsidiary," the complaint alleges.

On May 7, the suit claims, an Intercell executive left a voice message with OrbiMed stating that the company had opted to work with BB Biotech on "essentially the terms that we had tried to originally conclude with you, and which we could not agree on. . . and BB Biotech did essentially give us all the sensitive points that had raised also with you but still keep the original structure."

OrbiMed maintains that both the overall structure and specific terms were essentially the same as those memorialized in the confidential agreement between Intercell and OrbiMed.

OrbiMed is seeking financial damages in an amount to be determined.

A spokesperson for BB Biotech declined to comment, and attorneys for the parties did not respond to inquiries.

### SEC, Hedge Funds Say Absolute Fund Cash Disappeared

The SEC, **OM Investment** and **North East Capital** filed separate suits last month against **Absolute Fund Management** and principal Jason Konior, all alleging that Absolute stole investment funds.

North East filed suit against Absolute on May 2 in the New York State Supreme Court, where OM filed against the same parties on May 16. The SEC filed on May 24 in the U.S. District Court for the Southern District of New York.

FINRA's employment history for Konior as a broker show him changing jobs 16 times from 1996 to 2006, when he was last registered. The records reveal a variety of customer complaints against Konior, some of which were resolved in his favor. Some complaints remain open, but in others Konior was sanctioned for making unsuitable recommendations, fined for doing business while unregistered, suspended for recommending a losing trade in volatile stock, and fined \$150,000 for excessive trading.

Konior also had tax problems. "Jason Konior, an equities broker formerly of Great Neck, pleaded guilty Monday to dodging income taxes on the nearly one million dollars he earned between 1999 and 2003," according to a news release from New York's Nassau County District Attorney.

The FINRA records also reveal two minor criminal convictions from the early 1990s, when Konior plead guilty to stealing

a garment and was sentenced to three years of probation for a third degree assault conviction.

The SEC suit says Konior marketed Absolute as a fund that would commit capital for leverage and assume some of investors' losses. Although Konior claimed to have \$220 million under management, the commission alleges, the trading strategy failed in 2011 and Konior used investors' funds to pay off other investors and for personal expenses.

The suit says in the months following last November Konior sold about \$11 million in interests in his funds. While some investors were made whole, at least the last four investors were never repaid. Although the complaint does not name the four investors, its account of two of them corresponds with the allegations in the OM and North East suits.

New York-based North East's suit says the fund entered into a limited partnership with Konior and Absolute, according to which the fund would contribute \$700,000 to Absolute. Absolute would place those funds and an additional \$1.8 million into a trading account with ABN Amro Clearing Corp., where North East would have complete trading control over the funds.

The suit alleges that after North East wired its funds around April 11, the fund learned that it would take at least a month to open an account with ABN, so the fund and Absolute sought to open an account with Merrill Lynch and its broker Lightspeed Trading. Both entities said they would not do business with Absolute.

North East demanded the return of its funds, but despite reassurances from Konior the cash had not been returned by the time the suit was filed. The fund is seeking the return of its capital and punitive damages.

According to OM's suit, it began negotiating with Absolute last fall for an arrangement where its contributed capital would be leveraged by a factor of 9x, but OM alleges the capital they deposited with Absolute was simply taken and not returned.

After agreeing to the 9x leverage arrangement, Tampa, Fla.-based OM's suit says, it was only able to raise \$500,000 rather than the \$1.5 million first agreed on. New York-based Absolute agreed in February to add another \$2.5 million to a trading account OM would have control over. But after OM remitted the \$500,000, it found no sign of the \$2.5 million. Moreover, the account containing the \$500,000 was an account for demonstration purposes only.

In March, OM says, a live trading account was still not accessible. The fund sent an email to Michael Lapat, an attorney identified in Absolute's offering materials. "Mr. Lapat responded within half-an-hour and advised 'neither Michael Lapat nor Turn Key Hedge Funds Inc., has any relationship with the so called Absolute Fund you reference in your email.'"

In the first week of May, OM's suit says, it made two requests to terminate the agreement and secure the return of the \$500,000. The funds had not been returned when the suit was filed.

"Defendants acted maliciously, wantonly, recklessly, outrageously, oppressively, and intentionally [to] cause great economic harm to OM, including conversion, with full knowledge of the

wrongfulness and unjustifiable nature of their conduct," according to the complaint.

The suit seeks damages of at least \$500,000 as well as punitive damages. Absolute had not answered the complaint at deadline, but on May 25 the court approved an order requiring Absolute not to move the \$500,000 in assets allegedly provided by OM.

Konior did not respond to inquiries. OM and its counsel declined to comment, while North East's counsel did not respond by deadline.

### SEC Puts Kibosh on Midas Appeal

**Midas Securities** and principal Jay Lee are subject to a two-year regulatory ban after the SEC upheld FINRA's findings that the firm helped sell millions of unregistered **iStorage** shares. The company was formed through a reverse merger with shell Camryn in 2004, after which FINRA began investigating a storm of spam email touting iStorage.

The regulator learned that insiders deposited 4.5 million shares of unregistered stock into accounts at Midas and WTF Corp. (WTF is currently appealing sanctions.) Over 3 million shares were sold, at which point FINRA learned the brokers had no rules for keeping track of unregistered shares or lawfully selling them.

"Lee testified that he did not want his representatives to make any decisions as to whether a stock was restricted because it was 'not their duty,'" FINRA disciplinary records say. When selling restricted shares, brokers must contact the issuer's counsel and obtain a legal opinion for the sale. Lee told FINRA that he prevented brokers from taking this step.

The brokerages tried to avail themselves of the "broker's exemption" under Section 4(4) of the Securities Act, but FINRA found that this exemption only applies to shares already issued to the public. Brokers need to inquire that shares are not being sold as part of an illegal distribution. Midas and WTF not only failed to make such an inquiry but also maintained that it was FINRA's responsibility, disciplinary records show.

The SEC upheld FINRA's findings, noting in the process that Midas learned that Petar Mihaylov, who sold 760,000 shares of iStorage, was not the long term investor he initially claimed to be. Instead, he was an Eastern European stock promoter, and Midas entered into a finder's agreement with him whereby Midas was compensated with shares of stock in companies it found for Mihaylov to tout.

(The commission has a pending case alleging Mihaylov used spam email to carry out a \$32 million pump and dump operation.)

In upholding FINRA, the SEC also noted a previous sanction against Midas for improper sales of restricted stock in 2004. According to the SEC's account, "Lee assured FINRA that 'the firm is committed to not let an incident like this happen again.'"

Midas and Lee are required to pay fines of \$80,000 and \$50,000 respectively. Lee faces a two-year ban from acting as a principal for FINRA members. **X**

# Growth Capital Investor

## Aggregate Year-to-Date Market Activity

### Equity Private Placements - All PIPEs and Reg S

Structure Type	Deals	\$ Raised	% of Total \$
ATM (At the Market) Offering	58	\$203,550,637	1%
Convertible - Fixed	95	\$3,589,567,597	21%
Unknown Structure	15	\$3,440,528,197	20%
Common Stock	158	\$3,293,155,665	19%
Common Stock - CMPO/Overnight Offering	48	\$2,492,018,109	14%
Common Stock - Rights Offering	12	\$2,484,668,851	14%
Common Stock - Shelf Sale (Registered Direct)	50	\$1,187,017,949	7%
Non-Convertible Debt/Preferred Stock	30	\$582,536,472	3%
Structured Equity Line	46	\$550,000	0%
Convertible - Company Installment (Self-Amortizing)	6	\$131,000,000	1%
Convertible - Reset	3	\$45,689,359	0%
Convertible - Floating	5	\$12,851,000	0%
<b>Total</b>	<b>526</b>	<b>\$17,463,133,836</b>	

Top Funded Industries	\$ Raised	% of Total \$
REITS	\$6,811,155,344	26%
Pipelines	\$3,350,000,034	13%
Semiconductors	\$3,265,778,197	13%
Oil & Gas	\$1,981,342,466	8%
Biotechnology	\$1,373,348,831	5%
Pharmaceuticals	\$1,242,181,392	5%
Miscellaneous Manufacturing	\$807,392,555	3%
Electric	\$675,000,000	3%
Transportation	\$588,463,425	2%
Mining	\$585,757,484	2%

### Unregistered Growth Capital Equity Private Placements

Structure Type	Deals	\$ Raised	% of Total \$
Common Stock	68	\$3,122,898,973	18%
Convertible - Co. Installment (Self-Amortizing)	5	\$305,538,251	2%
Convertible - Fixed	31	\$2,601,722,575	15%
Non-Convertible Debt/ Preferred Stock	18	\$615,427,361	4%
<b>Total</b>	<b>122</b>	<b>\$6,645,587,160</b>	<b>38%</b>

Most Active Industries	Deals	\$ Raised
Biotechnology	14	\$380,475,940
Mining	10	\$471,640,129
Oil & Gas	9	\$838,259,741
Internet	9	\$508,485,151
Energy- Alternative Sources	9	\$775,748,862
Pharmaceuticals	8	\$128,138,099
Healthcare Products	7	\$132,555,612
Banks, Savings & Loans	6	\$128,916,207
Electronics, Components & Equip.	6	\$267,748,321
Healthcare Services	5	\$266,529,845

Unregistered Growth Capital EPPs include offerings of at least \$1 million of unregistered stock or equity-linked debt under SEC Regulations D and S at fixed purchase, conversion and warrant exercise price terms by U.S. publicly traded emerging growth companies from \$10 million to \$1 billion in market capitalization at the time of offering.

### Registered Growth Capital Equity Private Placements

Structure Type	Deals	\$ Raised	% of Total \$
ATM (At the Market) Offering	31	\$1,550,983,500	9%
CMPO/Overnight Offering	42	\$3,122,633,400	18%
Rights Offering	2	\$76,700,120	0%
Registered Direct	36	\$1,790,261,443	10%
<b>Total</b>	<b>111</b>	<b>\$6,540,578,463</b>	<b>37%</b>

Most Active Industries	Deals	\$ Raised
Biotechnology	28	\$1,405,466,922
Pharmaceuticals	20	\$1,448,732,025
Healthcare Products	11	\$225,248,812
Oil & Gas	7	\$291,187,886
REITS & Real Estate	5	\$310,640,000
Electronics, Components & Equip.	4	\$86,464,953
Telecommunications	3	\$330,924,503
Transportation	3	\$137,601,071
Banks	3	\$102,600,000
Computers	3	\$56,400,000

Registered Growth Capital EPPs include offerings of at least \$1 million of registered stock under SEC Regulations D and S at fixed purchase, conversion and warrant exercise price terms by U.S. publicly traded emerging growth companies from \$10 million to \$1 billion in market capitalization at the time of offering.

Source: PlacementTracker, a service of Sagient Research, Inc. EPP market activity data excludes all placements of less than \$1 million, placements via 144-A Offerings or Equity Lines of Credit, and transactions conducted by foreign issuers that trade in the U.S. on the Pink Sheets. Data is for closed and definitive agreement transactions reported as of 6/4/12.

## Growth Capital Investor

### Best Deal Performance YTD - Unregistered Growth Capital EPPs

Company	Symbol	Closing Date	Gross Proceeds	Stock Price Change Post-Closing	1-month Performance Post-Closing	3-month Performance Post-Closing	Placement Agent
Arena Pharmaceuticals, Inc.	ARNA	1/10	\$16,500,000	341%	N/A	N/A	Maxim Group LLC(Lead Agent), Sunrise Securities (Co-Agent)
Accel8 Technology Corporation	AXK	4/20	\$14,420,000	180%	150%	N/A	None
XOMA Corporation	XOMA	1/3	\$10,000,000	119%	17%	140%	None
Microvision, Inc.	MVIS	5/23	\$4,998,996	97%	N/A	N/A	Not Disclosed
Virtual Piggy, Inc.	VPIG	5/2	\$1,000,000	81%	98%	N/A	Moelis & Company(Exclusive Agent)
United States Antimony	UAMY	1/19	\$2,205,000	75%	14%	57%	Chardan Capital Markets(Exclusive Agent)
SearchMedia Holdings Limited	IDI	2/17	\$3,000,000	70%	50%	71%	C.K. Cooper & Co., Ladenburg Thalmann & Co., Inc.(Co-Agents)
Cytomedix, Inc.	CMXI	2/8	\$5,000,000	56%	-22%	30%	Taglich Brothers, Inc.(Exclusive Agent)
Amyris, Inc.	AMRS	5/18	\$4,097,196	54%	N/A	N/A	Not Disclosed
Luxeyard, Inc.	LUXR	4/24	\$2,990,000	36%	12%	N/A	Evercore Partners Inc.(Exclusive Agent)
EnteroMedics Inc.	ETRM	4/16	\$10,000,000	34%	19%	N/A	Not Disclosed
Bridgeline Digital Inc.	BLIN	5/24	\$2,500,000	29%	N/A	N/A	Not Disclosed
American DG Energy Inc.	ADGE	3/26	\$1,600,000	28%	23%	N/A	None
Hydrogenics Corporation	HYGS	4/20	\$5,044,372	25%	24%	N/A	D.A. Davidson & Co.(Exclusive Agent)
Aastrom Biosciences, Inc.	ASTM	3/9	\$40,001,000	22%	12%	24%	None
Pacific Mercantile Bancorp	PMBC	4/20	\$26,300,000	21%	15%	N/A	Canaccord Genuity Inc. (US)(Exclusive Agent)
Horizon Pharma, Inc.	HZNP	2/22	\$60,000,000	20%	12%	12%	Credit Suisse Securities (USA) LLC(Financial Advisor)
Luxeyard, Inc.	LUXR	5/31	\$3,116,500	17%	N/A	N/A	Craig-Hallum Capital Group LLC(Exclusive Agent)
Osage Exploration and Dev.	OEDV	4/17	\$2,500,000	16%	48%	N/A	Sandler O'Neill & Partners, L.P.(Exclusive Agent)
TherapeuticsMD, Inc.	TXMD	2/24	\$1,000,000	15%	15%	28%	Cowen and Company, LLC(Exclusive Agent)
Response Genetics, Inc.	RGDX	2/2	\$7,885,901	14%	68%	47%	Cowen and Company, LLC(Exclusive Agent)
Thomas Properties Group, Inc.	TPGI	5/29	\$50,000,005	13%	N/A	N/A	Craig-Hallum Capital Group LLC(Exclusive Agent)
Horizon Pharma, Inc.	HZNP	2/28	\$50,820,003	11%	2%	12%	None

### Worst Deal Performance YTD - Unregistered Growth Capital EPPs

Company	Symbol	Closing Date	Gross Proceeds	Stock Price Change Post-Closing	1-month Performance Post-Closing	3-month Performance Post-Closing	Placement Agent
RXI Pharmaceuticals Corporation	RXII	4/27	\$11,000,000	-94%	N/A	N/A	Cowen and Company (Lead Agent), JMP Securities (Co-Agent)
IntelliCell BioSciences Inc.	SVFC	2/9	\$1,975,000	-91%	-6%	-81%	Cowen and Company (Lead Agent), JMP Securities (Co-Agent)
Sharprock Resources Inc.	SHRK	1/4	\$1,882,000	-88%	-46%	N/A	Maxim Group (Lead Agent), Sunrise Securities (Co-Agent)
SEFE Inc.	SEFE	4/25	\$2,000,000	-86%	-76%	N/A	None
Proteonomix, Inc.	PROT	3/9	\$3,802,457	-86%	-56%	-85%	None
Titan Iron Ore Corporation	TFER	1/12	\$1,000,500	-83%	4%	-7%	Not Disclosed
PolyMedix Inc.	PYMX	4/10	\$8,000,000	-71%	-54%	N/A	Moelis & Company (Exclusive Agent)
NeurogesX, Inc.	NGSX	2/3	\$2,999,382	-68%	-45%	-56%	Chardan Capital Markets (Exclusive Agent)
Remark Media Inc.	MARK	2/28	\$4,251,497	-64%	-8%	-56%	C.K. Cooper & Co. (Co-Agent), Ladenburg Thalmann & Co. (Co-Agent)
American Strategic Minerals Corp.	ASMC	1/26	\$5,569,965	-59%	N/A	N/A	Taglich Brothers, Inc.(Exclusive Agent)
Savient Pharmaceuticals Inc.	SVNT	5/9	\$46,620,000	-58%	-57%	N/A	Not Disclosed
Amyris, Inc.	AMRS	2/27	\$24,999,961	-57%	-12%	-61%	Evercore Partners Inc.(Exclusive Agent)
Amyris, Inc.	AMRS	2/23	\$58,726,679	-55%	-9%	-63%	Not Disclosed
InspireMD, Inc.	NSPR	4/5	\$11,000,000	-55%	-24%	N/A	Not Disclosed
BNCCORP, Inc.	BNCC	2/16	\$17,020,000	-55%	-58%	-59%	None
Nova Lifestyle, Inc.	STVS	1/13	\$2,068,000	-52%	-15%	-62%	D.A. Davidson & Co.(Exclusive Agent)
RepliCel Life Sciences, Inc.	REPCF	3/29	\$2,713,113	-52%	24%	N/A	None
Hampton Roads Bankshares, Inc.	HMPR	5/21	\$50,000,000	-52%	N/A	N/A	Canaccord Genuity Inc. (US)(Exclusive Agent)
Richmont Mines Inc.	RIC	2/1	\$9,837,581	-51%	-18%	-44%	Credit Suisse Securities (USA) LLC(Financial Advisor)
Ecotality Inc.	ECTY	3/13	\$5,000,000	-50%	-11%	-51%	Craig-Hallum Capital Group LLC(Exclusive Agent)
China Shen Zhou Mining & Res.	SHZ	3/27	\$5,000,000	-49%	-10%	N/A	Sandler O'Neill & Partners, L.P.(Exclusive Agent)
DHT Holdings, Inc.	DHT	3/19	\$7,499,940	-49%	-35%	N/A	Cowen and Company, LLC(Exclusive Agent)

**Source:** PlacementTracker, a service of Sagient Research, Inc. EPP market activity data excludes all placements of less than \$1 million, placements via 144-A Offerings or Equity Lines of Credit, and transactions conducted by foreign issuers that trade in the U.S. on the Pink Sheets. Growth Capital EPPs include offerings of at least \$1 million of stock or equity-linked debt under SEC Regulations D and S at fixed purchase, conversion and warrant exercise price terms by U.S. publicly traded emerging growth companies from \$10 million to \$1 billion in market capitalization at the time of offering. Data is for closed and definitive agreement transactions reported as of 6/4/12.

## Growth Capital Investor

### Best Deal Performance YTD - Registered Growth Capital EPPs

Company	Symbol	Closing Date	Gross Proceeds	Stock Price Change Post-Closing	1-month Performance Post-Closing	3-month Performance Post-Closing	Placement Agent
Rosetta Genomics Limited	ROSG	5/16	\$2,212,200	528%	N/A	N/A	Cantor Fitzgerald & Company (Exclusive Agent)
Arena Pharmaceuticals, Inc.	ARNA	1/10	\$16,500,000	341%	25%	94%	Sandler O'Neill & Partners, L.P. (Lead Agent), FBR Capital Markets (Co-Agent)
ParkerVision, Inc.	PRKR	4/18	\$8,546,003	90%	10%	N/A	MLV & Co. LLC (Exclusive Agent)
XOMA Corporation	XOMA	3/6	\$39,163,283	74%	92%	59%	J.P. Morgan Chase & Co. (Exclusive Agent)
Agenus, Inc.	AGEN	3/2	\$0	72%	104%	57%	Deutsche Bank Securities, Inc. (Co-Agent), Knight Capital Markets, LLC (Co-Agent)
Repros Therapeutics Inc.	RPRX	2/2	\$11,085,917	69%	-10%	-8%	Cowen and Company, LLC (Exclusive Agent)
Ardea Biosciences, Inc.	RDEA	2/6	\$166,175,000	65%	8%	63%	Cantor Fitzgerald & Company (Exclusive Agent)
Tranzyme Inc.	TZYM	5/7	\$0	45%	6%	N/A	MLV & Co. LLC (Exclusive Agent)
Enteromedics Inc.	ETRM	4/16	\$5,050,000	34%	19%	N/A	Cowen and Company, LLC (Exclusive Agent)
Synta Pharmaceuticals Corp.	SNTA	1/11	\$35,420,000	32%	18%	-12%	Sandler O'Neill & Partners, L.P. (Exclusive Agent)
Synta Pharmaceuticals Corp.	SNTA	5/2	\$0	32%	19%	N/A	Citigroup Global Markets, Inc. (Co-Agent), Credit Suisse Securities (USA) LLC (Co-Agent)
Ventrus Biosciences Inc.	VTUS	1/30	\$0	31%	15%	2%	Cowen and Company, LLC (Exclusive Agent)
Pacira Pharmaceuticals, Inc.	PCRX	4/12	\$58,500,000	28%	7%	N/A	Knight Capital Markets, LLC (Exclusive Agent)
Protalix BioTherapeutics Inc.	PLX	2/22	\$27,168,750	19%	8%	15%	MLV & Co. LLC (Exclusive Agent)
Black Diamond, Inc.	BDE	2/22	\$66,843,750	16%	17%	11%	Cantor Fitzgerald & Company (Exclusive Agent)
Synageva BioPharma Corp.	GEVA	1/10	\$90,000,018	15%	10%	5%	Bank of America Merrill Lynch, Barclays Capital, Inc., Cantor Fitzgerald & Company, Wells Fargo Securities, LLC (Co-Agents)
EDAP TMS S.A.	EDAP	3/28	\$5,625,000	11%	11%	N/A	MLV & Co. LLC (Exclusive Agent)
Comstock Mining, Inc.	LODE	2/8	\$17,250,001	8%	-1%	-5%	Citigroup Global Markets, Inc., KeyBanc Capital Markets, Merrill Lynch International, Raymond James & Associates Inc. (Co-Agent), Wells Fargo Securities, LLC (Co-Agents)
Acadia Realty Trust	AKR	1/27	\$18,191,811	6%	2%	9%	MLV & Co. LLC (Exclusive Agent)
S&W Seed Company	SANW	5/23	\$5,500,000	5%	N/A	N/A	C.K. Cooper & Company, Inc. (Exclusive Agent)

### Worst Deal Performance YTD - Registered Growth Capital EPPs

Company	Symbol	Closing Date	Gross Proceeds	Stock Price Change Post-Closing	1-month Performance Post-Closing	3-month Performance Post-Closing	Placement Agent
Chelsea Therapeutics Intl.	CHTP	1/11	\$23,699,056	-80%	0%	-61%	Cantor Fitzgerald & Company (Exclusive Agent)
Hyperdynamics Corporation	HDY	1/30	\$30,000,000	-76%	-58%	-72%	Sandler O'Neill & Partners, L.P. (Lead Agent), FBR Capital Markets (Co-Agent)
Maxwell Technologies, Inc.	MXWL	2/16	\$10,300,000	-69%	-11%	-61%	MLV & Co. LLC (Exclusive Agent)
Wave Systems Corporation	WAVX	1/30	\$4,020,619	-64%	-11%	-37%	J.P. Morgan Chase & Co. (Exclusive Agent)
Excel Maritime Carriers Limited	EXM	5/7	\$0	-60%	-58%	N/A	Deutsche Bank Securities, Inc., Knight Capital Markets, LLC (Co-Agents)
Transwitch Corporation	TXCC	2/10	\$0	-58%	-8%	-38%	Cowen and Company, LLC (Exclusive Agent)
A123 Systems Inc.	AONE	1/25	\$25,425,000	-55%	-12%	-60%	Cantor Fitzgerald & Company (Exclusive Agent)
Oncothyreon Inc.	ONTY	2/3	\$0	-53%	10%	-44%	MLV & Co. LLC (Exclusive Agent)
Complete Genomics Inc.	GNOM	3/8	\$618,556	-51%	-20%	-48%	Cowen and Company, LLC (Exclusive Agent)
Superconductor Technologies	SCON	2/16	\$7,046,780	-50%	-42%	-51%	Sandler O'Neill & Partners, L.P. (Exclusive Agent)
DHT Holdings, Inc.	DHT	3/19	\$72,500,120	-49%	-35%	N/A	Citigroup Global Markets, Credit Suisse Securities (USA) (Co-Agents)
Idera Pharmaceuticals, Inc.	IDRA	4/12	\$0	-49%	-43%	N/A	Cowen and Company, LLC (Exclusive Agent)
FNB United Corporation	FNBN	5/18	\$0	-48%	N/A	N/A	Knight Capital Markets, LLC (Exclusive Agent)
Oculus Innovative Sciences, Inc.	OCLS	4/25	\$2,124,001	-45%	-25%	N/A	MLV & Co. LLC (Exclusive Agent)
Transcept Pharmaceuticals, Inc.	TSPT	4/26	\$40,500,000	-43%	-35%	N/A	Cantor Fitzgerald & Company (Exclusive Agent)
Apricus Biosciences Inc.	APRI	2/9	\$20,000,002	-43%	-31%	-40%	Bank of America Merrill Lynch, Barclays Capital, Inc., Cantor Fitzgerald & Company, Wells Fargo Securities (Co-Agents)
Titan Pharmaceuticals, Inc.	TTNP	4/9	\$5,540,001	-41%	-34%	N/A	MLV & Co. LLC (Exclusive Agent)
Uranium Energy Corporation	UEC	4/10	\$22,485,881	-40%	-19%	N/A	Citigroup Global Markets, KeyBanc Capital Markets, Merrill Lynch Intl., Raymond James & Assoc., Wells Fargo Securities (Co-Agents)
TeamStaff Inc.	TSTF	3/16	\$4,200,000	-38%	-17%	N/A	MLV & Co. LLC (Exclusive Agent)
Royale Energy, Inc.	ROYL	2/17	\$0	-36%	16%	-40%	C.K. Cooper & Company, Inc. (Exclusive Agent)

**Source:** PlacementTracker, a service of Sagient Research, Inc. EPP market activity data excludes all placements of less than \$1 million, placements via 144-A Offerings or Equity Lines of Credit, and transactions conducted by foreign issuers that trade in the U.S. on the Pink Sheets. Growth Capital EPPs include offerings of at least \$1 million of stock or equity-linked debt under SEC Regulations D and S at fixed purchase, conversion and warrant exercise price terms by U.S. publicly traded emerging growth companies from \$10 million to \$1 billion in market capitalization at the time of offering. Data is for closed and definitive agreement transactions reported as of 6/4/12.

## Growth Capital Investor

### Growth Capital EPP Candidates

Company	Current Symbol	Industry	Current Market Price	Volume (3-Mo. Avg)	Market Cap (\$M)	Cash Burn Rate	Last Placement	Last EPP Gross Proceeds	Est. Future EPP Size
Cumulus Media Inc	CMLS	Media	\$3.11	459,504	473.0M	-477,066,750	9/16/11	\$245,612,999	\$43,225,084
Pebblebrook Hotel Trust	PEB	REITS	\$18.63	351,331	1.179B	-145,139,250	5/3/11	\$125,000,000	\$94,587,081
Crestwood Midstream Partners Lp	CMLP	Gas	\$24.80	119,291	1.073B	-124,119,000	4/1/11	\$152,953,500	\$90,614,805
Dg Fastchannel, Inc	DGIT	Commercial Services	\$12.47	422,290	343.8M	-117,006,500	4/7/10	\$115,014,375	\$33,934,611
Magnum Hunter Resources Corp	MHR	Oil & Gas	\$4.72	3,234,334	573.8M	-106,998,250	1/18/12	\$59,300,000	\$61,131,958
Green Bankshares, Inc.	GRNB	Banks	\$1.33	11,562	229.0M	-85,936,250	9/7/11	\$217,019,000	\$17,712,191
Parkway Properties Inc	PKY	REITS	\$9.73	143,570	235.8M	-82,517,250	6/5/12	\$48,400,000	\$21,521,609
AAR Corp	AIR	Aerospace/Defense	\$10.34	468,995	399.8M	-82,348,500	2/11/08	\$137,500,000	\$41,657,792
Colony Financial, Inc.	CLNY	REITS	\$17.09	162,977	565.8M	-81,634,500	12/20/10	\$55,687,500	\$56,581,851
Castle A M & Co	CAS	Dist./Wholesale	\$10.06	251,096	232.0M	-66,608,250	12/15/11	\$57,500,000	\$23,147,054
Pioneer Drilling Co	PDC	Oil & Gas	\$8.98	785,383	461.2M	-53,931,250	11/12/09	\$25,785,000	\$55,347,727
Hoku Scientific Inc	HOKU	Energy-Alternative	\$2.66	76,727	8.6M	-44,687,000	7/10/09	\$0	\$14,642,352
Ladenburg Thalmann Financial Services	LTS	Financial Services	\$2.51	379,232	270.4M	-41,744,000	11/4/11	\$160,700,000	\$45,919,688
Retail Opportunity Investments Corp	ROIC	REITS	\$11.55	400,501	614.2M	-40,029,773	6/23/11	\$50,000,000	\$48,186,947
Excel Trust, Inc.	EXL	REITS	\$11.27	185,539	379.1M	-39,731,000	3/9/12	\$50,000,000	\$37,913,972
Friedman Billings Ramsey Group Inc	AI	REITS	\$22.51	104,544	217.9M	-34,876,250	3/22/12	\$41,944,500	\$15,980,605
Keyuan Petrochemicals, Inc.	KEYP	Chemical	\$1.69	15,760	N/A	-33,391,465	9/28/10	\$26,204,640	\$9,730,934
Petroleum Development Corp	PETD	Oil & Gas	\$35.28	437,354	541.9M	-32,974,750	11/24/10	\$115,000,000	\$83,300,172
Kit Digital, Inc.	KITD	Commercial Services	\$8.76	821,424	225.3M	-32,483,500	5/15/12	\$29,190,000	\$40,432,835
Sun Communities Inc	SUI	REITS	\$35.33	257,191	1.138B	-32,232,250	5/10/12	\$100,000,000	\$76,676,699
Saul Centers Inc	BFS	REITS	\$42.51	48,268	828.9M	-31,810,750	9/23/11	\$6,192,380	\$82,716,273
Lighting Science Group Corp	LSCG	Electronics	\$1.49	58,786	N/A	-30,744,214	5/25/12	\$67,069,000	\$30,009,994
Capital Bank Corp	CBKN	Banks	\$2.10	28,916	180.2M	-28,263,500	1/28/11	\$181,050,000	\$18,018,454
Martin Midstream Partners Lp	MMLP	Dist./Wholesale	\$32.63	75,886	719.4M	-27,551,000	8/17/10	\$29,130,000	\$63,897,149
Associated Estates Realty Corp	AEC	REITS	\$15.34	308,603	651.6M	-27,279,500	8/4/10	\$25,000,000	\$65,157,354
Preferred Apartment Communities Inc	APTS	REITS	\$7.20	9,271	37.3M	-23,277,817	4/5/11	\$5,000,000	\$3,709,665
Kaman Corp	KAMN	Dist./Wholesale	\$27.59	131,027	782.1M	-17,725,750	11/19/10	\$115,000,000	\$72,495,542
Bluelinx Holdings Inc.	BXC	Dist./Wholesale	\$2.17	31,444	138.2M	-17,277,750	7/28/11	\$60,000,001	\$13,823,635
Vanguard Natural Resources, Llc	VNR	Oil & Gas	\$26.31	353,781	1.292B	-17,032,750	9/9/11	\$200,000,000	\$78,498,566
American Standard Energy Corp.	ASEN	Retail	\$1.64	51,978	N/A	-16,608,236	2/13/12	\$20,000,000	\$7,441,886
Merit Medical Systems Inc	MMSI	Healthcare Products	\$13.63	247,826	536.6M	-14,399,000	6/17/11	\$92,460,000	\$57,134,234
Crimson Exploration Inc.	CXPO	Oil & Gas	\$4.64	94,421	204.0M	-13,265,473	10/27/10	\$21,250,000	\$21,370,387
Motorcar Parts America Inc	MPAA	Energy-Alternative	\$6.75	89,567	59.6M	-10,949,750	4/26/12	\$15,004,000	\$8,388,610
Voyager Oil & Gas, Inc.	VOG	Oil & Gas	\$2.21	242,696	N/A	-10,933,150	2/4/11	\$50,000,000	\$12,784,503
General Finance Corp	GFN	Holding Companies	\$2.53	9,877	70.4M	-9,565,750	12/18/09	\$6,285,970	\$5,569,365
Union Drilling Inc	UDRL	Oil & Gas	\$6.11	91,809	101.9M	-9,109,750	6/4/09	\$24,750,000	\$14,169,912
Dolan Media Co	DM	Media	\$7.95	99,514	239.9M	-8,501,500	7/28/08	\$64,000,000	\$24,307,190
Wabash National Corp /De	WNC	Auto Manufacturers	\$6.97	1,088,727	442.1M	-7,574,250	8/3/09	\$10,000,000	\$47,481,238
Warren Resources Inc	WRES	Oil & Gas	\$3.00	315,916	183.3M	-7,402,250	10/23/09	\$30,615,000	\$21,265,968
Synergy Pharmaceuticals, Inc.	SGYP	Retail	\$2.10	41,823	304.8M	-6,334,088	5/9/12	\$45,000,000	\$19,932,582
American Realty Capital Properties, Inc.	ARCP	REITS	\$10.00	39,017	71.7M	-6,082,750	5/11/12	\$6,000,000	\$7,323,434
Central Vermont Public Service Corp	CV	Electric	\$35.24	62,957	481.0M	-6,015,000	1/15/10	\$45,000,000	\$47,799,448
Elephant Talk Communications Inc	ETAK	Telecommunications	\$1.78	353,493	197.6M	-5,282,283	3/30/12	\$8,000,000	\$19,762,669
Cpi Aerostructures Inc	CVU	Aerospace/Defense	\$11.95	13,891	83.7M	-4,567,456	6/13/12	\$3,660,000	\$8,374,224
Saia Inc	SAIA	Transportation	\$12.65	65,893	344.2M	-4,458,000	12/22/09	\$26,565,000	\$20,113,810
Titan Pharmaceuticals Inc	TINP	Biotechnology	\$1.18	73,555	N/A	-3,914,000	4/9/12	\$5,540,001	\$7,007,497
Granite City Food & Brewery Ltd	GCFB	Retail	\$2.15	6,891	10.2M	-3,598,635	6/10/12	\$6,500,000	\$1,000,624
Synergy Pharmaceuticals, Inc.	SGYPD	Pharmaceuticals	\$3.84	32,522	N/A	-3,037,893	10/4/11	\$3,430,624	\$36,448,150
Bluefly Inc	BFly	Internet	\$1.20	3,212	34.3M	-2,962,000	9/8/11	\$6,600,000	\$3,429,193
Vision Sciences Inc /De/	VSCI	Healthcare Products	\$2.05	22,427	60.0M	-2,957,000	4/27/12	\$14,000,000	\$9,155,300

**Source:** PlacementTracker, a service of Sagient Research, Inc. Growth Capital EPP candidates include U.S. publicly traded emerging growth companies from \$10 million to \$1 billion in market capitalization, with a minimum share price of \$1.00 and less than one quarter of cash liquidity, which have previously closed an EPP financing, ranked by quarterly cash burn rate. Estimated EPP amounts based upon 10% market cap dilution at 10% of daily trading volume. Data as of 6/4/12.

## Growth Capital Investor

### Top Agents by Total Deals - U.S. PIPEs and Reg S

Rank	Agent	Deals	\$ Invested
1	Roth Capital Partners, LLC	24	\$580,606,389
2	Rodman & Renshaw, LLC	23	\$390,567,747
3	Cowen and Company, LLC	16	\$829,628,316
4	JMP Securities LLC	12	\$517,351,257
5	Jefferies & Company, Inc.	11	\$674,287,500
6	Leerink Swann, LLC	10	\$649,913,577
7	Lazard	10	\$516,702,388
8	Stifel Nicolaus Weisel	10	\$424,310,754
9	Piper Jaffray & Co.	9	\$447,846,135
10	Aegis Capital Corporation	9	\$126,893,501
11	Oppenheimer & Co. Inc.	8	\$363,850,000
12	Ladenburg Thalmann & Co., Inc.	8	\$173,711,417
13	Canaccord Genuity Inc. (US)	7	\$201,924,516
14	Craig-Hallum Capital Group LLC	7	\$133,358,705
15	Wedbush PacGrow Life Sciences	6	\$292,788,928
16	Maxim Group LLC	6	\$108,425,902
17	Barclays Capital, Inc.	5	\$978,500,624
18	J.P. Morgan Chase & Co.	4	\$261,969,903
19	Merriman Capital, Inc	4	\$34,130,212
20	Chardan Capital Markets	4	\$13,136,500
21	Wells Fargo Securities, LLC	3	\$496,675,024
22	B. Riley & Co.	3	\$170,800,000
23	Brean Murray, Carret & Co.	3	\$149,988,750
24	William Blair & Company, LLC	3	\$128,519,500
25	Summer Street Research Partners	3	\$71,796,500

### Top Agents by Total Investment - U.S. PIPEs and Reg S

Rank	Agent	Deals	\$ Invested
1	Barclays Capital, Inc.	8	\$1,190,329,485
2	Cowen and Company, LLC	21	\$852,128,316
3	Goldman, Sachs & Co.	4	\$847,200,599
4	Wells Fargo Securities, LLC	11	\$839,789,918
5	Bank of America Merrill Lynch	10	\$822,225,607
6	Jefferies & Company, Inc.	13	\$760,610,100
7	J.P. Morgan Chase & Co.	10	\$756,607,503
8	Leerink Swann, LLC	10	\$649,913,577
9	JMP Securities LLC	14	\$614,281,257
10	Credit Suisse Securities (USA) LLC	7	\$605,795,003
11	Roth Capital Partners, LLC	24	\$580,606,389
12	Morgan Stanley	5	\$578,295,018
13	Lazard	11	\$553,883,921
14	DnB NOR Markets	2	\$550,000,000
15	Nordea Bank Denmark A/S	2	\$550,000,000
16	Arctic Securities	2	\$550,000,000
17	Citigroup Global Markets, Inc.	7	\$537,995,103
18	Piper Jaffray & Co.	10	\$485,027,668
19	Stifel Nicolaus Weisel	10	\$424,310,754
20	Cantor Fitzgerald & Company	13	\$408,010,496
21	Rodman & Renshaw, LLC	23	\$390,567,747
22	Raymond James & Associates Inc.	5	\$381,254,202
23	Oppenheimer & Co. Inc.	8	\$363,850,000
24	UBS Securities LLC	6	\$352,181,533
25	Deutsche Bank Securities, Inc.	6	\$343,184,311

### Top Agents by Total Deals - U.S. Growth Capital EPPs

Rank	Agent	Deals	\$ Invested
1	Roth Capital Partners, LLC	24	\$580,606,389
2	Cowen and Company, LLC	21	\$852,128,316
3	Rodman & Renshaw, LLC	20	\$387,217,745
4	JMP Securities LLC	12	\$517,351,257
5	Leerink Swann, LLC	10	\$649,913,577
6	Lazard	10	\$516,702,388
7	Stifel Nicolaus Weisel	10	\$424,310,754
8	Jefferies & Company, Inc.	9	\$568,787,500
9	Cantor Fitzgerald & Company	9	\$120,213,250
10	MLV & Co. LLC	9	\$73,701,700
11	Piper Jaffray & Co.	8	\$387,346,135
12	Oppenheimer & Co. Inc.	8	\$363,850,000
13	Aegis Capital Corporation	8	\$125,516,501
14	Wedbush PacGrow Life Sciences	7	\$310,038,928
15	Canaccord Genuity Inc. (US)	7	\$201,924,516
16	Craig-Hallum Capital Group LLC	7	\$133,358,705
17	Ladenburg Thalmann & Co., Inc.	6	\$161,761,417
18	Maxim Group LLC	6	\$108,425,902
19	Wells Fargo Securities, LLC	5	\$291,632,361
20	Barclays Capital, Inc.	4	\$495,442,410
21	J.P. Morgan Chase & Co.	4	\$228,219,903
22	Deutsche Bank Securities, Inc.	4	\$148,184,311
23	Citigroup Global Markets, Inc.	4	\$132,438,053
24	B. Riley & Co.	3	\$170,800,000
25	Brean Murray, Carret & Co.	3	\$149,988,750

### Top Agents by Total Investment - Growth Capital EPPs

Rank	Agent	Deals	\$ Invested
1	Cowen and Company, LLC	21	\$852,128,316
2	Leerink Swann, LLC	10	\$649,913,577
3	Roth Capital Partners, LLC	24	\$580,606,389
4	Jefferies & Company, Inc.	9	\$568,787,500
5	JMP Securities LLC	12	\$517,351,257
6	Lazard	10	\$516,702,388
7	Barclays Capital, Inc.	4	\$495,442,410
8	Goldman, Sachs & Co.	2	\$469,575,599
9	Stifel Nicolaus Weisel	10	\$424,310,754
10	Piper Jaffray & Co.	8	\$387,346,135
11	Rodman & Renshaw, LLC	20	\$387,217,745
12	Oppenheimer & Co. Inc.	8	\$363,850,000
13	Wedbush PacGrow Life Sciences	7	\$310,038,928
14	Wells Fargo Securities, LLC	5	\$291,632,361
15	J.P. Morgan Chase & Co.	4	\$228,219,903
16	Canaccord Genuity Inc. (US)	7	\$201,924,516
17	B. Riley & Co.	3	\$170,800,000
18	Evercore Partners Inc.	2	\$166,999,986
19	Mizuho Securities Co., Limited	1	\$166,175,000
20	Ladenburg Thalmann & Co., Inc.	6	\$161,761,417
21	Brean Murray, Carret & Co.	3	\$149,988,750
22	Deutsche Bank Securities, Inc.	4	\$148,184,311
23	Craig-Hallum Capital Group LLC	7	\$133,358,705
24	Collins Stewart Inc.	2	\$133,094,885
25	Citigroup Global Markets, Inc.	4	\$132,438,053

**Source:** PlacementTracker, a service of Sagient Research, Inc. Rankings of All PIPEs and Reg S excludes all placements of less than \$1 million and placements via 144-A Offerings or Equity Lines of Credit. Growth Capital EPPs include offerings of at least \$1 million of stock or equity-linked debt under SEC Regulations D and S at fixed purchase, conversion and warrant exercise price terms by publicly traded emerging growth companies from \$10 million to \$1 billion in market capitalization at the time of offering. Financial Advisors are excluded from agent rankings. Data is for closed and definitive agreement transactions reported as of 6/4/12.

## Growth Capital Investor

### Top Investors by Total Deals - All PIPEs and Reg S

Rank	Investment Advisor	Deals	\$ Invested
1	Heights Capital Management, Inc.	20	\$104,304,349
2	Hudson Bay Capital Management L.P.	18	\$107,898,738
3	Fidelity Management & Research Corp.	15	\$159,482,325
4	Downsview Capital, Inc.	14	\$9,600,978
5	Kingsbrook Partners, LP	12	\$6,744,860
6	Iroquois Capital L.P.	12	\$5,612,001
7	Deerfield Management	9	\$41,350,001
8	Empery Asset Management LP	8	\$27,779,560
9	Frost Group, LLC (The)	7	\$10,000,000
10	DAFNA Capital Management, LLC	7	\$4,250,002
11	Baker Brothers Advisors, LLC	6	\$35,300,000
12	Tenor Capital Management	6	\$24,750,001
13	UBS O'Connor LLC	6	\$13,343,746
14	Sabby Management, LLC	6	\$8,439,001
15	LH Financial Services Corporation	6	\$8,045,000
16	Millennium Management, LLC	6	\$0
17	Tang Capital Management, LLC	5	\$32,856,243
18	AWM Investment Management (MGP Advisors	5	\$6,150,000
19	Brio Capital Management LLC	5	\$1,000,001
20	Ayer Capital Management, LP	4	\$12,750,000
21	Perceptive Advisors, LLC	4	\$2,000,000
22	Lincoln Park Capital	4	\$1,906,000
23	Midsummer Capital, LLC	4	\$1,199,999
24	Artorius Capital Management	4	\$300,000
25	Columbia Management Investment Advisers	4	\$0

### Top Investors by Total Investment - All PIPEs and Reg S

Rank	Investment Advisor	Deals	\$ Invested
1	BDT Capital Partners LLC,	2	\$680,000,037
2	Blackstone Group (The)	1	\$500,000,010
3	Molibdenos y Metales SA (MOLYMET:CI)	1	\$390,225,000
4	Halcon Resources, LLC	1	\$275,000,000
5	Oaktree Capital Management LLC	2	\$254,999,997
6	Temasek Holdings	2	\$249,049,995
7	RRJ Capital Limited	1	\$234,050,000
8	GlaxoSmithKline plc (NYSE:GSK)	1	\$212,887,000
9	Total Group (The)	2	\$176,906,697
10	Fidelity Management & Research Corp.	15	\$159,482,325
11	Seadrill Limited (NYSE:SDRL)	1	\$150,000,000
12	Baron Capital, Inc.	3	\$110,080,314
13	Hudson Bay Capital Management L.P.	18	\$107,898,738
14	Heights Capital Management, Inc.	20	\$104,304,349
15	Russian Standard Corporation	2	\$99,999,999
16	Hebei XingHua Iron and Steel Co. Limited	1	\$88,872,615
17	Linden LLC	1	\$82,000,000
18	Quantum Partners LP	1	\$74,999,988
19	T. Rowe Price Associates, Inc.	2	\$73,055,700
20	Kayne Anderson Capital Advisors, L.P.	2	\$68,000,012
21	Kohlberg Kravis Roberts & Company, LP	1	\$65,000,000
22	American Funds	1	\$59,040,000
23	Oak Investment Partners	1	\$55,000,000
24	Madison International Realty	1	\$50,000,005
25	Riverwood Capital	1	\$50,000,000

### Top Investors by Total Deals - Growth Capital EPPs

Rank	Investment Advisor	Deals	\$ Invested
1	Heights Capital Management, Inc.	17	\$78,812,499
2	Fidelity Management & Research Corp.	12	\$101,196,825
3	Hudson Bay Capital Management L.P.	12	\$40,123,726
4	Kingsbrook Partners, LP	8	\$4,386,527
5	Iroquois Capital L.P.	7	\$1,436,001
6	Deerfield Management	6	\$38,000,001
7	Baker Brothers Advisors, LLC	6	\$35,300,000
8	Empery Asset Management LP	6	\$23,696,750
9	Downsview Capital, Inc.	6	\$1,749,995
10	DAFNA Capital Management, LLC	6	\$750,002
11	UBS O'Connor LLC	5	\$8,749,996
12	Millennium Management, LLC	5	N/D
13	Frost Group, LLC (The)	4	\$7,100,000
14	AWM Investment Management (MGP Advisors)	4	\$6,150,000
15	Midsummer Capital, LLC	4	\$1,199,999
16	Artorius Capital Management	4	\$300,000
17	Tang Capital Management, LLC	3	\$27,356,243
18	Capital Group Companies	3	\$21,960,000
19	Anchorage Advisors LLC	3	\$20,938,142
20	Tenor Capital Management	3	\$16,500,001
21	RA Capital Management, LLC	3	\$12,200,000
22	Ayer Capital Management, LP	3	\$11,500,000
23	Wellington Management Company LLP	3	\$11,430,000
24	Sabby Management, LLC	3	\$4,374,001
25	Perceptive Advisors, LLC	3	\$2,000,000

### Top Investors by Total Investment - Growth Capital EPPs

Rank	Investment Advisor	Deals	\$ Invested
1	Blackstone Group (The)	1	\$500,000,010
2	Halcon Resources, LLC	1	\$275,000,000
3	Oaktree Capital Management LLC	2	\$254,999,997
4	Total Group (The)	2	\$176,906,697
5	Fidelity Management & Research Corp.	12	\$101,196,825
6	Russian Standard Corporation	2	\$99,999,999
7	Hebei XingHua Iron and Steel Co. Limited	1	\$88,872,615
8	Baron Capital, Inc.	2	\$85,080,318
9	Heights Capital Management, Inc.	17	\$78,812,499
10	T. Rowe Price Associates, Inc.	2	\$73,055,700
11	Kohlberg Kravis Roberts & Company, LP	1	\$65,000,000
12	American Funds	1	\$59,040,000
13	Oak Investment Partners	1	\$55,000,000
14	Madison International Realty	1	\$50,000,005
15	Riverwood Capital	1	\$50,000,000
16	Hudson Bay Capital Management L.P.	12	\$40,123,726
17	Portfolio Services Limited	1	\$40,001,000
18	Rusnano	1	\$39,783,240
19	Deerfield Management	6	\$38,000,001
20	Baker Brothers Advisors, LLC	6	\$35,300,000
21	Goldman Sachs & Co.	2	\$34,839,450
22	Capital Maritime & Trading Corporation	1	\$30,899,997
23	POSCO Power	1	\$30,000,000
24	Kayne Anderson Capital Advisors, L.P.	1	\$29,999,997
25	Tang Capital Management, LLC	3	\$27,356,243

**Source:** PlacementTracker, a service of Sagient Research, Inc. Rankings of All PIPEs and Reg S excludes all placements of less than \$1 million and placements via 144-A Offerings or Equity Lines of Credit. Growth Capital EPPs include offerings of at least \$1 million of stock or equity-linked debt under SEC Regulations D and S at fixed purchase, conversion and warrant exercise price terms by U.S. publicly traded emerging growth companies from \$10 million to \$1 billion in market capitalization at the time of offering. Data is for closed and definitive agreement transactions reported as of 6/4/12.

## Growth Capital Investor

### Top Investor Counsel by Total Deals - All PIPEs and Reg S

Rank	Firm	Deals	\$ Advised
1	Schulte Roth & Zabel, LLP	28	\$1,443,234,662
2	Greenberg Traurig, LLP	11	\$122,402,859
3	Latham & Watkins, LLP	5	\$1,154,057,610
4	Ropes & Gray	5	\$128,284,001
5	Ellenoff Grossman & Schole LLP	4	\$26,068,000
6	Grushko & Mittman, PC	4	\$7,360,000
7	Sullivan & Cromwell	3	\$97,299,988
8	Sichenzia Ross Friedman Ference, LLP	3	\$9,091,281
9	Munger, Tolles & Olson, LLP	2	\$805,000,055
10	DLA Piper	2	\$475,000,031
11	Baker Botts, LLP	2	\$319,999,970
12	Thompson & Knight, LLP	2	\$280,000,325
13	Wilson Sonsini Goodrich & Rosati	2	\$203,463,240
14	Skadden, Arps, Slate, Meagher & Flom, LLP	2	\$79,848,903
15	Katten Muchin Rosenman, LLP	2	\$33,000,000
16	Davies Ward Phillips & Vineberg, LLP	1	\$101,967,221
17	Lakatos, Köves and Partners	1	\$100,000,000
18	Simpson Thacher Bartlett, LLP	1	\$67,069,000
19	Paul, Weiss, Rifkind, Wharton & Garrison	1	\$65,000,000
20	Liner Grode Stein LLP	1	\$45,000,000
21	Vinson & Elkins, LLP	1	\$40,001,000
22	SNR Denton US LLP	1	\$40,000,000
23	Buchanan Ingersoll & Rooney, PC	1	\$34,848,903
24	Davis Graham & Stubbs, LLP	1	\$30,000,000
25	Kim & Chang	1	\$30,000,000

### Top Issuer Counsel by Total Deals - All PIPEs and Reg S

Rank	Firm	Deals	\$ Advised
1	Cooley LLP	18	\$846,085,826
2	Sichenzia Ross Friedman Ference, LLP	9	\$72,269,962
3	Latham & Watkins, LLP	6	\$157,589,500
4	Wilson Sonsini Goodrich & Rosati	6	\$129,543,210
5	Greenberg Traurig, LLP	6	\$91,332,627
6	Skadden, Arps, Slate, Meagher & Flom, LLP	5	\$928,000,066
7	Jones Day	5	\$618,530,005
8	Dorsey & Whitney, LLP	5	\$148,740,879
9	Fenwick & West, LLP	4	\$366,203,640
10	Morrison & Foerster, LLP	4	\$53,113,023
11	K&L Gates LLP	4	\$17,415,001
12	Anslow & Jaclin, LLP	4	\$8,999,000
13	Vinson & Elkins, LLP	3	\$830,000,008
14	Ropes & Gray	3	\$122,200,020
15	Paul Hastings LLP	3	\$110,378,499
16	Haynes and Boone, LLP	3	\$79,119,000
17	Mintz, Levin, Cohn, Ferris, Glosky & Popeo	3	\$39,009,200
18	TroyGould PC	3	\$26,887,255
19	Fredrikson & Byron, PA	3	\$19,509,850
20	DLA Piper	3	\$18,077,000
21	Morgan, Lewis & Bockius, LLP	3	\$15,925,000
22	Graubard Miller	3	\$15,546,003
23	Andrews Kurth LLP	2	\$968,100,010
24	Stradling, Yocca, Carlson & Rauth, PC	2	\$251,300,001
25	Dewey & LeBoeuf LLP	2	\$100,000,001

### Top Agent Counsel by Total Deals - All PIPEs and Reg S

Rank	Firm	Deals	\$ Advised
1	Goodwin Procter, LLP	23	\$592,201,665
2	Ellenoff Grossman & Schole LLP	20	\$101,410,741
3	Latham & Watkins, LLP	13	\$824,696,138
4	LeClairRyan, PC	10	\$50,709,722
5	Lowenstein Sandler, PC	8	\$75,552,751
6	Sidley Austin LLP	7	\$402,148,105
7	Proskauer Rose, LLP	6	\$158,955,503
8	Reed Smith, LLP	6	\$87,868,556
9	DLA Piper	6	\$59,201,196
10	Sullivan & Cromwell	4	\$247,418,750
11	Clifford Chance US, LLP	4	\$111,695,550
12	Zysman, Aharoni, Gayer & Co.Law Offices	4	\$17,627,883
13	Andrews Kurth LLP	3	\$191,250,000
14	Skadden, Arps, Slate, Meagher & Flom, LLP	3	\$113,235,881
15	Davis Polk & Wardwell	3	\$112,625,000
16	K&L Gates LLP	3	\$36,820,311
17	Dewey & LeBoeuf LLP	2	\$81,908,750
18	Cahill, Gordon & Reindel	2	\$67,500,000
19	Ropes & Gray	2	\$55,500,150
20	Hunton & Williams, LLP	2	\$52,206,000
21	Goodmans, LLP	2	\$39,760,376
22	Cooley LLP	2	\$35,500,000
23	Bass, Berry & Sims, PLC	2	\$32,700,000
24	Morgan, Lewis & Bockius, LLP	2	\$9,501,497
25	Fried, Frank, Harris, Shriver & Jacobson	1	\$302,625,000

### Top Issuer Counsel by Total Deals - Growth Capital EPPs

Rank	Firm	Deals	\$ Advised
1	Cooley LLP	17	\$785,585,826
2	Latham & Watkins, LLP	9	\$174,708,056
3	Sichenzia Ross Friedman Ference, LLP	8	\$70,769,962
4	Wilson Sonsini Goodrich & Rosati	7	\$137,043,210
5	Dorsey & Whitney, LLP	6	\$159,990,879
6	Greenberg Traurig, LLP	6	\$91,332,627
7	Goodwin Procter, LLP	5	\$105,392,811
8	Fenwick & West, LLP	4	\$366,203,640
9	Jones Day	4	\$228,305,005
10	Paul Hastings LLP	4	\$116,378,499
11	Morrison & Foerster, LLP	4	\$53,113,023
12	Morgan, Lewis & Bockius, LLP	4	\$29,437,566
13	Skadden, Arps, Slate, Meagher & Flom, LLP	3	\$123,000,011
14	Ropes & Gray	3	\$122,200,020
15	Haynes and Boone, LLP	3	\$79,119,000
16	Hunton & Williams, LLP	3	\$64,990,500
17	Mintz, Levin, Cohn, Ferris, Glosky & Popeo	3	\$42,882,200
18	TroyGould PC	3	\$27,127,250
19	DLA Piper	3	\$18,077,000
20	Dewey & LeBoeuf LLP	2	\$100,000,001
21	Cravath, Swaine & Moore	2	\$80,000,060
22	Loeb & Loeb, LLP	2	\$70,540,001
23	Yigal Arnon & Company	2	\$64,255,200
24	Wilmer Cutler Pickering Hale & Dorr, LLP	2	\$60,000,000
25	Lowenstein Sandler, PC	2	\$53,288,750

**Source:** PlacementTracker, a service of Sagient Research, Inc. Rankings of All PIPEs and Reg S excludes all placements of less than \$1 million and placements via 144-A Offerings or Equity Lines of Credit. Growth Capital EPPs include offerings of at least \$1 million of stock or equity-linked debt under SEC Regulations D and S at fixed purchase, conversion and warrant exercise price terms by U.S. publicly traded emerging growth companies from \$10 million to \$1 billion in market capitalization at the time of offering. Data is for closed and definitive agreement transactions reported as of 6/4/12.

## Growth Capital Investor

### Top Agents by Total Deals - International PIPEs and Reg S

Rank	Firm	Deals	\$ Advised
1	Patersons Securities Limited	16	\$128,444,787
2	Kingston Securities Limited	12	\$92,105,618
3	RBS Morgans	9	\$295,375,084
4	Hartleys Limited	9	\$89,889,583
5	Bell Potter Securities Limited	9	\$45,345,292
6	Casimir Capital L.P.	8	\$121,106,002
7	Fox-Davies Capital Limited	7	\$38,218,333
8	Euroz Securities Limited	6	\$202,996,655
9	Cygnat Capital Pty Limited	6	\$21,037,552
10	Liberum Capital Limited	5	\$227,205,589
11	Azure Capital Pty Limited	5	\$114,281,811
12	Centos Securities Limited	5	\$142,079,030
13	Canaccord Genuity Corporation (CAN)	5	\$18,617,298
14	Industrial Alliance Securities Inc.	5	\$11,166,543
15	Orient Securities Limited	4	\$83,453,068
16	GMP Securities Europe LLP	4	\$72,744,938
17	Canaccord BGF Limited (AUS)	4	\$32,974,188
18	Dixon Advisory & Superannuation Services	4	\$24,229,205
19	National Bank Financial, Inc.	4	\$11,382,127
20	Bank of America Merrill Lynch	3	\$1,516,723,279
21	Goldman Sachs (Asia) LLC	3	\$960,990,040
22	J.P. Morgan Cazenove Limited	3	\$1,058,541,880
23	Carnegie ASA	3	\$51,161,424
24	Chung Nam Securities Limited	3	\$29,190,794
25	RBC Capital Markets, Inc. (UK)	3	\$299,524,009

### Top Agents by Total Deals - International Growth Capital EPPs

Rank	Firm	Deals	\$ Advised
1	Patersons Securities Limited	12	\$119,105,068
2	Kingston Securities Limited	10	\$44,621,058
3	RBS Morgans	9	\$295,375,084
4	Casimir Capital L.P.	8	\$121,106,002
5	Bell Potter Securities Limited	8	\$39,993,962
6	Hartleys Limited	7	\$88,602,038
7	Euroz Securities Limited	6	\$202,996,655
8	Fox-Davies Capital Limited	6	\$33,974,987
9	Liberum Capital Limited	5	\$227,205,589
10	Centos Securities Limited	5	\$142,079,030
11	Azure Capital Pty Limited	5	\$114,281,811
12	Cygnat Capital Pty Limited	5	\$18,917,280
13	Canaccord Genuity Corporation (CAN)	5	\$18,617,298
14	Industrial Alliance Securities Inc.	5	\$11,166,543
15	Orient Securities Limited	4	\$83,453,068
16	GMP Securities Europe LLP	4	\$72,744,938
17	Dixon Advisory & Superannuation Services	4	\$24,229,205
18	National Bank Financial, Inc.	4	\$11,382,127
19	Shore Capital Stockbrokers Limited	3	\$45,996,050
20	Argonaut Securities	3	\$38,325,424
21	BBY Limited	3	\$35,726,576
22	Daniel Stewart & Company PLC	3	\$32,923,375
23	Canaccord BGF Limited (AUS)	3	\$30,814,574
24	FinnCap	3	\$30,065,384
25	Old Park Lane Capital plc	3	\$26,196,282

### SPAC Activity YTD

In Registration	Date	IPO Amt (\$M)	IPO Trust (\$M)	Investment Banker
Chardan Metropool Acquisition Corp.	4/25	\$40.00	\$40.00	Chardan Capital Markets
Aquasition Corp.	4/4	\$50.00	\$49.75	Rodman & Renshaw
CIS Acquisition Ltd.	3/20	\$100.00	\$98.00	Chardan Capital Markets
Committed Capital Acquisition Corp. II	3/7	\$25.00	\$25.00	Broadband Capital Mgt
Committed Capital Acquisition Corp. III	3/7	\$25.00	\$25.00	Broadband Capital Mgt
RNK Global Development Acquisition Corp.	1/13	\$30.00	\$28.64	Chardan Capital Markets

IPOs	Date	IPO Amt (\$M)	IPO Trust (\$M)	Investment Banker
ROI Acquisition (ROIQ)	2/29	\$75.00	\$75.10	Deutsche Bank Securities

### Funded Reverse Mergers

Company Name at Closing	Symbol	Closing Date	Investment	Agent
Organic Spice Imports, Inc.	ORSI	5/15	\$1,964,300	Wynston Hill Capital
Elite Nutritional Brands Inc.	ELITD	5/8	\$1,594,000	Laidlaw & Company (UK)
Encom Group, Inc.	ESRN	4/16	\$2,000,000	N/D
ZaZa Energy Corporation	ZAZA	2/21	\$100,000,000	Rodman & Renshaw
SeraCare Life Sciences, Inc.	SRLS	2/14	\$82,000,000	N/D
Organovo Holdings Inc.	ONVO	2/8	\$13,722,608	Spencer Trask Ventures
Moving Box Inc.	MVBX	1/30	\$1,000,000	None
American Strategic Minerals Corp.	ASMC	1/26	\$5,569,965	None
Direct Pet Health Holdings, Inc.	DPHG	1/25	\$11,843,224	Emergent Financial Group
Dynastar Holdings, Inc.	DYNA	1/17	\$2,000,000	Gottbetter Capital Markets

Source: PlacementTracker, a service of Sagient Research, Inc.; and SEC filings. APO market activity data excludes all placements of less than \$1 million. Data is for closed and definitive agreement transactions reported as of 6/4/12.

### Privatizations continued from front page

against the company's board and chairman, claiming that the chairman wrongly loaned \$14.3 million to family members. The lawsuit followed a complaint by the SEC against the company and chairman on the same grounds. China Natural Gas was delisted from Nasdaq in March.

"Clearly there were a group of companies that came to the U.S. for the wrong reasons," said Drew Bernstein, a co-managing partner with the accounting firm of Marcum Bernstein & Pinchuk who specializes on Chinese issuers. "I don't know how else to put it."

For other investors, however, the going-private trend provides a deep well of arbitrage plays for the foreseeable future. The idea is to take these battered young companies private, inject them with growth capital, and then re-list in Hong Kong or on a mainland-China exchange where such companies are more highly valued.

"For a private equity or venture capital funds focused on China that would be able to buy a company that they believe in at a very low valuation and then grow it and re-list it, that's a

better value proposition than buying a similar private company in China at a much higher valuation," said Kevin Pollack, a managing director with New York-based Paragon Capital Advisors, an investment management firm still bullish on the long-term prospects of China. "In this environment, it makes sense for some issuers, and it makes sense for some investors – there's a lot of capital to be put to work."

Newport Beach, Calif.-based investment bank Roth Capital Partners has been tracking and periodically updating the roster of privatizations dating to early 2010. On June 1 it reported that 14 Chinese issuers with an implied equity value of \$6.4 billion had completed such deals. An additional 17 transactions are in process, with an implied equity value of \$2.4 billion identified in 16 of the deals. Two going-private efforts so far have been terminated.

Mark Tobin and Panhua Xu, Roth Capital researchers who penned the reports, have noted that Chinese issuer interest in leaving U.S. markets remains strong. Public companies listed in Hong Kong trade at a 50% premium to their U.S.-listed

### Recent U.S. Listed Chinese Company Take-Private Activity

Company	Symbol	Status	Announced	Closing Date	Type	Implied Value (\$M)
BMP Sunstone	BJGP	Completed	10/28/10	2/24/11	Strategic buyout	\$520.6
China Fire & Security	CFSG	Completed	3/7/11	11/4/11	MBO	\$257.8
Chemspec International	CPC	Completed	11/11/10	8/19/11	MBO	\$292.0
China Real Estate Information	CRIC	Completed	10/28/11	4/23/12	Merger w/parent	\$609.6
China Security & Surveillance Tech.	CSR	Completed	3/8/11	9/16/11	MBO	\$583.2
Funtalk China	FTLK	Completed	3/25/11	8/25/11	MBO	\$433.9
Global Education & Technology	GEDU	Completed	11/21/11	12/21/11	Strategic buyout	\$288.4
China GrenTech	GRRF	Completed	11/14/11	4/17/12	MBO	\$69.9
Harbin Electric	HRBN	Completed	10/11/10	11/3/11	MBO	\$750.0
Jingwei International Ltd	JNGW	Completed	1/6/12	3/30/12	MBO	\$31.9
Shanda Interactive	SNDA	Completed	10/17/11	2/14/12	MBO	\$2,262.8
SOKO Fitness & Spa Group	SOKF	Completed	7/25/11	7/27/11	MBO (short-form merger)	\$100.7
Tiens Biotech Group	TBV	Completed	6/27/11	8/11/11	MBO (short-form merger)	\$122.7
Tongjitang Chinese Medicines	TCM	Completed	4/8/10	4/15/11	MBO	\$117.1
Andatee China Marine Fuel Svcs.	AMCF	In-progress	11/23/11	Pending	MBO (tender offer)	\$40.5
AsiaInfo-Linkage	ASIA	In-progress	1/20/12	Pending	Strategic buyout	N/A
China Advanced Construction Mtls.	CADC	In-progress	7/26/11	Pending	MBO	\$47.1
ChinaCast Education Corp	CAST	In-progress	11/15/11	Pending	Strategic buyout	\$343.1
China Natural Gas	CHNG.PK	In-progress	6/30/11	Pending	MBO	\$91.2
China Transinfo Technology	CTFO	In-progress	2/21/12	Pending	MBO	\$142.8
Fushi Copperweld	FSIN	In-progress	11/3/10	Pending	MBO	\$362.9
Gushan Environmental Energy	GU	In-progress	2/24/12	Pending	MBO	\$27.0
Zhongpin	HOGS	In-progress	3/27/12	Pending	MBO	\$506.6
China Nuokang Bio-Pharmaceutical	NKBP	In-progress	5/9/12	Pending	MBO	\$114.8
Pansoft Company	PSOF	In-progress	1/7/12	Pending	MBO	\$21.0
Puda Coal	PUDA.PK	In-progress	4/29/11	Pending	MBO	\$360.0
Shengtai Pharmaceutical	SGTI.OB	In-progress	4/17/12	Pending	MBO	\$15.8
Tibet Pharmaceuticals	TBET.PK	In-progress	2/27/12	Pending	MBO	\$44.5
WSP Holdings Limited	WH	In-progress	12/13/11	Pending	Strategic buyout	\$61.3
Winner Medical Group	WWIN	In-progress	4/2/12	Pending	MBO	\$104.8
Yucheng Technologies	YTEC	In-progress	5/21/12	Pending	MBO	\$76.0
CNinsure	CISG	Terminated	5/16/11	9/15/11	MBO	\$953.1
Qiao Xing Mobile	QXM	Terminated	9/9/10	4/7/11	Merger w/parent	\$81.5

Source: Roth Capital Partners

counterparts, for example, although that's down from about 70% a year earlier, they said in their late April report.

Through June 1 this year, 10 China companies have announced going-private deals, a pace that's set to pass the 16 announced privatizations in all of 2011. In 2010, six companies announced going-private transactions.

In early May, China Nuokang Bio-Pharmaceutical's (NKBP) chairman and CEO offered to buy out the company for \$5.80 a share, which represented a 56.7% premium over the closing price prior to the announcement. About two weeks later, Yucheng Technologies (YTEC) announced that it had received a buyout offer from its chairman and CEO for \$3.80 a share – a 23.4% premium.

Robert Bartell, a managing director with **Duff & Phelps'** investment banking practice who specializes in advising company boards on fairness opinions, insolvency and valuation, sees more deals on the horizon, too.

Duff & Phelps is advising the boards of Andatee China Marine Fuel Services and Pansoft Co. (PSOF) in privatization deals. The respective CEO and affiliates of each company have launched the buyout efforts, offering \$4.21 a share (a 20.6% premium) for Andatee China and \$4.15 a share (up from original 87% premium offer of \$3.76 a share), for Pansoft. The Andatee China transaction is under review, while the board of directors has approved the Pansoft offer.

The chairmen and CEOs of Chinese issuers – usually one in the same – typically have an interest in 25% to 75% of the stock, Bartell said. But many issuers have experienced severe sell-offs in their shares that have left executive management/ownership teams feeling extremely undervalued by the public markets.

"These companies are looking at how expensive it is to be public, are concerned about investor lawsuits, and they think, 'Well, I made X on this IPO or selling shares and I can buy it back at Y,'" he said. "So there is this great desire to de-list."

Re-listing later on an Asian exchange may make more sense, too, because investors in those markets tend to have a larger interest and appetite in such companies, Bartell added.

While small private equity funds focused on the lower middle market have been pursuing deals, behemoths with an international presence such as Apollo Global Management, Oaktree Capital Management and TPG are also active, he says.

TPG affiliate TPG Growth Asia late last year joined Fushi Copperweld's (FSIN) top executive and Abax Global Capital to purchase the company at a revised price of \$9.50 a share. That was down from the original offer of \$11.50 a share, which represented a 29.2% premium to the closing price prior to the announcement, made by the company's chairman and Abax in November 2010. Fushi Copperweld is reviewing the deal.

Meanwhile, in November last year Bain Capital sponsored the management buyout of China Fire & Security for \$9 a share, which represented a 43.8% premium at the time of announcement.

Pricing deals remains one of the challenges confronting boards and buyers when considering buyouts, Bartell said. Based on offer prices, privatization multiples have ranged from 5x to 125x the trailing

12-month price-to-earnings ratio according to Roth Capital.

Whether insiders or private equity funds, suitors generally use a premium analysis in determining what to offer. Yet the battered stock prices don't necessarily reflect true market value, and often non-recurring or extraordinary items can influence earnings. For those reasons, he said, it's better to look at market multiples and perform a discounted cash flow analysis to come up with a value.

"People looking at the numbers need to be diligent because they may be mathematically correct," Bartell said. "But there could be a story behind them that depresses or inflates the multiple."

While Bartell acknowledges that scent of scandal surrounding Chinese issues is influencing the go-private activity, he argues that market and regulator attitudes about small companies contributed to their downfall. And that skepticism knows no boundaries.

"The issue isn't so much that these are China companies, it's really a size of the company and whether it can attract investors, research and asset managers," he said. "Capital markets just shun these stocks, regardless of where they're based." **X**

**"People looking at the numbers need to be diligent because they may be mathematically correct. But there could be a story behind them that depresses or inflates the multiple."**

**— Robert Bartell  
Duff & Phelps**

**Have news that may be of interest to readers?  
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*Tonga continued from front page*

In an early June decision by the U.S. Second Circuit Court of Appeals in the case of *Analytical Surveys vs. Tonga Partners LP, Cannell Partners LLC and J. Carlo Cannell (No. 09-2622-cv)*, a three-judge panel re-affirmed a 2009 district court ruling from the Southern District of New York that Cannell Capital, its sole managing member Mr. Cannell, and its fund Tonga Partners were liable for Section 16(b) trading violations in Analytical Surveys totaling \$4.96 million in profit disgorgement to the company, now known as **Axion International Holdings (AXIH)**. The violations arose from Cannell's November 2004 conversion and immediate sale of Analytical Surveys stock acquired in June 2004 through a variable convertible PIPE financing that replaced an earlier \$2 million variable convertible from 2002 that Cannell had declared in default.

The New York Southern District court found in 2009 that the facts in evidence in Tonga's conversion and sale of the Analytical stock, which bagged Cannell a 350% gain in a six-month period while the company teetered on the edge of bankruptcy, supported a claim of short-swing insider trading prohibited under Section 16(b) of the Securities Exchange Act. Court testimony suggests few if any of the facts relevant to a Section 16(b) claim were in dispute. The terms of the variable convert gave Cannell rights, with full ratchet anti-dilution protection, to 38% of Analytical's common stock, of which 18% was already owned by Cannell through a partial conversion of the 2002 variable convertible note. Cannell also got rights to appoint a majority of the company's board. By every measure the fund was an insider at Analytical previous to and during the six-month trading prohibition period at issue in the case.

Cannell argued unsuccessfully that the 2004 convertible was a re-negotiation of the original 2002 financing and thus qualified for a rarely-used "matured debt exemption" to Section 16(b) meant primarily to facilitate debt-to-equity restructurings of bankrupt companies. Judge Wood of the Southern District court pointed out that the 2002 note offered several on-demand liquidation options to Cannell, including: immediate cash repayment of 130% of principal; immediate acceleration of the note's maturity date; or a PIK of outstanding principal and interest at the variable conversion price.

The 2002 convert carried an April 2005 maturity date and required Analytical to register enough shares within 150 days of closing to cover exercise of the convertible. The registration date was pushed back several times until a May 2004 deadline was missed and Cannell declared the note in default. Cannell passed on all three of the available liquidation options and instead sought to exchange the note for a new 18-month variable convertible note at slightly more onerous terms. Five months later Cannell converted the entire note at a \$1.05/share conversion rate and sold all the shares within two weeks' time for between \$3.52 and \$6.62, netting the fund \$5.97 million on its \$1.7 million, 133-day loan.

Carlo Cannell argues, with little dispute, that to have exercised the cash-out options on the 2002 financing would have thrown the

company into bankruptcy, rendering its common shares worthless. By exchanging the 2002 note (which had been reissued in 2003 after the partial conversion into an 18% position in the company) Cannell staved off the Grim Reaper at Analytical's door. Indeed, he has stated that he "saved the company" and is "being punished for doing so." His lawyer, Steven Hecht of **Lowenstein Sandler**, has echoed those claims in published comments. Cannell claims that he is not a toxic convertible financier out to extract value from the common equity of desperate microcap companies. Toxic convertibles like the one he demanded from Analytical Surveys "are only toxic if you abuse it," he said in an interview after the recent ruling, in which he boasted of his current emphasis on long-term, fundamental investments in small high-growth companies.

Cannell Capital may indeed be focused today on long-term fundamental emerging growth company investments. But the record of its involvement with Analytical Surveys from 2002 through 2004, and the company's performance in the aftermath, belies the claims that the fund invested in the company's long-term growth prospects or saved it from certain demise. Both of the variable convertible financings of 2002 and 2004 carried the same toxic variable conversion ratio: a 10% discount to the lowest trailing 3-day average trading price over the 90 days prior to conversion, locking in for Cannell the lowest purchase price available to any other common shareholder and incentivizing the fund (if it so chose) to further lock-in profits through short sales of the company's stock, which were not restricted under the disclosed terms of the financing.

### Post Deal Stock Performance - ANLT

% Change	% Change	vs. S&P 500
1 Month	↓ 15.56%	↓ 13.09%
3 Months	↓ 44.44%	↓ 30.19%
6 Months	↓ 51.11%	↓ 24.39%
12 Months	↓ 78.00%	↓ 55.65%

Source: PlacementTracker, a service of Sagient Research

Analytical Surveys' digital mapping technology for oil exploration companies made the company a darling of the dot-com boom: the company's shares traded on a split-adjusted basis from \$500 to \$2,000 a share between 1998 and 2000. By the time Cannell made its first investment in the company Analytical's wild dot-com ride was crashing down, and it had lost well over 95% of its market cap. Still, it had a split-adjusted share price of over \$30 in January 2002, and a cadre of common shareholders eager to see it recover to its former glory. Within a year of Cannell's first toxic convert investment Analytical's stock had fallen to \$3.40. Four days before the convertible deal was disclosed in SEC filings, Analytical's shares mysteriously plunged 90% in a single day, before recovering most of their value over the next week.

But the recovery was only momentary, and Analytical Surveys would never again return to its former glory. The company's shares followed a volatile low-volume penny stock's path until November 2004, when it again mysteriously quadrupled in price over a week's time leading up to Cannell's conversion notice on November 10 and subsequent liquidation of its position. Three years later Analytical had been delisted from Nasdaq, its shares were trading for less than 50 cents a share, and the former Austin, Tex. digital

mapping company was preparing to reverse-merge itself into a recycled plastics manufacturer in New Jersey. So much for saving the company.

Today, Analytical trades below 50 cents a share on the OTC as Axion International Holdings, and purports to manufacture railroad ties and structural I-beams from recycled plastic bottles. It operates its global headquarters, from which it claims to sell its products to customers as far-flung as the New Zealand national railway authority, out of a 2,000 s.f. Class C office building in suburban New Jersey. The company has yet to figure out a way to manufacture its products economically to compete with traditional wood and metal components. Its most recent 10-Q was delayed due to a financial restatement and a change of auditors. The \$12 million market cap company lost almost \$12 million dollars in 2011, and \$2 million in the most recent quarter.

That woeful performance hasn't turned off the PIPE tap yet though. To fund its sales and development activities Axion has returned the equity private placement market repeatedly over the years, raising a total of over \$14.5 million. Most recently, it closed a \$7.6 million convertible note in March 2011. The note's conversion terms include a reset feature but have a hard floor of \$1.00 per share, currently deep underwater.

With such a demand for growth capital to take the company into its post-revenue phase one might think a \$5 million tax-free

legal judgment in its favor might set the company's shareholders in good stead for the near term. But alas, even this victory may be a Pyrrhic one for shareholders, for if Cannell's latest appeal fails (which most legal experts believe likely), Axion may not get a penny of the disgorgement proceeds, as it has pledged the entire amount as collateral for loans from a former director and business development consultant to the company. Once a company's management realizes how easily common shareholder equity can be siphoned off to fund executive salaries and delusional business plans, it's hard to keep the hands from the till.

As for Cannell and his fund, it may very well be that the leopard who backed more than a dozen variable convert deals during the dot-com bubble and bust has changed his spots for good. Cannell Capital has been relatively quiet in the public equity private placement market since 2005, when it invested more than \$23 million in two unstructured, fixed price placements, including a \$20 million growth capital equity placement in insurer **PXRE Group**, now **Argo Group International Holdings (AGII)**. The company initially lost more than 78% of its share value in the year following the private placement, which totaled \$375 million and included **D.E. Shaw** and **Och-Ziff Capital** along with Cannell's funds as lead investors. But it has since gained 87% over its share price at closing of the placement. Let's hope that Carlo truly was in it for the long run. **X**

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