Portfolio Media. Inc. | 111 West 19th Street, 5th Floor | New York, NY 10011 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Uncertain Deals Climate Persists After JPMorgan Conference

By **Tom Zanki**

Law360 (January 11, 2019, 8:37 PM EST) -- Excitement for stock sales and acquisitions was somewhat restrained at this year's JPMorgan's health care conference, according to several attorneys who attended the event in San Francisco that concluded Thursday, given uncertainties caused by market volatility and the government shutdown.

The annual networking conference, which connects bankers, lawyers and investors with health care and biotechnology companies, aims to spark dealmaking. When market circumstances are friendly, like in early 2018, the event can set the tone for the year.

Cooley LLP partner Jeff Libson described this year's four-day conference as quieter compared with the "bullish and unstoppable" momentum of one year ago. Investors have plenty of capital they are ready to unleash on attractive companies, he noted. But an uncertain equities market and a government shutdown that appears more contentious each day are complicating the near-term outlook.

"It didn't exactly cast a pall over the conference," said Libson, who represents emerging life science companies. "But maybe there are clouds on the horizon."

Capital raising appears impacted more so than mergers and acquisitions because the shutdown has frozen the U.S. Securities and Exchange Commission's ability to vet initial public offering filings, jeopardizing the schedules of several biotechnology IPOs that were otherwise scheduled to price in January.

The absence of SEC staff also limits the ability of newly public companies to pursue follow-on offerings, which are a priority for cash-hungry startups that are developing costly drugs.

"There are a lot of deals teeing up, and the only question is when that gets unstopped," Libson said, adding that it is also uncertain how quickly the SEC will sort its backlog when it reopens.

On the M&A side, there was no flurry of deals that accompanied the conference, which often happens in more robust climates. But two huge acquisitions showed there is still potential for opportunistic deals in the wake of recent drops in stock prices that have created inviting targets.

Bristol-Myers Squibb's $74 billion cash-and-stock deal to buy New Jersey-based Celgene preceded the event, while Eli Lilly and Co. on Monday said it would pay $8 billion to take over Loxo Oncology Inc., deals that expanded the pipeline of cancer treatments for both acquirers.

Goodwin Procter LLP partner Stuart Cable said both deals give hope that the M&A sector will remain active, despite uncertainty over valuations triggered by last month's market decline.

"I believe the momentum in the industry is strong, notwithstanding the December sell-off, and we will have a lot of transactions to announce in the year ahead," said Cable, who chairs the M&A and corporate finance practices for the firm's technology and life sciences units.

Yet the economy remains a wild card. If growth continues to slow from the breakneck pace of early 2018, enthusiasm could dampen. Sidley Austin LLP partner Michael Gordon, who heads the firm's New York M&A and private equity group, said there was a "general mood of concern that we may be headed into a recession."

Market jitters began rattling the IPO market in late 2018. Steep sell-offs prompted some issuers to delay offerings into early 2019, hoping for more a stable environment to price transactions.

Plus, at least six biotechnology companies have filed new IPOs since Dec. 21, some of which would be eligible either now or in the coming days to launch marketing roadshows and pitch their IPOs to investors. But those companies are left in a holding pattern because of the shutdown, which weighed on the minds of some deals advisers attending the conference.

"There was certainly an overcast, given the market volatility and the government shutdown," said Sichenzia Ross Ference LLP partner Greg Sichenzia, describing his take on the event.

Sichenzia, whose practice focuses on smaller public companies including health care-related issuers seeking to raise capital, said the "overall feeling is that things are getting harder, particularly for small- and mid-cap companies."

Libson found the mood at the event upbeat, but with qualifications. One factor that bodes well is that investors have raised considerable money in recent years that they will need to deploy.

"The capital markets aren't going to shut down," Libson said. "The fact that there is so much capital that needs to find homes will mean that good deals and the IPO market will continue."

Looking at the big picture, Wilson Sonsini Goodrich & Rosati PC partner Vern Norviel said passion in life sciences is the highest he has seen in 35 years advising the sector. This is supported by the fact that young companies eyeing breakthroughs in gene editing and immunotherapy, which stimulates the body's immune system to fight cancer, are starting to show results.

These positive trends are helping to maintain investor enthusiasm as well as the interest of potential acquirers, Norviel said, adding that he came away from the conference unexpectedly surprised.

"Everyone is being a bit more thoughtful, but I definitely did not sense that the brakes were on," Norviel said. "People seem to be proceeding forward, being appropriately cautious but not scared."

--Editing by Philip Shea and Alanna Weissman.