

Riverbed Technology, Inc. (RVBD)

Record date for voting rights: [tbd]
Shareholder vote: [tbd]
Proposed buyer: Thoma Bravo (with participants)
Value of transaction: \$3.6 billion
Incorporation: Delaware

In another “forced sale” pressed by an activist, Riverbed Technology reported yesterday that it had agreed to be acquired by the private equity firm Thoma Bravo (with participation of the Ontario Teachers’ Pension Plan) at a price of \$21.00 per share.¹ It should be noted that this price simply matches what was offered by the activist, Elliott Management, to stimulate a transaction with buyers that have stated their intent to continue support of existing managers and their strategies.² Public shareholders are therefore presented with a choice between the auction price of the stock and an appraisal of the long term enterprise value that management and Thoma Bravo are buying.

The situation appears to satisfy the three screening criteria for the Forum’s “[Appraised Value Rights \("AVR"\) Management](#)” support of shareholders considering this alternative:

1. **Buyer** – The proposed transaction is a “standalone” buyout, without any benefits of a business combination that might justify a buyer’s offering more than the intrinsic value of the company. It is therefore unlikely that the buyer, as an experienced professional investor with access to insider information, will be able to explain to the court – or to its equity partners and lenders – that the price it offered to pay was more than of its view of the company’s intrinsic value. There is little risk that a court appraisal would vary from past patterns for such standalone buyouts.³
2. **Amount** – The size of the buyout is in a range that could justify public registration for quoted AVR trading and “Level 1” pricing if holders of a significant portion of the company’s stock demand appraisal and request support of liquidity. If interest in liquidity does not justify public registration, it is in any event likely that the size of this transaction will result in a sufficient volume of appraisal demands to support market activity with “Level 2” pricing of AVR investments.
3. **Jurisdiction** – The company is incorporated in Delaware, the state that provides a well-defined and relatively predictable process for appraisal rights.

Based on preliminary review, there do not appear to be any conditions to be satisfied other than shareholder approval. The Forum will therefore welcome requests for reservations of Riverbed AVR Management during the next couple of weeks until our limit is reached.

GL – December 16, 2014

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¹ See [December 15, 2014, Riverbed Technology, Inc. \(as published by Business Wire\) press release: "Riverbed to Be Acquired by Thoma Bravo for \\$21.00 Per Share in Cash"](#).

² See [December 15, 2014 Bloomberg: "Riverbed Technology Agrees to Be Acquired for \\$3.6 Billion"](#).

³ See [September 10, 2013 Forum Report: Court Rules for Appraisal: Fair Value = Intrinsic Value](#).