

A high-risk real estate investment trust

CBL & Associates Properties, with possible senatorial influence, could provide some solid returns

Dear Mr. Berko: We're 59 and both retired with a decent municipal pension. We have too much cash in our money market account and the adviser thinks we should buy 100 shares of NextEra Energy. This stock has a low yield. So I looked up a real estate stock called CBL & Associates that pays 9.8 percent. Please tell us what you think about this stock and if would be good to use \$15,000 and buy 1,400 shares of this real estate company because the yield is more than three times higher.

N.E.

Akron, Ohio

Dear N.E.: Your broker's NextEra (NEE-\$111) recommendation is an excellent and classy one. Your adviser sounds like a good guy since he hasn't recommended an annuity or high-load bond fund. By comparison, CBL & Associates Properties Inc. (CBL-\$10.00) can't hold a candle to NextEra.



TAKING STOCK

Malcolm Berko

CBL & Associates Properties is the publicly traded real estate investment trust that owns a portfolio of enclosed and open-air malls. It's also the REIT in which Tennessee Republican Senator Bob Corker and his family, just a few years ago, initiated 70 short-term trades and profited by multiple millions of dollars. It's suggested that Bob's real estate background, while he was mayor of Chattanooga (2001-2005), also earned him similar favors. Let's face it: Bob's probity is no higher than most members of Congress. He's a sleazy, deceitful con artist with a silver tongue who was elected by "stupid." This is America's most significant problem: The elections of congresspeople and the president is determined by voters whose favorite TV programs are filled with Kardashians and Jerry Springer.

Between 2004 and 2005, while Bob was doing his mayoral bit in Chattanooga, CBL & Associates was trading in the high \$70s

to the high \$80s, and then split 2 for 1 that summer. CBL owns, has interests in and or manages 147 properties. It's an active developer of new regional properties, open-air centers and lifestyle community centers, primarily in the southeast. Today CBL is trading close to its six-year low and management believes in 2016 it will book \$986 million in revenues as well as \$2.32 in share earnings, and increase the dividend by 2 cents a quarter to \$1.14. Its bonds carry a BBB rating by S&P, as do the unsecured notes of its limited partnership. I agree with this rating and suspect it hasn't been purchased as other ratings have been. CBL has a book value of \$8.48 a share and over \$400 million in operating cash flow, which speaks well of management.

According to the Street's consensus of 11 brokers, CBL has a median target price of \$13, so the shares trade at less than 5 times earnings. That is very low and that worries me. However, those earnings are substantial enough to assure investors that their payout appears safe. The current \$1.06 dividend yields 10.6 percent, and an expected \$1.14 dividend in 2016 may give buyers at today's price an 11.4 percent yield.

This looks like a jim-dandy, safe yield, and Bob's obvious influence from his

senatorial position may be the reason why 21 hedge funds have good positions in the stock. So at second glance it appears that CBL may be an acceptable gamble for those who can afford above average risks. I'm not as knowledgeable about CBL as Bob is and I don't know if Bob still owns a block of stock. A 10.6 percent current return is attractive, especially when projected earnings are expected to come in at \$2.32 a share. That sounds like a fantastic return; however, "when some things sound too good to be true, sometimes they're not!" So I called Bob's office in Washington (1-202-224-3344) to ask if he thinks it's a good time to purchase CBL. Bob wasn't there and because the person who answered the phone sounded like a 15-year-old intern, I left a message and my name. Bob hasn't called back.

CBL and NextEra are as different as cheese and chalk. But my gut tells me that NextEra may split and is a far superior long-term investment. Still, if you're able to handle above-average risks, then CBL is preferred. However, I like both.

Address your financial questions to Malcolm Berko, c/o The Daily Journal of Commerce, P.O. Box 8303, Largo, FL 33775, or email him at mjberko@yahoo.com. © 2016 Creators.com

Big changes coming to federal overtime rules

In 2014, the United States Department of Labor (DOL) was charged with updating the regulations relating to overtime pay under the Fair Labor Standards Act (FLSA). Under the regulations currently in place, nonexempt employees must be paid one and one-half times their regular hourly rate for all hours worked over 40 in the workweek. The DOL released the long-awaited proposed revisions to the overtime regulations in June 2015. The biggest proposed change is a substantial increase in the salary an employee must be paid in order to qualify for one of the exemptions.

Under current FLSA regulations, certain employees are exempt from overtime pay. Categories of exempt employees include professional, executive, administrative, outside sales, and some computer professionals. These are often referred to collectively as the "white collar" exemptions. In order to qualify for an exemption, the employee must meet both the duties test (their duties must be primarily executive, administrative, etc.), and the salary basis test. The rules relating to the different duties test for each category of exempt employees is beyond the scope of this article, but employers should carefully review these rules alongside their exempt employees' job descriptions and actual duties to confirm that they are classified properly. This is another area of



COMPLIANCE CORNER

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focus for DOL enforcement actions. With respect to the salary basis test, employees must currently be paid a salary of at least \$23,660.

Under the proposed rules, the DOL is more than doubling the salary threshold from \$23,660 to \$50,440. The obvious impact of this increase is that many more employees will qualify for overtime pay once the new regulations take effect. In fact, nearly 5 million workers will be affected. The DOL implemented such a large increase in the salary threshold because the previous increase occurred in 2004. The DOL perceives the current salary threshold to be way behind the times. According to the DOL, the percentage of full-time salaried workers paid overtime has decreased from 62 percent in 1975 to just 8 percent today. The new rules also propose to automatically update the salary threshold on an annual basis, so employers will have to keep a close eye on annual changes to this amount for their currently exempt employees earning at or near the \$50,400 salary minimum.

Late last year, the DOL's chief law enforcement official, Solicitor M. Patricia Smith, announced that the DOL would likely issue the final changes to the overtime rules in late 2016, just in time for election season. The proposed salary minimum of \$50,440 was based on the first quarter of 2015, and may change by the time the final rules are announced later this year. Some pundits are speculating that the final rule will set the salary threshold at about \$40,000 per year. The DOL received over 270,000 comments during the comment period.

Although the new overtime rules will likely not take effect until early 2017, employers should look ahead to these anticipated changes, especially because it will affect those employees earning an annual salary between \$23,660 and \$50,440. Although it will require an individualized assessment tailored to each employer, a basic economic analysis audit will help determine whether it makes sense to increase the employee's salary to the higher level, switch the employee to hourly pay with eligibility for overtime, or split the position so that two or more employees share job duties. The approach chosen by the employer could create morale issues and affect the prestige that certain employees appreciate about an exempt management position, even if they might make more money as an hourly employ-

ee. An early assessment now will help ease the transitional burden once the final regulations are in place.

While employers continue looking for ways to increase productivity with decreased labor, they must also be vigilant in enforcing rules that prohibit working unauthorized overtime. Federal and state agencies are expected to increase their enforcement actions as soon as the final rules go into effect.

Employers should review their classifications of exempt employees with their legal counsel to confirm that their employee classifications comply with the anticipated new duties tests and increase salary requirement. Remember, the employer bears the burden of demonstrating that it has properly classified its exempt employees as such. Penalties for misclassification or failure to pay overtime can include back pay (calculated at the overtime rate), interest, and additional penalties and fines for intentional non-compliance. Criminal enforcement is also authorized by the FLSA. In addition, an employee who prevails in a lawsuit may recover attorney fees and costs.

Tyler Volm is an attorney with Barran Liebman. He works with business owners and managers to ensure compliance with changes in the law, and defends employers against complaints when they arise. Contact him at 503-276-2111 or tvolm@barran.com.

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