

Alert

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Valuation Integral to Restructurings/Bankruptcies

“Objectivity is crucial to valuation analyses in workout and bankruptcy situations.”

For companies that are seeking to restructure their financial obligations, there are generally three alternatives available: 1) the out of court workout, 2) the Chapter 11 reorganization, and 3) the Chapter 7 liquidation. Obtaining an objective valuation is a key component of the restructuring process.

THE OUT OF COURT WORKOUT

An out of court workout is a restructuring of the liabilities and obligations of a debtor through negotiations directly with the debtor's creditors outside of the bankruptcy courts. Creditors in an out of court workout look to the future earnings of the debtor to satisfy their claims.

Out of court workouts are generally driven by management's desire to reach a suitable agreement with creditors in order to avoid having to file a bankruptcy petition. In addition, management generally seeks to restructure uneconomical contracts or contracts that have been breached. Management is also looking to obtain financial relief and raise additional capital to successfully execute its strategy.

Companies face a number of challenges in a workout including complying with the terms of existing agreements that may place limitations on transactions, in particular, affiliated transactions, and determining the value of negotiated deal items that will be used to settle creditors' claims.

A fairness opinion is often needed in workout situations to support new capital raises including affiliated transactions. Additionally, any new securities that are issued in connection with the workout will need to be valued.

CHAPTER 11 REORGANIZATION

A Chapter 11 reorganization is a rehabilitation of a creditor under the Bankruptcy Code. Either the debtor-in-possession (DIP) or trustee, a representative of the creditors, remains in control of the business and assets. Like an out of court workout, creditors in a Chapter 11 reorganization look to the future earnings of the debtor to satisfy their claims.

The principal goals of a Chapter 11 reorganization are the following:

- To continue operating the business;
- Formulate a plan of rehabilitation of the debtor and have the creditors and bankruptcy court accept the plan;
- Discharge certain liabilities as a result of the plan's confirmation; and
- Make payments according to the plan

In a Chapter 11 scenario the challenges for the debtor are to 1) formulate a reorganization plan that will be approved by the impaired creditors, 2) obtain DIP financing, and 3) determine the value of securities or payments that will be made to the creditors.

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Valuation services are needed at various points during the reorganization process. Liquidation and going concern valuations are required under Section 1126 of the Bankruptcy Code. In addition, any divisions or assets that are sold will need to be valued. For fresh start accounting purposes, a valuation of underlying assets is necessary.

“Our workout and bankruptcy engagements are free from conflicts of interest.”

CHAPTER 7 LIQUIDATION

In a Chapter 7 liquidation the trustee collects all nonexempt property of the debtor, converts that property to cash, and distributes the cash to creditors. All distributions to creditors are cash, not in kind. Creditors look to the current liquidation value of assets to satisfy their claims.

The most significant issues facing the debtor in a Chapter 7 liquidation are 1) what are the values of the assets or business divisions, and 2) whether the assets should be liquidated individually or sold as part of a going concern.

In conjunction with a Chapter 7 liquidation VRC often provides a liquidation value of assets as well as an enterprise valuation.

OBJECTIVITY IS CRUCIAL

Our valuation specialists are experienced in preparing their conclusions and the rationale behind them for use in litigation. In addition, members of our professional staff testify before bankruptcy courts and comparable tribunals regarding not only the values of tangible and intangible assets, but also going concern values, reasonably equivalent value, and solvency analyses.

Objectivity is crucial to valuation analyses in workout and bankruptcy situations. Our workout and bankruptcy engagements are free from conflicts of interest. Our findings are viewed with confidence by lenders, creditors, attorneys, courts, and other third parties. For more information contact your Valuation Research representative or Chad Rucker at 917-338-5613. **VR**



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