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HOW TO EXIT AN INSOLVENT INVESTMENT: EFFICIENT ALTERNATIVES TO BANKRUPTCY

With the current bleak economic climate and no relief on the foreseeable horizon, financial sponsors must begin examining strategies to handle near insolvent portfolio companies. Especially as bankruptcy filings increase and courts become even more overburdened, viable options will present enormous value in terms of time saved, money recuperated, and headaches avoided.

Assignment for the Benefit of Creditors

The Assignment for the Benefit of Creditors (“ABC”) process can be a straightforward and effective alternative to bankruptcy. With an ABC, an Assignee (a third party in trust) assumes custody and control of the company’s property, and then manages the liquidation process within a strictly predefined timetable and in accordance with state law. Although an orderly out-of-court liquidation typically provides significant benefits for all involved parties, cooperation from creditors is not necessarily required.

Although an ABC does not afford all of the protections and claim priorities of a traditional bankruptcy, it also does not entail the administrative burdens inherent to bankruptcy court proceedings. As a result, the ABC process minimizes the time required to liquidate assets and recuperate cash, contains insolvency costs, and improves returns for creditors. Other benefits of an ABC include:

- More Control
 - Company appoints Assignee (court does not).
 - Wind-down can be less distracting and stressful for management and personnel.
 - Retained capacity to continue limited operations.
 - Efficient negotiations and resolutions for contractual obligations.
 - Flexibility and oversight in how the entire process is administered.
- Realized Recovery

- Liquidation and asset sales executed quickly and efficiently.
- Higher value extraction due to avoidance of “fire sale.”
- Better Branding
 - Process stays mostly out of the public domain.
 - Exit can be positioned as a successful transaction rather than a documented bankruptcy.

Controlled Liquidation

A Controlled Liquidation is executed similarly to an ABC but is not a formal legal process and hence does not provide as robust protection from creditors. It does, however, provide an efficient, constructive solution and bankruptcy alternative in situations where balance sheets are not convoluted by intricate debt structures, assets exceed liabilities, operations are not overly complex, and in states that do not recognize ABCs.

While both Controlled Liquidations and ABCs allow companies to wind-down gracefully and maximize value, Controlled Liquidations may provide additional flexibility:

- Avoidance of delays and other hindrances caused by courts and legal roadblocks.
- Maintenance of organizational dignity.
- Controlled, planned, and orderly liquidation process.
- Clear communication paths between liquidation manager, management, creditors, and investors.

To discuss corporate wind-down strategies and how Onionomics can implement a successful process for one of your portfolio companies, please contact Adam Meislik.

WHY COMPANIES IN CRISIS SHOULD WORK WITH ONIONOMICS

Onionomics is a finance and strategic services firm that provides innovative solutions for companies in crisis. Led by Adam Meislik, an industry veteran with over 15 years of experience, Onionomics organizes a team of specialists in corporate turnarounds, rapid financial restructuring, negotiations with creditors and stakeholders, M&A, strategic and financial liquidations, wind-downs, and revitalization capital formation. The firm harnesses these resources to

deliver crucial management and leadership expertise for IP-based subject matter and portfolio companies in distress.

In regard to liquidation strategies, Onionomics has the experience, relationships, and acumen to make the process as smooth and financially beneficial as possible. Particularly for IP matters and technology-driven businesses, Onionomics intimately understands the landscape and can provide critical protection and value extraction. The firm provides stakeholder leadership and can manage everything from cash preservation and creditor negotiations to distressed going concern sales and monetizing non-operating assets and equipment. Moreover, Onionomics can immediately reduce cash burn rates and refocus efforts on preserving value while winding-down operations.

ABOUT ADAM MEISLIK

With an accomplished career spanning more than 15 years in the investment banking industry, Adam Meislik provides companies with expert advice and overall direction on capital, governance, business strategy, and execution. He combines lateral thinking and a proactive approach with his careful understanding of businesses beyond the financials. He is an expert in evaluating and identifying advantages, assessing competitive environments as well as industry trends, and in extracting value in crisis situations.

Mr. Meislik has managed over 100 mergers, acquisitions, capital transactions, and restructurings and has developed hundreds of relationships with market participants. As a top dealmaker for CIBC World Markets and its predecessor, Oppenheimer & Company, he generated new business across all corporate finance and M&A product areas and co-established CIBC's energy practice and helped re-establish CIBC's software practice – both evolved from virtually zero presence to leading market shares. Prior to CIBC, Mr. Meislik worked in the energy groups at Jefferies and Howard Weil.