

Bankruptcy and Restructuring Series - Learning Outcomes and Series Overview

100 Introduction to Corporate Restructuring – Distressed Debt and Bankruptcy Primer: Covers causes of distress operational, financial/cap structure, secular, cyclical. corporate decision making framework, retain advisors and counsel. Board fiduciary duties, creditor/stakeholder engagement. Intro to capital structure, secured vs unsecured creditors, legal entities and corporate structure. Evaluating Restructuring Alternatives, out-of-court vs court supervised Ch 11 pros and cons of each. Overview of Title 11 Chapters and objectives of Chapter 11 restructuring. Valuation and Recovery Analysis.

101 Introduction to Corporate Restructuring – Out of Court Restructuring and Distressed Exchange Offers: Historical performance of distressed exchanges including recoveries for 1L, 2L and Unsecured debt, post exchange defaults and filings. Creditor and Issuer Strategies, Ad Hoc Groups (13-D considerations), Creditor and Stakeholder Constituencies and differing objectives, Factors driving distressed exchanges, principal reduction, interest reduction, maturity extension. Legal and Execution mechanics of distressed exchange offers, key thresholds, consensual vs coercive. Priming debt, covenants, change of control, CODI/NOL issues.

102 Introduction to Corporate Restructuring – Chapter 11 Restructuring Initial Phase of the Case: Brief History of US Bankruptcy Laws. Reasons for filing Chapter 11: Liquidity, Maturity, Violation of Debt agreements, Catastrophic event – Environmental/Toxic tort (asbestos) Fraud (Enron/WorldCom/Madoff) Characteristics of US Bankruptcy: Debtor in Possession and Reorganization vs Liquidation. Objectives of Chapter 11. First Day Motions, special attention to DIP/roll-ups and Adequate Protection role of secured creditors in shaping bankruptcy. Prepack vs Prearranged. Absolute Priority rules. Formation of committees and role of UST. Filing of schedules. Lifecycle of a Bankruptcy Case.

103 Introduction to Corporate Restructuring – Plan Formulation, Confirmation and Going Effective: Developing a plan (how long/exclusivity/competing plans). Disclosure Statement - Business Pre and Post petition (reasons for filing) new cap structure /ownership post confirmation. Description of Assets, Valuation, financial projections Best Interests of Creditors Reorg vs Liquidation 1129(a)(7) Tax consequences, new stockholder agreements, MIP. Ch 11 Plan of Reorg Section 1123(a)(1) provides that a Chapter 11 plan must designate classes of claims and interests for treatment under the reorganization Creditors whose claims are “impaired” (i.e., those whose contractual rights are to be modified or who will be paid less than the full value of their claims under the plan) vote on the plan by ballot. 11 U.S.C. § 1126. Preferences, Fraudulent Transfers, Lien avoidance, recharacterization, lease rejections.

Cramdown/Cramups (Cramdown plan requirements, cramdown/cramup take back securities, indubitable equivalent for secured creditors, solvent debtors, pre and post-petition interest, make wholes. Establishing post-reorg capital structure – Excel Examples. Exit financing – Rights offerings, backstops, take back paper vs refi [Tronox example] Plan confirmation process /contested confirmation/valuation fight. Going Effective and Exiting Chapter 11

104 Introduction to Corporate Restructuring – Selling Assets In Bankruptcy: The purpose of this content is to provide participants with a fundamental overview of the process of selling assets in bankruptcy under both §363 and Chapter 11 Plan sales. Bankruptcy assets sales have grown increasingly common since the Global Financial Crisis in 2008. §363 sales provide an expedited process, particularly for 1st lien Secured Creditors, to protect against diminishing value as well as an opportunity to realize proceeds in a time and cost-efficient manner. Moreover, §363 allows secured creditors to credit bid their claim and set a floor value in an auction, particularly as a stalking horse bidder. This webinar will

cover the mechanics of selling assets under both a Chapter 11 plan and under §363, including §363 bid procedures and the role of the stalking horse bidder, due diligence and auction process in §363 sales as well as a final order approving a §363 sale.

Selling Assets Outside of Bankruptcy: Fraudulent Transfer Risks, Fiduciary Duty issues, Successor Liability, Anti-Assignment Provisions, Adverse Tax Consequences. Chapter 11 Plan Sales under §1123(a)(5). §363 Asset Sales, Ability to sell assets free and clear of all liens and encumbrances, Credit Bidding for secured creditors, Accelerated timing vs Ch 11 Plan Sale, Avoid successor liability. §363 Sale Process: Establishing Initial Bid Procedures, Stalking Horse Bid Terms and Protections, Stalking Horse APA, Auction, Court Approval and Closing of Asset Sale, Final Sale Order. Other Bankruptcy Asset Sale Considerations: Treatment of Environmental Liabilities in Bankruptcy. Tax issues: CODI, NOL Preservation. Impact of Ownership Changes IRC 382(l)(5) 382(l)(6).

105 Introduction to Corporate Restructuring – Tronox Case Study: Using the Tronox Disclosure Statement, Plan of Reorganization, and Plan Support Agreement; analyze a real bankruptcy plan and using excel model including analysis of rights offering, exit financing, allocation of recoveries between bonds and other GUCs and formation of post reorganization litigation trust. Case Study Overview: Secured Creditors /Debtor planned 363 sale. Unsecured creditors challenge plan/sale. Creditor Replacement DIP. Addressing Kerr Mcgee spin-off Fraudulent Transfer litigation (EPA claims other). Valuation and Recoveries: Plan Projections, Establishing Plan Value, Pre-money and post money valuation, Recovery allocations, Waterfall, Rights offering and exit financing, Allocation of rights and backstop shares, Calculating Bond and Claim equivalent value per \$1,000, Recoveries including cost of rights, Recovery sensitivities, Post reorg value/ When Issued trading, Post reorg EPA Fraudulent Transfer litigation