

Imperial Capital, LLC Bracewell & Giuliani LLP

DealLawyers.com Webcast – Distressed/Special Situations Investing

September 25, 2007

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Imperial Capital

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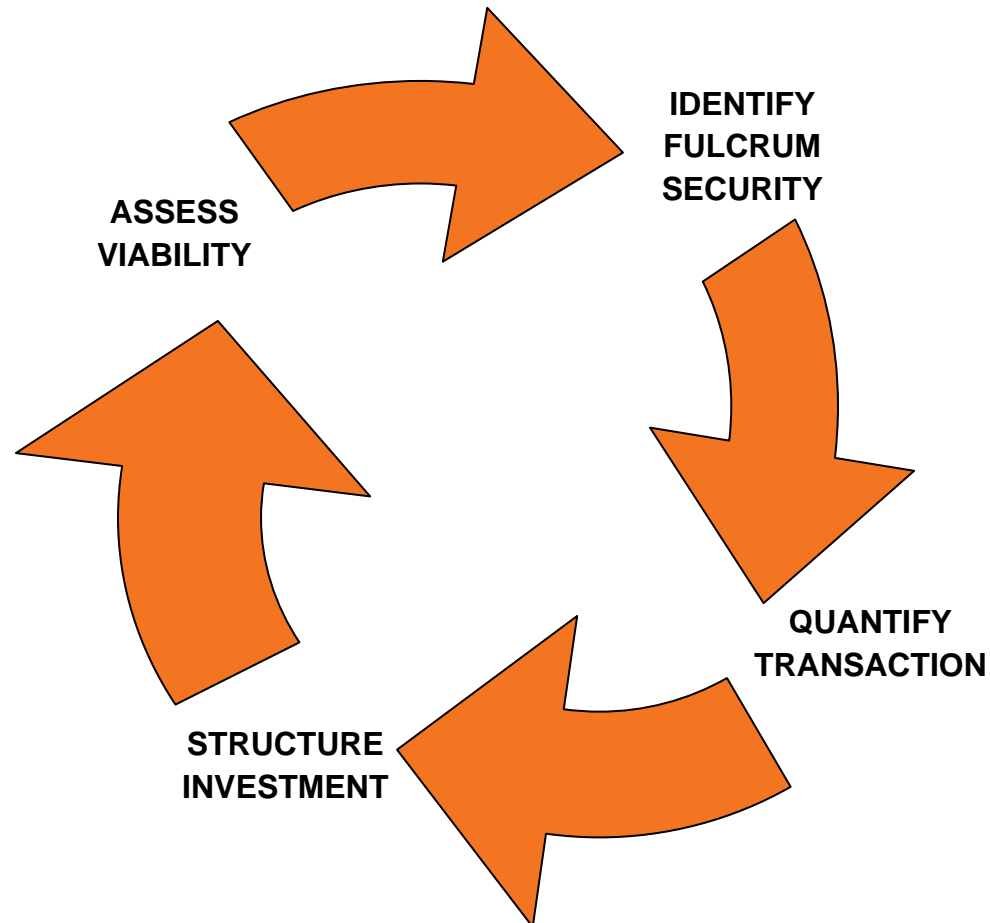
I. Overview of Distressed and Special Situations Investing

Overview of Distressed and Special Situations Investing

Overview

A distressed investor should consider four key factors in order to frame a context for its investment: assess viability, identify the fulcrum security, quantify the transaction, and structure an investment

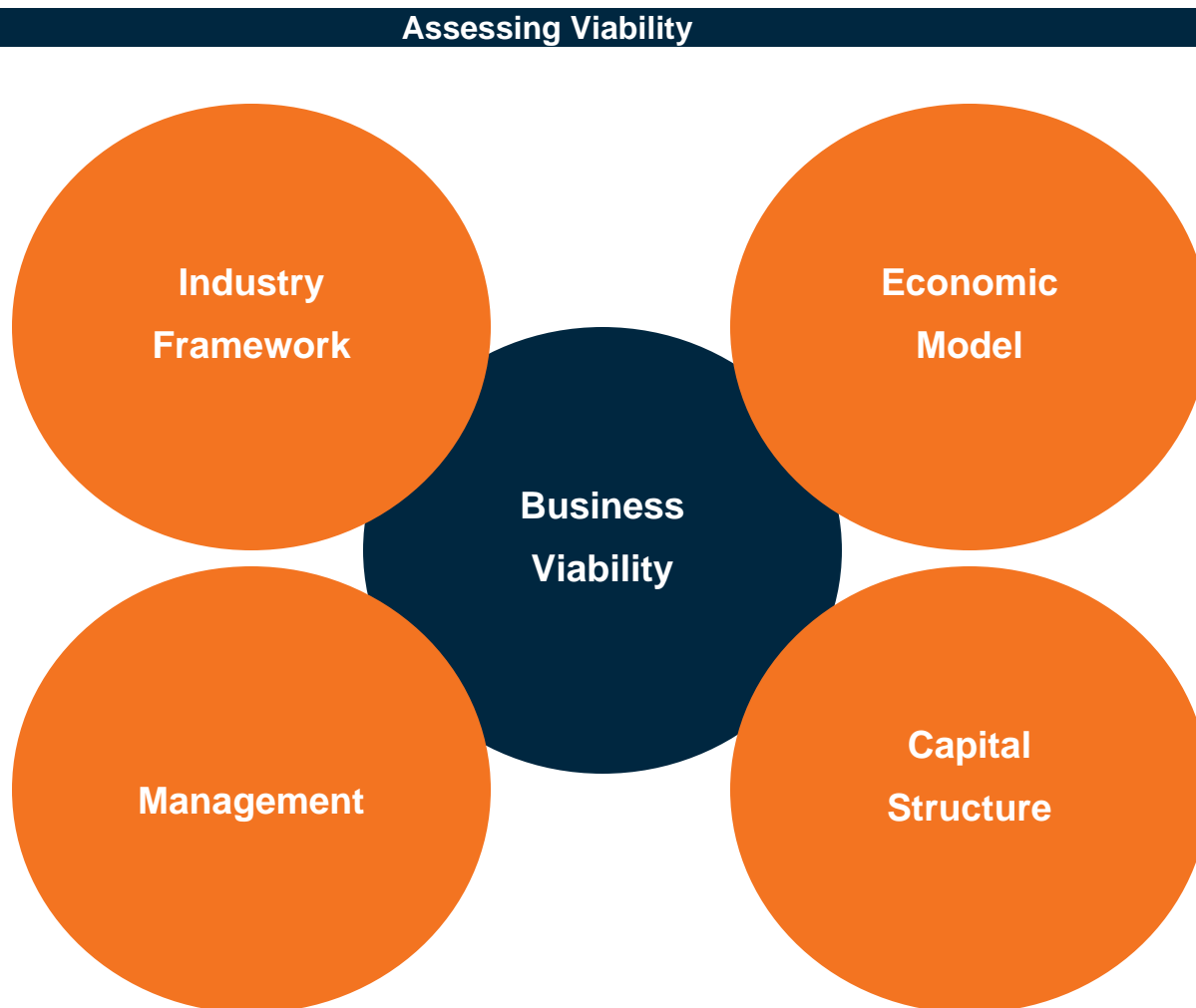
Distressed Investing Framework



Overview of Distressed and Special Situations Investing

Assessing Business Viability

Each of these crucial issues should be assessed both individually and collectively



Overview of Distressed and Special Situations Investing

Identifying Fulcrum Security

- In order to receive equity in the post-reorganization capital structure, the distressed investor must properly identify the fulcrum security
- The key determinant in this assessment includes identifying the ultimate enterprise valuation, as well as the appropriate debt capacity
 - Condition of capital markets
 - Stability of cash flows
 - Seniority / subordination structural issues
- Significant secured leverage from second lien tranche
 - Inability to “cram-up” in the same manner as unsecured debt
- A thorough understanding of the leverage and motivation of all participants in capital structure will frame the ability of the distressed investor to achieve his ultimate objectives
 - Are senior lenders seeking a recovery of principal or equity in the reorganized entity?
 - Are unsecured creditors willing to put up additional capital in conjunction with a plan?
 - Does equity have a credible argument to support receiving a meaningful recovery?
 - Are third parties available and willing to introduce new capital?

Overview of Distressed and Special Situations Investing

Quantifying Transaction

In order to get comfortable with an investment in a post-reorganization enterprise, an investor will need sufficient visibility into key business trends and drivers of value

- Understanding of segment-level performance and valuation
 - Key trends affecting top line performance
 - Sales volumes
 - Pricing
 - Product mix
 - Capacity utilization
 - Recent changes in margins and underlying factors
 - Cost structure
 - Fixed vs. variable
 - Ability to absorb changes in overhead
 - Valuation of pure play segment comparables in both public market and transaction context

- Business strengths and strategy
 - Understanding of segment / product level profitability
 - Strength and stability of revenue base
 - Growth prospects and ability to scale business
 - Discrete value of various assets
 - Competitive advantages / barriers to entry
 - Strength of management team

Overview of Distressed and Special Situations Investing

Structuring Investment

The investor's view of valuation is the key to determining strategy and effecting a structure that achieves the investor's objectives

- Define objectives – control or not?
 - Structuring a control investment requires active management of one or more classes of existing securities
- Identify other opportunities to enhance “fulcrum” position
 - DIP facility
 - Subordinated secured position (i.e. second lien)
 - Backstop rights offering
- Create the opportunity to convert existing securities into target position in reorganized company

II. Managing Restricted Status and Lawful Trading Activity

Managing Restricted Status and Lawful Trading Activity

Rule 10b-5

- May restrict persons holding material non-public information from trading in securities.

- Preserve liquidity by
 - Avoiding information
 - Trading walls
 - Trading orders
 - Avoid becoming subject to a duty of confidentiality, a fiduciary obligation or "insider" status that may lead to restriction
 - Disclosure

Managing Restricted Status and Lawful Trading Activity

Classical Theory

- Director, Officer, Control Person/Insider
- Disclose or Abstain is Basic Rule
- Law Requires Underlying Fiduciary Duty
 - But, SEC may interpret more broadly

Misappropriation Theory

- O'Hagan case
- Relationship of trust or confidence
- Rule 10b5-2
- Confidentiality Agreements

Managing Restricted Status and Lawful Trading Activity

Current Issues

- Big Boys
 - Obliquely referred to in O'Hagan dicta - NOT blessed
 - For Fiduciaries – i.e., under "classical theory" circumstances?
 - Is use of "Big Boy" itself material non public information?

- Note the Consent Requirement of O'Hagan
 - Reg FD?
 - Tipper issues?

III. Review of Current Market Conditions

Review of Current Market Conditions

Recent Developments

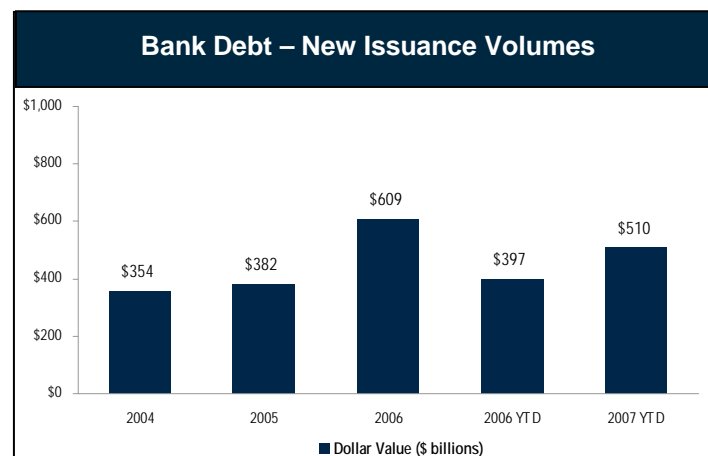
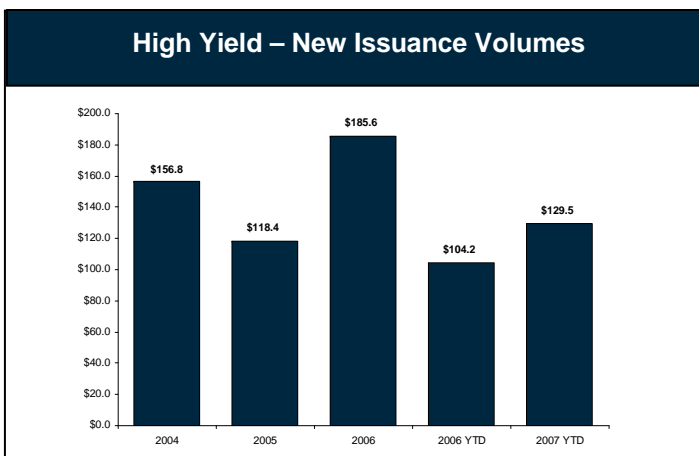
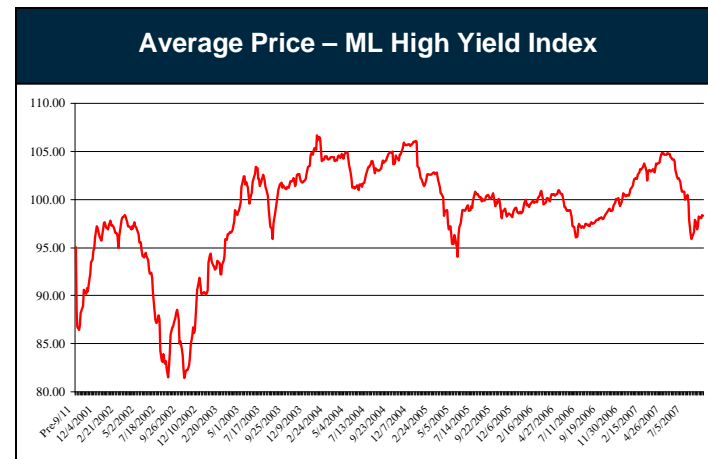
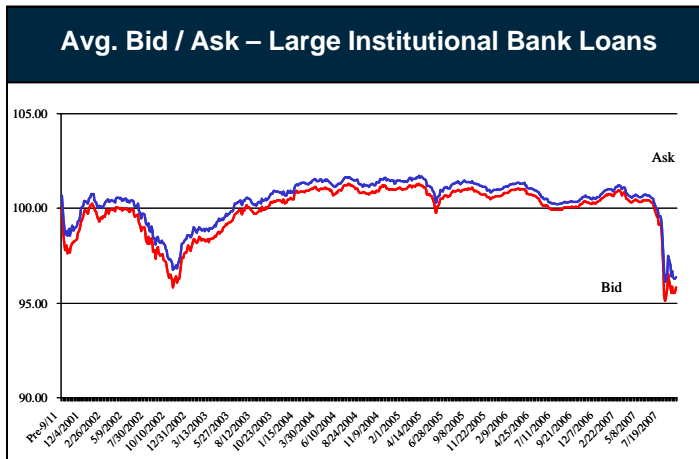
- While the first half of 2007 was characterized by record-level strength in the debt capital markets, a precipitous decline began in July, with the markets tightening severely
 - Since June 14, 2007, high yield mutual funds have seen \$3.8 billion in net outflows, including eleven consecutive weeks of net outflows between June and August
 - Moody's has forecasted that the speculative-grade default rate could reach 4.5% in August 2008 and 5.6% in August 2009, marking the highest corporate default rate in four years
 - With an estimated \$300 billion in bonds and loans remaining in the pipeline through 2008, there remains significant uncertainty in the market as to whether numerous leveraged buyouts can be financed

- The new issuance market has virtually shut down in the second half of 2007, with many market observers predicting that this slowdown will continue well into 2008
 - Many investment banks are focused on closing out their substantial financial commitments over the course of 2007, in order to address balance sheet considerations
 - Because of the prospect for higher corporate defaults, in tandem with the soft credit market and slowdown in the housing sector, some analysts are projecting an economic recession in 2008

Review of Current Market Conditions

Key Performance Indicators

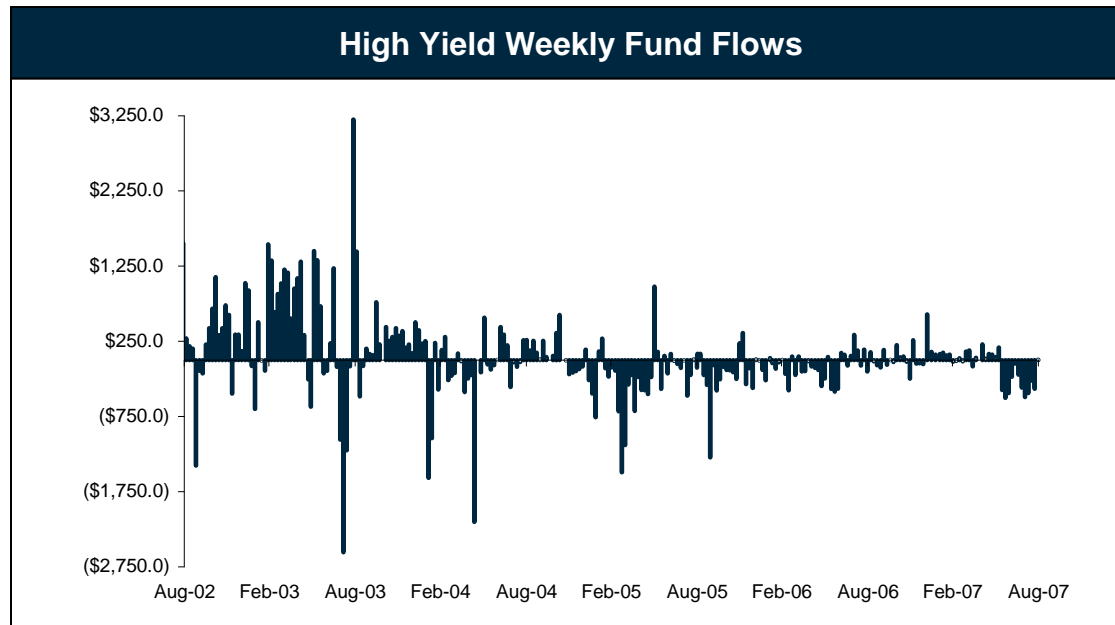
- While new issuance volumes remain at record levels for 2007, recent declines in pricing levels are representative of the significant deterioration in debt market conditions



Review of Current Market Conditions

High Yield Mutual Fund Flows

- As evidenced in the recent outflows of funds from high yield mutual funds, the demand for high yield product has softened considerably since the middle of June 2007



Source: Prospect News High Yield Daily

Year-To-Date Fund Flows	
Period	Amount
2006 Total	\$ (2,974.5)
2006 YTD	\$ (3,083.3)
2007 YTD	\$ (1,883.3)
LTM	\$ (1,774.5)

IV. Paths to Investment Realization and Liquidity

Paths to Liquidity

- Private Control Sale
 - A sale of a "control block" or significant minority stake by the sponsor/significant shareholder, potentially at a premium
- Rule 144A/"Section 4 (1½)"/Rule 144
 - A "Safe harbor" for sales to QIBs; a generally accepted mechanism for trading restricted/control securities among accredited investors; and a "trickle" safe harbor for qualified transactions
- SEC Registration/Prospectus
 - Registering a *transaction* (i.e., the actual sale) such that an ordinary purchaser receives tradable shares, absent volume or similar restrictions

Private Control Sale

- Access to Information and Management
 - Do you have rights to share? Can you achieve access?
 - Sometimes addressed in shareholder or similar agreement
- Controlling Shareholder Duties
 - No blanket duty to share a "premium," but corporate opportunities and use of corporate assets may be implicated
- Due Diligence Issues
 - Change of control triggers?
 - Indemnities and representations?

Rule 144A/Section 4 (1½)/Rule 144 – control/restricted securities

- Information Requirements
 - Rule 144A requires audited financials and other information requested – but cannot be trading in publicly traded ("fungible") securities
 - Rule 144 requires current public reporting
- Holding Period Issues
 - Rule 144A has no period or limitation on volume
 - Rule 144 is subject to volume ("trickle" limits) – lapses in two years for restricted securities
 - "Section 4 (1½)" is a "discussion issue" with counsel . . .
- Registration Rights – can be very useful . . .

SEC Registration

- Timing
 - A protracted process subject to significant regulation
- Financial Reporting
 - Need to address need for past historical audited information and pro formas
- Liability
 - Selling shareholder subject to certain prospectus liability for material misrepresentations/omissions

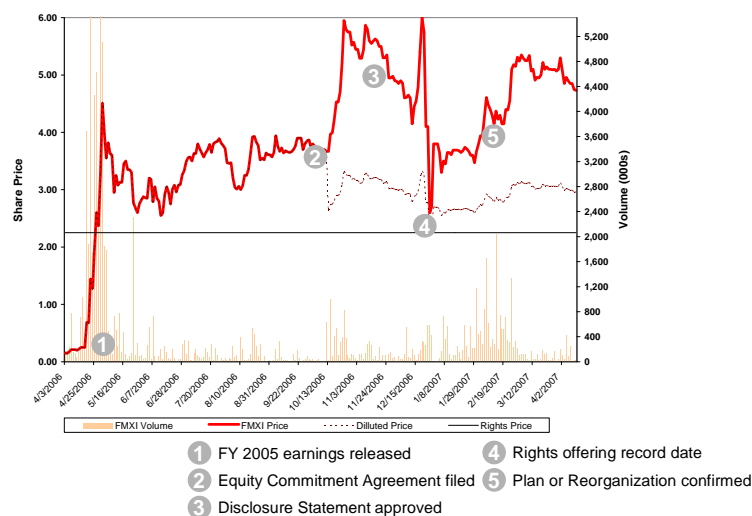
V. Representative Case Studies

Representative Case Studies

Foamex International, Inc.

Situation Overview

- Foamex is the leading manufacturer and distributor of flexible polyurethane and advanced polymer foam products in North America
- Foamex supplies foam for bedding, furniture, automotive and carpet cushion markets as well as technical foams
- Foamex filed for bankruptcy protection under Chapter 11 on 9/19/2005 due to increasing raw material costs, its inability to achieve price recovery, lack of liquidity and the maturity of a tranche of subordinated notes
- Subsequently Foamex successfully executed a strategy to aggressively increase prices in its Foam Products segment. Price increases of more than 55% beginning in November 2005 have largely been sustained as competitors followed suit
- FY 2006 EBITDA increased to \$152.7 MM from \$83.7 MM in FY 2005 while FY 2006 sales increased to \$1,355.5 MM from \$1,283.0 MM in FY 2005



Sources	\$ MM	Uses	\$ MM
\$175 MM Revolving Credit Facility	\$ 26.2	DIP Revolver ⁽¹⁾	\$ 42.7
First Lien Term Loan	425.0	Silver Point DIP Term Loan ^{(1) (2)}	84.9
Second Lien Term Loan	190.0	10.75% Senior Secured Notes ^{(1) (2)}	357.4
New Cash Equity Investment	150.0	9.875% Senior Subordinated Notes ⁽¹⁾	177.6
		13.5% Senior Subordinated Notes ⁽¹⁾	67.4
		Other Pre-petition Claims	33.3
		Transaction Fees and Expenses	27.9
Total Sources of Funds	\$ 791.2	Total Uses of Funds	\$ 791.2

⁽¹⁾ Includes accrued interest

⁽²⁾ Includes prepayment premium

Transaction Overview

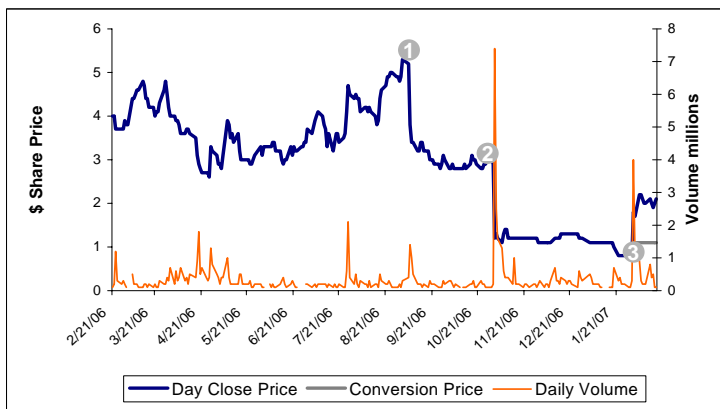
- Restructuring**
 - Plan is supported by all stakeholders
 - All classes are unimpaired
 - Existing equityholders maintain control
- Rights Offering**
 - \$150.0 MM rights offering available to existing equityholders at \$2.25 per share
 - Backstopped by significant equityholders that own approximately 53% of the existing equity
- New Financing**
 - \$790 MM exit financing led by Bank of America
- Results / Rationale**
 - Foamex emerged from Chapter 11 with a capital structure that will allow it to focus on operations and EBITDA growth
 - Net Debt / LTM EBITDA of 4.25x
 - Approximately 20% annual cash interest savings
 - Transaction structured to preserve approximately \$305.1 MM in NOLs
 - Market capitalization increased from \$4.0 MM in April 2006 to a projected \$260 MM upon emergence from Chapter 11

Representative Case Studies

Wolverine Tube, Inc.

Situation Overview

- Wolverine Tube, Inc. ("Wolverine" or, the "Company") is a leading manufacturer of copper and copper alloy tubular products around the world used in a wide range of applications across many industrial, commercial and residential markets
- Wolverine was facing a liquidity crisis in 2006 due to the unprecedented rise of copper prices and looming maturities of \$135 MM of debt due in 2008 and was operating at an uncomfortably high net debt / EBITDA ratio due to cyclically low EBITDA and mismanagement of the business
- The Company had been in discussions with bondholders since May 2006 (advised by Chanin) as financial advisor
- Imperial was retained by Plainfield Asset Management and Alpine, Inc. (together, the "Investors") to explore an alternative transaction to the bondholder exchange offer / prepackage Ch. 11



- Termination of merger talks between Wolverine and a third party strategic buyer
- Company issues S-4 for exchange offer with the bondholders
- Company announces transaction from the Investors

Transaction Overview

- Restructuring**
 - Existing common equity is diluted with the ability to reinvest in the common rights offering
 - Existing bonds traded up to the high 90s from the low 80s due to the more favorable liquidity position and the avoidance of a costly bankruptcy
 - New board members and new management team to implement the strategic vision for the company
- Equity Infusion**
 - \$50.0 MM 8% Convertible Preferred contributed by the Investors; convertible at \$1.10 per share
 - \$51.1 MM common rights offering available to existing equityholders at \$1.10 per share
 - \$25 MM backstopped in the form of additional Convertible Preferred by the Investors
 - 55% fully diluted Green Shoe option exercisable by the Investors in the form of additional Convertible Preferred
- Debt Exchange**
 - Exchange of the 7.375% 2008 notes into additional 10.500% 2009 notes with less restrictive covenants
- Results / Rationale**
 - Wolverine has a capital structure that will allow it to focus on its operational turnaround and EBITDA growth
 - Estimated Net Debt / LTM EBITDA of 3.8x ⁽¹⁾
 - Liquidity needs and near-term debt maturity have been successfully addressed out of court
 - Imperial added value by bringing a sponsor and an operator to the situation. The parties were flexible and creative in structuring a transaction that was superior to the other alternatives available**

(1) Assumes 100% participation in the common rights offering, exercise of the Green Shoe, and pro forma LTM EBITDA of \$41.7 MM