

Final May 8, 2013

## **Turnaround Management and Financial Restructuring: the Good, the Bad and the Ugly!**

At the request of FMO, Turnaround Powerhouse<sup>1</sup> and Legal Houdini Academy<sup>2</sup> together organize a two course dealing with the organisational, commercial, financial and legal aspects of turnaround management and the (financial) restructuring of enterprises on May 27 and May 28, 2013 .

The aim of the course is to enable participants to get acquainted with the organisational, commercial, financial and legal aspects of turnaround management and the (financial) restructuring of enterprises. Theory is combined with practise.

A case will be used to enable participants to get real practical experience.

This syllabus includes references to **pre-reading material (- preferably read before the course –** although we realize that you all have busy schedules) and to (non-included) suggested material.

During the case itself, case material will be handed out as well as copies of the powerpoint presentation used in the course. This powerpoint presentation contains additional reference material.

The two days of the course will cover the topics mentioned hereafter. The exact sequence of topics during these two days might change due to the fact that we hope to get a lively interaction and discussion with the participants which might lead to deviation of the program.

### **Day 1 : Setting the Scene, the beginning, the (financial) difficulties**

The following topics will be dealt with on day 1:

1. Causes for distress of business
2. Bubbles and crisis and the effects on leverage
3. Early Warning Signals Banks
4. Again: Causes for decline of business
5. Diagnose your customers
6. Case study
7. Blue Ocean
8. Harvard Method, getting stakeholders to agree

---

<sup>1</sup> Turnaround Powerhouse is an initiative of Jan Adriaanse, <http://www.turnaroundpowerhouse.com/>

<sup>2</sup> Legal Houdini Academy is an initiative of Johan Jol, former General Counsel of NIBC Bank N.V.  
[www.legalhoudini.nl](http://www.legalhoudini.nl).

Final May 8, 2013

9. Financial position of business, debt versus equity
10. Debt, Leverage and how to service it
11. How to deal with leverage
12. Insolvency, Debt Overhang
13. Case Study

**Pre-Reading Material (included):**

- Resolving Corporate Distress in a fast changing global economy, Jan Adriaanse (included)
- Blue Ocean Strategy, W. Chan Kim and Renée Mauborge (included but also available at: <http://redu.org.mx/documentos/Blue%20Ocean%20Strategy.pdf>)
- IMF Staff position paper on Approaches to Corporate Debt Restructuring in the Wake of Financial Crisis 2010 (included but also available at <http://www.imf.org/external/pubs/ft/spn/2010/spn1002.pdf> )
- World Bank Study 2012 Out-of-Court Debt Restructuring (included but also available at: <https://openknowledge.worldbank.org/handle/10986/2230>)
- Harvey Miller Interview in Secured Lender May 1, 2010, <http://www.thesecuredlender-digital.com/thesecuredlender/20100506?pg=9#pg30>
- Need cash? Look Inside Your Company, Kevin Kaiser en S. David Young in Harvard Business Review, 2009, 5 (included)

**Suggested Material (not included):**

**Warning signals business performance**

- Loan Workouts and Debt for Equity Swaps (2001), Subhrendu Chatterji and Paul Hedges, Chapter 4, p. 39 to and including p. 50
- Corporate Turnaround (1999), Stuart Slatter & David Lovett, Chapter 2, p. 13 to and including p. 32
- Corporate Insolvency Law (2009), Vanessa Finch, p. 151- p. 177

**Business cycles**

- The success story of an SMME in Khayelitsha, South Africa, Silulo Ulutho Technologies (<http://www.silulo.co.za/>) (2009), Talisa Jane McMillan, [http://talisaiane.files.wordpress.com/2009/11/talisa\\_mcmillan\\_honors\\_thesis.pdf](http://talisaiane.files.wordpress.com/2009/11/talisa_mcmillan_honors_thesis.pdf)
- The Value of Responsible Withdrawing of the Market (2007), Peter Harris, [http://www.japaninc.com/mgz\\_sep-oct\\_2007\\_issue\\_exit-strategy](http://www.japaninc.com/mgz_sep-oct_2007_issue_exit-strategy)

Final May 8, 2013

### Debt Overhang

- The Drawing Board : Debt Overhang's Effect on Business Investment and Economy, <http://www.youtube.com/watch?v=b5bvHk1iEfM&feature=related> and [http://www.clevelandfed.org/research/commentary/2010/2010-7.cfm?WT.oss=Filippo&WT.oss\\_r=166](http://www.clevelandfed.org/research/commentary/2010/2010-7.cfm?WT.oss=Filippo&WT.oss_r=166)

### Valuation issues

- the Valuation of Distressed Companies, a conceptual framework, Michael Crystal QC and Rizwaan Jameel Mokal in International Corporate Rescue 2006, issue 2 and 3
- Distressed Valuation, EW (Sandy) Purcell in International Corporate Rescue 2009, issue 1
- An update on current restructuring issues and trends in Europe, Alain le Berre in International Corporate Rescue 2009, issue 6
- Valuation Disputes in Restructuring, Barney Whiter, in International Corporate Rescue 2010, issue 1

### Dealing with liquidity and solvency issues

- Options for alleviating financial distress: the company's perspective, Stephen G. Moyer, CFA in Distressed Debt Analysis (2005)

### Dag 2: Turnaround process, de execution of the restructuring

The following topics will be dealt with on day 2:

1. Turnaround Process
2. Financial Restructuring
3. Stakeholders, In and Out of the Money, Value Breaks?
4. Fresh start versus haircut versus debt for equity swap
5. Informal proceedings versus formal proceedings
6. Collective Action Clauses
7. Insol Principles
8. Governance Syndicated Loans
9. Execution Security Rights
10. Comi Shifts
11. Scheme of Arrangements
12. Chapter XI
13. Case Study

Final May 8, 2013

**Pre-Reading Material (included):**

- Restructuring in the Shadow of the Law (2005), Dr. Mr. J.A.A. Adriaanse, Chapter 2 (included)
- 2001 Statement of Principles for a Global Approach to Multi-Creditor Workouts, The Insol 2001 principles, , (included but also available at: <http://www.insol.org/pdf/Lenders.pdf>)
- Johan Jol, Forced Cooperation on a debt for equity swap: (Im)Possible? (included but also available at: [http://www.legalhoudini.nl/images/upload/ENG-DES%20artikel%20versie%20concept%2017\\_septemberdefuk\(1\).pdf](http://www.legalhoudini.nl/images/upload/ENG-DES%20artikel%20versie%20concept%2017_septemberdefuk(1).pdf))

**Suggested Material (Not Included):**

- The restructuring Dilemma: out-of-court versus in-court; the middle-of-the-road alternative, Esteban C. Buljevich in Cross-Border Restructurings (2005)
- Legislative Guide on Insolvency Law Uncitral 2005, p. 21 to and including 25 and p. 238 to and including 248, [http://www.uncitral.org/pdf/english/texts/insolven/05-80722\\_Ebook.pdf](http://www.uncitral.org/pdf/english/texts/insolven/05-80722_Ebook.pdf)
- Stuart C. Gilson. Managing Default; Some evidence on how firms choose between workouts and chapter 11, in Corporate Bankruptcy, Economic and Legal Perspective, Edited by Jagdeep S. Bhandari en Lawrence A. Weiss, p. 308 (1996)
- Eduard I. Altman, Corporate Financial Distress and Bankruptcy (2005), Chapter 4
- Martin J. Whitman en Fernando Diz, Distress Investing (2009), p. 53 e.f.
- Pen Kent in Corporate Workouts- a UK perspective, International Insolvency Review, 1997, vol 6, nr 3, pag. 165-182, available at: [http://ofis.reformkurumsal.com/Document%20Library/london\\_approach.pdf](http://ofis.reformkurumsal.com/Document%20Library/london_approach.pdf)
- Norm in private insolvency procedures; the “London Approach” to the resolution of Financial Distress, John Armour and Simon Deakin, <http://www.cbr.cam.ac.uk/pdf/wp173.pdf>
- Richard J. Cooper en Dalman Garcia in Holdouts in syndicated loan rescheduling, in Global Financial Crisis (2009) p. 321 e.f.