

Understanding Counterparty Perspectives in Distressed Asset Negotiation

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Biofuels Finance & Investment Conference

Minneapolis, MN

September 2 & 3, 2010

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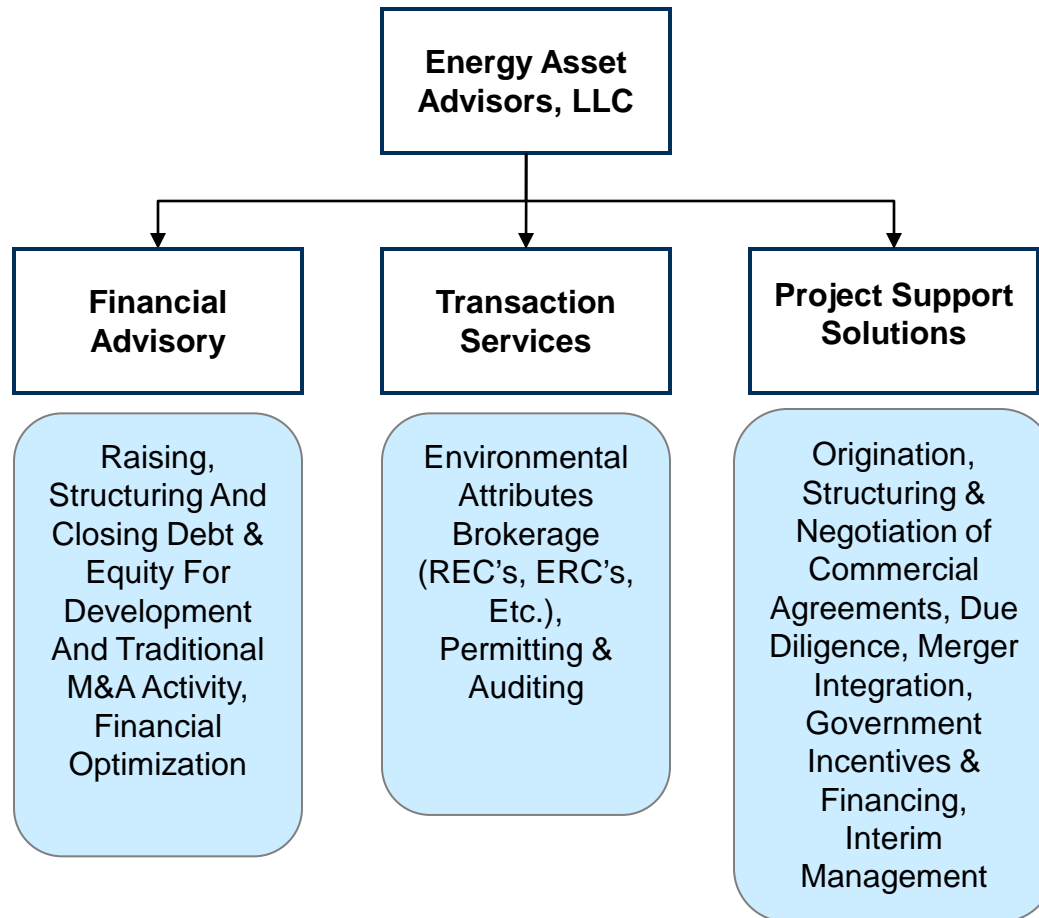
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Energy Asset Advisors

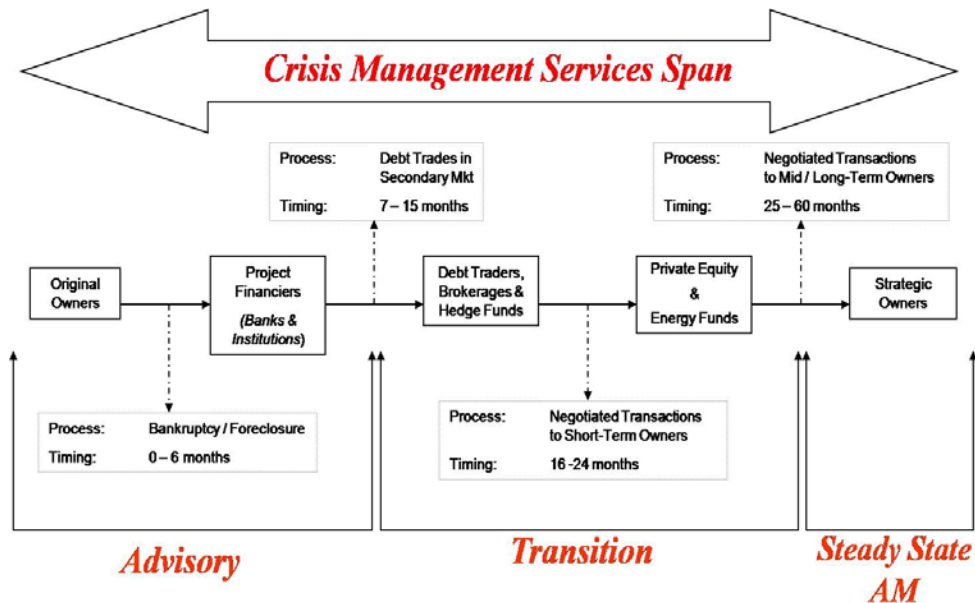
(Overview)

Energy Asset Advisors, LLC provides full-lifecycle financial, transaction & project support solutions to Clients in the alternative & conventional energy industries.



Crisis Management Overview

- Crisis Management Advisory is a set of services provided during an “event” to Lenders or Owners directed at preserving & enhancing the value of the underlying asset by focusing on reestablishment / stabilization of entity viability, transition to new ownership or shuttering of operations
- The Crisis Manager acts as the Lenders’ / Owners’ Representative within a well-defined Schedule of Authorities for the duration of a workout / default / foreclosure / other catastrophic event
- Singular focus on day-to-day oversight of crisis-related management activities, including:
 - Manage provision of defaulting party’s transition services
 - Advise on personnel, systems & entity matters
 - On-going responsibility, for duration of event, to investigate & recommend to Client best options for dealing with event-driven necessities
 - Manage contract, counterparty and stakeholder issues arising from / during event
 - Interact with senior leadership / management of Owners, Banks, Lawyers, Regulators & Counterparties



Distressed Asset Level-Set

- **No Owner** wants to surrender their Project to Lenders

- **No Lenders** want to own a Project

Event- Driven Management

(Overview)

• Owners should . . .

- Attack problems aggressively & early
- Communicate w/Lenders **before** a problem arises
 - Relationship capital will likely come in handy some day
- Formulate a plan to get back in compliance & share w/Lenders
 - Detail any concessions necessary, etc. to get back to normal P&I payments
 - Ask for everything you could ever possibly need (never want to have to go back a 2nd time)
 - Be realistic – if it's pie-in-the-sky to you, imagine how that looks to the Lender (credibility issues)
 - Identify sources of fresh funds (including current Lenders)
 - Invite Lenders to provide feedback / input
 - Either directly or through consultants
 - Retain primacy of decision-making during the event horizon
- Monitor & Report

• Lenders should . . .

- Intervene Early
 - A missed payment / material covenant breach is a harbinger of bad outcomes
- Lead with a Helping Hand, not an Iron Fist
 - Remember, they're still running the plant every day!
- Require / Evaluate Equity's Plan for Rebuilding
 - Think about it as if you're taking it to your Credit Committee for the 1st time
 - Develop contingency plan
- See for Yourself
 - Find consultants you trust & respect and have them evaluate Ops / Mgmt's plan & execution
- Monitor Closely & Create / Maintain an Open Dialogue w/Owners
 - Rinse & Repeat!



Event- Driven Management

(Understand, Plan & Act)

- Equity Issues

- Understand your Loan Dox
 - Are there rights that work to your benefit?
 - May be alienation restrictions to play out
 - What can you give back to the Lenders to get your plan approved?
 - Higher default interest rates, forbearance payments, etc.
- Understand key working elements (internal / external)
 - Who is in the Equity group and what are their sensitivities / priorities
 - Who is your counter-party?
 - How will decisions be made?
 - How can you use the rest of the lending group to further your Agenda?
 - The Importance of Back Channels, etc.

- Lender Group Issues

- Understand your Loan Dox
 - Are there sale restrictions / approvals req'd on the debt side (from debt or equity) ?
 - What can Equity give you to make you whole / forebear?
- Understand key working elements (internal / external)
 - Who is in the lending group and what are their objectives?
 - Who will lead the lending group & how will decisions be made?
 - Will the answer be the same post transfer?
 - Are there intercreditor issues?
 - Are there any timing issues?



Event- Driven Management

(Understand, Plan & Act)

- Key Concepts

- Hope is NOT a Plan
- The Power of “And” - either / or solutions are rarely the best path forward
- Fear is a bad motivator – favor mutual respect
- Hope for the Best, Plan for the Worst

- Planning Questions

- Is there a market for the asset?
- Can the Lenders help current Equity improve operations & remain owners?
 - If not, how can the bank be a better owner than the current group?
- How much rope should Lenders give current Equity – when is enough enough?
 - Plan Timeline & Recurring Defaults
- Is there consensus for action?
 - If not, work to generate it
- Develop Plan A & B at the first default
 - Plan A – Best Case (Reset & Move On) [Forbearance / Workout]
 - Plan B – Worst Case (Take Back & Operate / Sell / Shutter) [Consensual Transfers, Foreclosures & Bankruptcy]
 - Trigger?
 - Operational Management
 - How will the Lenders manage counterparty / commercial relationship issues?
 - What consultants will be used & for what purposes?
 - Mgmt, Ops, Legal, Risk Management, Corporate Governance
 - Will there be any Day 1 changes to people, process, systems, etc.?

Event- Driven Management

(Understand, Plan & Act)

- Plan A – Go back to work!
- Plan B – Get busy moving on!
 - Transition the asset as quickly & efficiently as possible
 - Maintain professionalism at all times
 - Bad things happen to good people
 - You're more than likely to be working with some of these folks again
 - Position for sale / operation / shuttering




Comments / Questions / Concerns



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