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Leveraged Finance:

Where Are Less Restrictive Loan Covenant Packages Headed?

Leveraged Finance & Recovery:

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Many syndicated loans originated in the two or three years leading up to the financial crisis that began in 2007 lacked covenant terms that had generally been regarded by market participants in earlier transactions as staples of leveraged bank loan documentation. If the less restrictive covenants that characterized much of the lending that took place during the leveraged buyout (LBO) boom of 2005-2007 were a reflection of liquidity in the capital markets and expansiveness in the economy, market participants may wonder to what extent those covenant structures would be affected by the sea-changes in markets that have since occurred.

With this question in mind, we decided to revisit a report we published in November 2008 on various features of covenant packages found in LBO-era credit agreements that, in our view, were representative of the departure from the historically traditional credit agreement model (see "Covenant-Lite Loans And Cure Provisions Weigh On Lenders' Recovery Prospects," Nov. 21, 2008). Our 2008 report focused on the credit facilities of 14 leveraged borrowers across a variety of different industry sectors. Of these, four companies had actual covenant-lite facilities with no financial maintenance covenants (to date, three of the four have remained covenant-lite).

The capital markets were in a state of turmoil when we went to press with our report in November 2008. Since then, syndicated loan originations have, until recently, remained at record low levels, and the market for speculative-grade bonds has generally been what we consider to be quite strong.

Over the past 18 months, the capital structures of many of the companies featured in our November 2008 report have been altered through debt issuances and paydowns, exchange offers, initial public offerings, and bankruptcies. Of the 14 companies that were the subject of our November 2008 report, nine have since amended their credit facilities. It is our view, though, that with few exceptions, the distinct features of LBO-era covenant packages have remained largely intact in the wake of these amendments.

- Dole Food Co. Inc. (which had a covenant-lite deal at the time of our November 2008 report) has amended its term loan facilities on more than one occasion since we published our November 2008 report. In March 2009, the company obtained an amendment to its term loan facilities (which at that time included a \$225 million tranche B and \$750 million tranche C due 2013) that, among other things, added a leverage ratio test and increased the pricing. In March 2010, the company obtained an amendment that, among other things, refinanced the term loans due 2013 with an \$825 million term loan due 2017, and added an interest coverage test. The pricing, however, was reduced from 2009 levels.
- Michaels Stores Inc. (another of the covenant-lite deals featured in our November 2008 report) obtained an amendment in October 2009 that, among other things, extended the maturity on \$1.0 billion of its \$2.4 billion term loan to 2016 from 2013, and increased the pricing on the extended amount.
- SunGard Data Systems Inc. obtained an amendment to its credit facilities in June 2009. Among other things, the amendment reduced the company's revolving facility commitment to \$829 million from \$1.0 billion, extended maturities on \$580 million of the revolving facility to 2013 from 2011 and \$2.7 million of the \$4.4 billion term loan to 2016 from 2014, increased pricing on the extended amounts of the facilities, and implemented less

restrictive requirements under its leverage ratio and capital expenditure tests.

- Swift Corp. obtained an amendment to its credit facilities in October 2009 that, among other things, implemented less restrictive requirements under its leverage ratio and capital expenditure tests, and increased loan pricing.
- Univision Communications Inc. obtained an amendment to its credit facilities in June 2009 that, among other things, reduced the size of its revolving facility commitment to \$600 million from \$750 million, implemented less restrictive requirements under its leverage ratio test, and revised certain inputs used in calculating EBITDA.
- ARAMARK Corp. obtained an amendment to its credit facilities in March 2010 that, among other things, provided for a maturity extension on \$1.4 billion of its term loan and \$92.6 million of its synthetic letter of credit facilities to 2016 from 2014, and increased the pricing on the extended amounts.
- Freescale Semiconductor Inc. (another of the covenant-lite deals featured in our November 2008 report) obtained an amendment to its credit facilities in February 2010 that, among other things, extended the maturity on a portion of its term loan to 2016 from 2013, permanently reduced the commitment on its revolving credit facility, and increased the pricing on the extended amount.
- Charter Communications Inc. obtained an amendment to its credit facilities in April 2010 that, among other things, provided for a maturity extension on \$3.0 billion of term loans to 2016 from 2013-2014, provided for a \$1.3 billion revolving credit facility that terminates in 2015 (replacing a \$1.5 billion facility due 2013), and increased the pricing on the extended amounts and new facility.
- HCA Inc. obtained an amendment to its credit facilities in April 2010 that, among other things, provided for a maturity extension on \$2.0 billion of term loans to 2017 from 2013 and increased the pricing on the extended amounts.

Other than the Dole amendments (and Dole, we note, completed an initial public offering in the fall of 2009), none of these amendments imposed additional financial covenants, eliminated or tightened equity cure provisions, or otherwise appeared to us to be more restrictive than their original LBO-era covenant structures.

If a larger trend is suggested by the amendments obtained by the companies we reviewed for our November 2008 article, in our view it is that lenders are generally addressing credit concerns through higher pricing, and that the less restrictive covenant structures that were characteristic of many leveraged loans originated during the recent LBO boom are largely remaining intact.

What follows is an updated version of the summary table included in our November 2008 report. While several of the companies have extended the maturities on a portion of their credit facilities or refinanced some of their bank debt with longer-dated speculative-grade bonds, all of these issuers have facilities that will expire in or before 2014.

Loan Agreements Made During LBO Era					
Company	Original credit agreement date	Facilities and amounts	Maturity date	November 2008 issue/recovery ratings	Current ratings
ARAMARK Corp.	Jan. 26, 2007, as amended	Revolver: \$600 mil	12/31/2013	BB/1	BB/1
		Synthetic LOC: \$107.4 mil	1/26/2014		
		Synthetic LOC: \$92.6 mil	7/31/2016		

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Loan Agreements Made During LBO Era (cont.)					
		TL: \$2.2 bil	12/31/2014		
		TL: \$1.4 bil	7/31/2016		
Charter Communications Inc.	Amended and restated March 6, 2007	Revolver: \$1.3 bil	3/6/2015\$	B+/1	BB+/1
		TLB-1: \$3.4 bil	3/6/2014		
		TLB-2: \$490 mil	3/6/2014		
		TLC: \$3.0 bil	9/6/2016		
Dole Food Co. Inc.*	Amended and restated April 12, 2006	Prefunded LOC: \$100 mil	4/12/2013	B+/1	BB-/1
		TLB: \$250 mil	12/31/2017		
		TLC: \$600 mil	12/31/2017		
Dollar General Corp.*¶	July 6, 2007	First Out TL: \$1.7 bil	7/6/2014	First Out Tranche: B+/2	BB/2
		First loss TL: \$600 mil	7/6/2014	First Loss Tranche: CCC+/6	B/6
First Data Corp.	Amended and restated Sept. 28, 2007	Revolver: \$2 bil	9/24/2013	BB-/2	B+/2
		TL: \$13 bil	12/31/2014		
Freescale Semiconductor Inc.¶	Dec. 1, 2006, as amended	Revolver: \$750 mil	12/1/2012	BB/1	B-/4
		TL: \$2.26 bil	12/1/2016\$§		
Hawaiian Telcom Communications Inc.	June 1, 2007	Revolver: \$90 mil	N/A	CC/3	NR
		TLC: \$484.7 mil	N/A		
HCA Inc.*	Nov. 17, 2006, as amended	Revolver: \$2 bil	11/17/2012	BB/1	BB/1
		TLA: \$1.6 bil	12/31/2012		
		TLB1: \$3.5 bil	12/31/2013		
		TLB-2: \$2.0	3/31/2017		
		Euro tranche TL: €450 mil	12/31/2013		
Michaels Stores Inc.*¶	Oct. 31, 2006, as amended	TL: \$1.4 bil	10/13/2013	B/2	B/2
		TL: \$1 bil	7/1/2016\$§§		
Realogy Corp.	April 10, 2007	Revolver: \$750 mil	4/10/2013	CCC+/Watch Neg/2	CCC-/2
		TL: \$3.17 bil	10/10/2013		
		Synthetic LOC: \$525 mil	10/10/2013		
SunGard Data Systems Inc.	Aug. 11, 2005, as amended	Revolver: \$249 mil	12/31/2011	BB/1	BB/1
		Revolver: \$580 mil	5/11/2013		
		TLA: \$1.7 bil	12/31/2014		
		TLB: \$2.7 bil	2/28/2016		
		Incremental TL: \$500 mil	12/31/2014		
Swift Corp.**	5/10/2007, as amended	Revolver: \$300 mil	5/10/2012	B+/1	B-/2
		Synthetic LOC: \$150 mil	5/10/2014		
		TL: \$1.72 bil	5/10/2014		
Tribune Co.	May 17, 2007	Revolver: \$750 mil	N/A	CCC/4	N/A
		TL: \$2.105 bil	N/A		
		TLB: \$5.515 bil	N/A		

Loan Agreements Made During LBO Era (cont.)					
		TLX: \$1.5 bil		N/A	
		Delayed-draw TL: \$263 mil		N/A	
Univision Communications Inc.	March 29, 2007	Revolver: \$600 mil	3/29/2014	B-/3	B-/3
		TLB: \$7 bil		9/29/2014	
		Delayed-draw TL: \$450 mil		12/31/2014	

Notes: (1) Current ratings are as of May 21, 2010. (2) Standard & Poor's Ratings Services' analysis of the above-referenced credit agreements is based on, and limited to, SEC filings and other publicly available information.

*Companies also have asset-based revolving credit facilities--Dollar General: \$1.125 billion; Dole: \$350 million; HCA: \$2 billion; Michaels Stores: \$1 billion--which were not reviewed for this article.

**Swift terminated its SEC registration in May 2007.

¶Covenant-lite facilities.

§Lenders have the option to advance the maturity date to Dec. 1, 2013 if, on such date, the company does not have less than \$1 billion of consolidated debt with maturities between Jan 1, 2014 and April 30, 2014.

§§Maturity advanced to Sept. 1, 2014 if more than \$500 million of senior notes due 2014 are outstanding and the company does not meet a specified leverage test as of June 30, 2014.

§§§Maturity may be advanced to July 31, 2014 unless the company's 10% senior notes due 2014 are refinanced or the company meets a specified leverage test.

TL--Term loan. LOC--Letter of credit. NR--Not rated. N/A--Not applicable.

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