

The logo for K&L GATES, featuring the text "K&L GATES" in white, uppercase letters on an orange rectangular background. This logo is positioned in the upper left corner of a large blue bokeh background that spans the top half of the slide.

K&L GATES



# Preparing for a Rising Interest Rate Environment

April 22, 2015 – Orange County

April 23, 2015 – Los Angeles

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## Overview of Program

- Interest Rate Overview
- Reducing Risk with Customers
- Reducing Risk with Suppliers
- Reducing Working Capital Risk
- Special Assets Team
- Role of In-House Counsel in Risk Mitigation
- Available Remedies

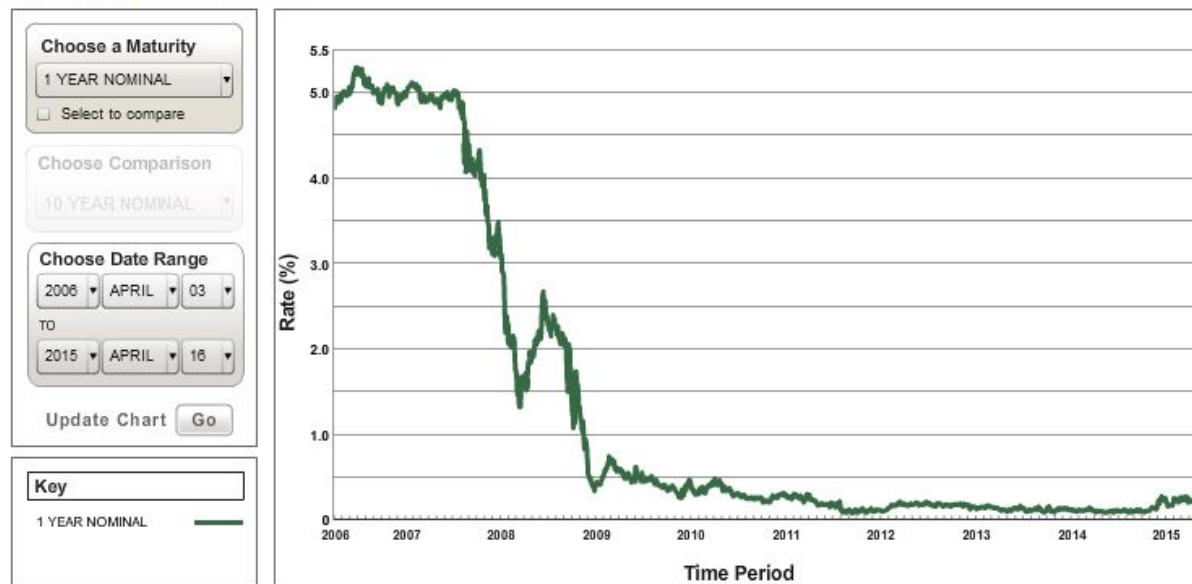
The image features a bokeh background of light blue and white circles. A solid orange horizontal band is positioned in the center, containing the text "Interest Rate Overview" in white. The bokeh pattern is visible above and below the orange band.

# Interest Rate Overview

## Interest Rate Overview

- Interest rates have been at historic lows
  - No rate increases since 2006

Historical Treasury Rates



Source: U.S. Department of the Treasury, Resource Center

## Interest Rate Overview

- Effect of rising interest rates
  - Increased cost of capital
    - Raises borrowing costs
    - Increases cost of holding inventory
  - May not be possible to pass along increased costs
  - Margins will be compressed

# Interest Rate Overview

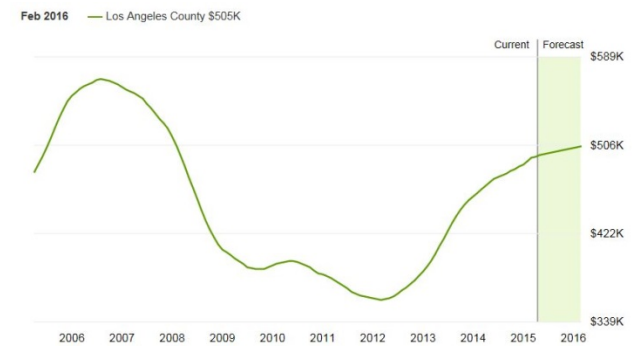
- Higher dollar
  - Reduces exports



Euro to US Dollar Conversion, April 17, 2014 – April 17, 2015  
Source: [www.x-rates.com](http://www.x-rates.com)

# Interest Rate Overview

- Impact on asset prices
  - Real estate
    - Downward pressure on prices



LA County Median Home Values, 2006-2016  
Source: [www.zillow.com](http://www.zillow.com)

- Financial assets
  - Fixed-rate investments will lose value



## Interest Rate Overview

- Points of pressure
  - Lower sales
  - More customer failures
  - More supply chain interruptions
  - Higher borrowing costs
  - Less investment in growth of enterprise
    - Lower capital spending
    - Reduced hiring

## Interest Rate Overview

- Free money hides a host of sins
- Planning can reduce risk

The image features a blue bokeh background with a central orange horizontal bar. The bokeh consists of numerous out-of-focus light spots in various shades of blue and white, creating a shimmering effect. The orange bar is a solid, vibrant color that provides a high-contrast background for the white text.

# Reducing Risk with Customers

## Reducing Risk with Customers

- Review credit procedures
  - Update credit applications & financial information
  - Monitoring
    - Credit reporting
    - Financial strength
    - Liquidity
    - Payment trends
  - Identify highest-risk customers
  - Reevaluate credit terms/limits

## Reducing Risk with Customers

- Review contracts, forms
  - Review should include:
    - Definition of events of default
    - Remedies
    - Dispute resolution
    - Venue
    - Choice of law

## Reducing Risk with Customers

- Review internal incentives
  - Sales vs. credit
  - Bidding procedures/approvals

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# Reducing Risk with Suppliers

## Reducing Risk with Suppliers

- Review vendor qualification process
  - Credit analysis
  - Monitoring
  - Second source vendors where possible
  - Consider hedging
    - Prices
    - Currency risk



## Reducing Risk with Suppliers

- Identify vendors with high risk to enterprise
  - Difficult to second source / high cost of interruption
    - Longer term (custom / specialized / complex)
    - Shorter term (commodity)
    - Goods
      - Example: custom component part
    - Services
      - Example: outsourced data hosting

## Reducing Risk with Suppliers

- Identify vendors with high risk to enterprise (cont.)
  - Structure transactions to minimize risk
  - Identify what you need if vendor fails:
    - IP
    - Tooling; dies
    - Know-how
    - Access to premises

## Reducing Risk with Suppliers

- Review internal incentives
  - Cost savings vs. reliability



# Reducing Working Capital Risk

## Reducing Working Capital Risk

- Review loan documents
  - Maturities
  - Covenants
- Capital budgeting
- Increase liquidity
- Review cost of capital vs. company margins
  - Identify unprofitable / low-profit products
- Review workforce
  - Address low performers
  - Incentives to high performers

The image features a blue bokeh background with out-of-focus light spots. A solid orange horizontal bar is positioned in the center, containing the text "Special Assets Team" in white. The top and bottom portions of the image are filled with the same blue bokeh pattern.

# Special Assets Team

## Special Assets Team

- What are “special assets”?
- Purpose of a Special Assets Team
- Why transfer control of special assets?
  - Denial
  - Friendships
  - Conflicts
  - Fresh view
  - Specialized skills
  - Increased legal risk with troubled situations
  - Change the “face” of the company
  - One voice / consistent messaging

## Special Assets Team

- Who is on the team?
  - In-house counsel
  - Business people
    - Risk
    - Finance
    - Sales?
  - Outside counsel, if needed
- Who is decision maker?
- When to transfer control to Special Assets Team?



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# Role of In-House Counsel in Risk Mitigation

## Role of In-house Counsel in Risk Mitigation

- Evolving role as Risk Managers and Business Strategists
- Required to balance business goals and acting as the “conscience” and control function for the company.
- Speak in business language – not “legalese.”
- Avoid “punchbowling.”

The image features a background of blue bokeh light effects. A solid orange horizontal bar is positioned in the center, containing the text "Available Remedies" in white. The bokeh consists of numerous out-of-focus light spots in various shades of blue and white, creating a shimmering, ethereal atmosphere.

# Available Remedies

## Available Remedies

- Prejudgment remedies
  - Attachment
  - Receivers
- Bankruptcy alternatives
  - Workouts
  - Assignments for the benefit of creditors
    - Assignee
    - Notice
    - Proofs of claim
  - Receivership
    - Notice

## Available Remedies

- Bankruptcy
  - Chapter 11 vs. chapter 7
  - Notice of commencement
  - Automatic stay
    - Can't terminate contracts without relief
  - Bar dates / proof of claim
  - Reclamation
  - Doing business with companies in bankruptcy

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