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Practice Group:

Restructuring and Insolvency

When Restructuring Resource Companies – Don't Forget the Farm

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As we move into 2016, it is clear that there will continue to be great distress across resource commodities. As a result all assumptions should be examined including the obvious – that is what is core business and what is necessary to deliver core products.

With resource companies striving to survive, and whilst the fires burn across boardrooms and operations throughout the resources world and across commodities, urgent action is increasingly necessary to find cash or capital. However, it is often the obvious that is over looked.

What About the Farm?

One of the most valuable assets that resource companies have accumulated, certainly in Australia, may have been largely overlooked – somewhat similar perhaps to shares held by our Grandparents left in a vault which when discovered might be worth millions. In the frenetic days of the resources boom, many operations acquired land assets to avoid delays with land owners' consents, and to simplify and expedite operations by removing one more party from the table. Indeed large agriculture stations were acquired – not just small parcels. Some mining houses in Queensland, for example, have well in excess of 50,000 hectares of freehold land, much in rich agricultural country. Many of these assets have been non-core and therefore forgotten. Now is the time to dust off title documentation and have a fresh look.

There were cogent arguments applied during the resources boom that to acquire these land holdings for relatively insignificant costs would help improve speed to market. Now that the market in the resources sector finds itself in great distress, these land holdings may have a significant new found value. Whilst there may be some desire to hold on to land because of joint venture arrangements or concern over environmental offset provisions, these requirements can be met through innovative sale arrangements. Such arrangements can also preserve access to mineral deposits for exploration, or developing operations for the future.

Disposals can be structured with put and call options to be triggered when and if a project moves forward. Resources companies can have certainty that they could acquire the land back if necessary.

Are There Other Alternatives?

In this environment, all options need to be reviewed in order to seek some further value for struggling resource companies. Here are just a few to be considered further:

- Take or Pay Renegotiation: Most rail and port operators are increasingly worried about the credit of mining players utilizing their infrastructure. The threat of a resource company entering voluntary administration or a Chapter 11 in the U.S., even if the Australian assets do not go into voluntary administration, may be sufficient to renegotiate take or pay contracts and extract considerable concessions.

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- Cost Restructuring: Instead of simply renegotiating contracts with suppliers, another alternative open for creating value is the option of a broader cost restructure involving, for example, a debt for equity swap with key contractors.
- Innovation of Capital Structures: In the current market, capital intensive assets such as rail spurs, coal-handing prep plants and other assets can be sold into lease-back arrangements.

Conclusion

Companies in the resources sector in distress should be allocating time and effort to assess their land holdings and consider divestment strategies while the market for agricultural land remains robust. Whilst this might only be one part of a restructure strategy, it is an important one and one that is easily overlooked.

In these tough times there should be nothing taken off the table.

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