
The Consumer Finance Podcast — Navigating Corporate Restructuring: Strategies to Optimize Value and Manage Liabilities

Host: Chris Willis

Guests: Alex Rovira

Aired: September 18, 2025

Chris Willis:

Welcome to *The Consumer Finance Podcast*. I'm Chris Willis, the co-leader of Troutman Pepper Locke's Consumer Financial Services Regulatory Practice. Today, we're going to be talking about an area of high interest to our financial services companies, and that's ways to use restructuring to optimize assets to try to avoid liabilities from polluting the rest of a company. Before we jump into that topic, let me remind you to visit subscribe to our blogs, TroutmanFinancialServices.com, and ConsumerFinancialServicesLawMonitor.com.

Don't forget to check out all of our other podcasts, *The [FCRA Focus](#)*, *The [Crypto Exchange](#)*, *[Unauthorized Access](#)*, which is our privacy data security podcast, *[Payments Pros](#)*, and *[Moving the Metal](#)*, which is our auto finance podcast. All of those are available on all popular podcast platforms. Speaking of those platforms, if you like this podcast, let us know. Leave us a review on your platform of choice and tell us how we're doing.

Now, as I said, today we're going to be talking about corporate restructuring. This is an example of one of the things that I love most about Troutman Pepper Locke, and love most about the podcast is that we have such a broad practice that can serve all of the needs of our financial services clients, not just the consumer financial services regulatory and litigation work that you may know us for, but also, all kinds of other things, including corporate and restructuring work.

To talk to us about that today is my partner, Alex Rovira. Alex is a partner in our bankruptcy restructuring group. He's in our New York office. I'm really glad that he's here to talk with you today. Alex, thanks for being on the show.

Alex Rovira:

Thanks. Happy to be here. Looking forward to it.

Chris Willis:

Alex, let's set the stage here. Why would this be a topic of interest to our financial services company clients?

Alex Rovira:

In this market, there is a lot of distress and liability where there is consumer facing businesses, and particularly, businesses that provide financing, or that provide financing to consumers. These types of restructurings help to alleviate, or address where there is liability facing

businesses. The focus that I wanted to do here is to talk about two recent trends that we see in consumer-facing business, or in companies like private equity, where they've purchased different businesses, and for whatever reason, whether it's a regulatory, or a business impediment, or an unexpected liability that arises in a particular business, or asset, these are two methods of restructurings that allow you to isolate those liabilities and be able to manage them in a more efficient way when those liabilities do arise. Or if they do not arise, also to help provide for a stronger credit base, so that you can finance and get new financing on the stronger lines of businesses.

Chris Willis:

Yeah. A couple of real-world examples of that I can think of is number one, portfolio performance. You may have a consumer finance company who has a portfolio of loans that's not performing according to expectations. We actually see this in the market all the time as clients are buying, or selling portfolios, or buying or selling companies. That's one example where you have a business liability that's subject to this kind of restructuring. The other one has to do with a regulatory action. You do have certain more innovative financial products that might even be the subject of investment by outsiders, including private equity firms. Then, you might have a regulator come in and interfere with the business model by taking a regulatory enforcement position, or even having a state legislature pass a statute that really calls into question the underlying company's business model. That's the kind of unexpected liability, or corporate development, Alex, that I think you were talking about, right?

Alex Rovira:

That's right. You don't want that line of business to affect the completely different line of business that you may have, solely because they're sharing different facilities, or because they're in the same parent structure.

Chris Willis:

Okay. There's two types of transactions that I think you've been seeing companies in the market doing recently. Can you just introduce those to the audience?

Alex Rovira:

Yeah. These types of transactions are called, the first is an optimization restructuring. That really looks to restructure where companies looking to restructure internally to align its business and assets in a way that maximizes value and ring-fences liabilities. The second is a financial balance sheet liability management exercise. That really looks at the debt documents, and to see whether there's ability to create additional pockets of value that can be used to finance and provide additional liquidity, or to pay off and exchange certain liabilities.

Chris Willis:

Okay. Thanks. Let's talk about the optimization restructurings first. What are some of the benefits of these kinds of transaction, and who's doing it?

Alex Rovira:

Yeah. This is applicable to any business. Historically, it's been done where there's a significant liability that's known, or that is foreseen, particularly around litigation. We've seen more and more of this arise where there's structurally, and particularly, in the private equity context, there's a mix match of different businesses that a private equity has invested in and hasn't structured it appropriately. You see it in the context of private equity more and more, and then you see it in any business where there is a liability that's starting to increase, or distress that's starting to come prevalent in the market.

You see it where there's increased consumer credit defaults. We're seeing that rise over the last couple of years. That's where consumer facing businesses are starting to see how should we position ourselves where there's a particular asset that has more risk and liability to it, where these other pools of assets do not share that same kind of risk profile.

Chris Willis:

Sure. You've got one loan program that's performing poorly, and the others are performing okay. That would be a call, or a trigger for this kind of restructuring that we're about to talk about, right?

Alex Rovira:

Right. The benefits, to your second question was, the benefits of this is it limits that risk to that line of business, to that ring fence business, so that it doesn't affect and cause an entire business valuation, or business enterprise to suffer where there's a particular liability that's causing the distress.

The second is it actually allows you to create stronger credit lines in terms of business lines will be able to get more financing in stronger terms, where they don't have that same risk profile. Then the last is when you are able to optimize structurally a kind of corporate entities, it does allow for if there's a potential to sell some of those assets, whether it's the risky liability one, where you want to sell that off without affecting the other entities, or if you want to sell off a healthy side of the business. It serves a lot of different purposes. The main one is to kind of isolate the liability, but it does provide these side benefits as well.

Chris Willis:

Yeah. All of those sound very clear, good real-world use cases for what we're talking about. If you don't mind, let's broadly talk through a roadmap of how these transactions and restructurings are actually accomplished. Can you tell us?

Alex Rovira:

Yeah. The optimization one is really kind of a separation and alignment of your corporate group, particularly done around business lines or segments of your businesses, or asset pools to enhance the value of the good asset pool, versus those that are facing more of a risk, or liability.

These strategic opportunities are creating the optionality to deal with those liabilities, or those, let's say, bad assets with optionality of better finance or sale on the good assets. That is more of, again, a structure optimization and gives optionality to management and to the board on having to deal with those. The goals objectives of those are really to isolate entities and assets subject to those current and potentially future claims and liabilities.

It also helps provide asset and cash flow to address current and future liabilities of those entities. If you think about putting a pool of assets under a certain business line, you want to make sure and maintain that there is asset value there to be able to deal with that liability, but not having the good business lines have to cover that type of liability. It's really just aligning the risk profile of different asset pools, whether it could also be done aligning different business line segments. This really gives the company, the management optionality for future growth, it enhances strategic options, including acquisitions, and to certain business lines, having that facility in a place ready for that and allowing for stronger credit to either do potential purchases, or to do divestiture, or sales of good or bad assets.

It's really just a way of aligning your business lines and assets in a way that really provides the optionality to deal with those liabilities, and to grow and have better financing available to your other business lines.

Chris Willis:

That makes a lot of sense. Let's talk about the other type of restructuring that you mentioned at the top of the show, which is the liability management transactions. You said, you've seen companies engaging in these as well. How do they differ from the optimization restructuring that you just described?

Alex Rovira:

Yeah. The optimization is really a corporate structure and internal structuring process. The liability management exercise are really focused on a balance sheet financial restructuring. This is through looking at the current debt facilities and seeing where there is a potential and opportunities to create additional pockets of financing. You're looking really more at a balance sheet restructuring of the business, rather than a structural reorganization and ring-fencing of the business.

The objective of the liability management exercise is really on the balance sheet. It's to provide additional liquidity. It's to deleverage the business by getting that additional liquidity to pay off some of your formal liability, and it comes in different ways. There's mainly two different varieties. There's an asset dropdown, or there's a up-tiering transaction. There are other types as well, but those are the main two. One is, again, the asset dropdown. The second is the up-tiering priming transactions. When you're in a challenged market and facing distress, it's often hard to get new credit terms. Particularly, where there already existing lenders. This is where it becomes looking at your existing lenders and determining whether there's a group of those lenders that are willing to provide some financing.

Early days of this, this was called creditor-on-creditor violence, because you had particular creditors, lenders seeking to provide additional financing to the harm of other lenders in that

lender group. More and more so, now because there has been litigation, these lenders are looking and allowing most of the existing lenders to participate, or maybe on different economic terms. Those are the liability management exercises and how they differ from the structural optimization exercises.

Chris Willis:

Well, let's get into the weeds even a little bit further, because I'm really learning a lot here. Talk to me about the two types of transactions you mentioned. Let's start with the asset dropdowns. How does that work?

Alex Rovira:

The asset dropdowns really involves the transfer of assets to a non-loan party subsidiary, or an unrestricted subsidiary. That's a subsidiary that is not within the restricted subsidiaries and exists in loan facility. What that asset dropdown looks to do is looks at the baskets of availability and the covenants of that financing, and to allow for assets to be able to drop down into another subsidiary within those permitted covenants, and then to provide additional financing to that unrestricted subsidiary. That unrestricted subsidiary then structurally subordinates the prior existing lenders to the assets that new created subsidiary.

While the assets are transferred and they may have been secured for the existing credit facilities, those are now released, those liens on those assets are now released and transferred to a subsidiary that's outside of that credit structure, and is able to be used as new collateral for the new financing. That's where the new lenders come in and have direct claims to those assets. They would have priority to, and that structural subordination I mentioned to you with respect to those assets over and ahead of the existing lenders.

It's a great tool. It's been tightening up a little bit, but the real key of it and the benefit of it is that you can do this without the consent of the current existing creditors, because there's availability in the documents to be able to put together enough of a basket to allow for the drop down of these assets. We initially saw this, and this might be something in more of the financial type of the tech type companies, because we initially saw this where there wasn't really value put into the IP. IP was the primary asset that was dropped down. Now, they've increased significantly in the value that that IP has. That has allowed for the IP to be one of the main crown jewel assets to be able to create new finance.

Chris Willis:

What it sounds, Alex, that the real key to doing one of these asset dropdowns is to take a careful look at the existing commercial loan covenants that the borrower may have to make sure that the transfer of the assets down to the new dropdown subsidiary doesn't put the borrower, the existing borrower in breach of any of those covenants, right?

Alex Rovira:

That's right. As lawyers, there's a lot of interpretations of how those covenants can be read and what's available. There has been litigation around what's allowed and what not allowed, what's restricted and what's unrestricted, but there's flexibility. The overall goal is to provide additional liquidity to the company, in which we'll provide further runway for the company to be able to satisfy all of its liabilities. There has been litigation around it, but it's our job to be creative and to be able to find avenues and ability for our clients to have additional liquidity.

Chris Willis:

Yeah, it's very interesting. Now, I'm very eager to hear about the other type of transaction, which is the uptiering one. Let's talk about that.

Alex Rovira:

Right. In the dropdown, you were dropping down particular assets, creating a basket of unencumbered collateral. The uptiering one is where the existing creditors now are amending the documents, because they have the ability to under the majority of required lender determinations in the document to amend the documents in the way that allows them to have super priority over the existing creditors. This is really has become more of the first tool out of the toolbox, rather than the dropdown. It does raise additional secure debt capacity by creating this new class that has that super priority.

Now, the real key to this one is that you have to have the required lenders, whether that's a majority, or a super majority, to be able to amend the borrowers' debt documents to commit that additional incurrence of super priority debt. Sometimes what that new debt does is it may strip away some of the rights and benefits that the existing lenders had. You really want to, from the lender side, you really want to be able to be in that majority of that required lenders, because if you're not, then you would be subordinated to and be second in priority where you thought you had overall priority. It's important from the lender side to determine kind of where you sit in that stack of control. Also, it's very helpful for a borrower, because the borrower is able to work with its lender group to be able to amend documents and to create this additional liquidity.

The other thing that this does is that bringing in that liquidity allows you to deleverage, or extend the existing majorities. When you're amending the documents with this super majority, or just the majority required lenders, it does allow you to amend additional parts of the document. You could extend the maturities on the existing debts. You can reduce their collateral package that they come and put them into the second-place position. It's a very powerful tool. It does create, again, that creditor-on-creditor violence that we've started to see. That really comes down to will all lenders be able to participate in that?

The initial first of these transactions, it really was the ad hoc group that had the majority in that control position, the required lenders position that were driving this, and did not provide the opportunity to all the creditors. Those creditors that were left behind did not have the opportunity to participate, or to consent. That's where the litigation started to arise around these types of transactions.

As a reaction to that, there's been a couple of different flavors. Some lenders have now entered into cooperation agreements, where they'll agree to work together, doing an uptier transaction. Other structures have found that they try to now allow all lenders to participate, but that required majority is having better economics, more on it. They're kind of tiering, because they were the ones that drove the process, put together the financing, then went to the company with this structure, they then get in a little bit of better economics. While that's still harmful to the existing lenders that are not in that favorite group, it's still beneficial for them to get some economics, rather than go through down the route of litigation. That's the flavor that we're seeing a little bit more of now.

Chris Willis:

That is all really fascinating, Alex. These are things that's very educational to me, and I hope to our audience as well, because it really shows some of the flexibility and experience that our restructuring and bankruptcy group, which you're in, has to offer clients in these variety of circumstances, whether they're the ones facing the liability, or they own one facing the liability, or whether they're a creditor of one on a commercial basis, facing a liability like that. I'm really glad that you were able to be on the show today to talk to our clients about one of the many facets of services our firm can provide to financial services companies. Of course, thanks to our audience for listening to today's episode as well.

Don't forget to visit and subscribe to our blogs, [TroutmanFinancialServices.com](https://www.troutmanfinancialservices.com), and [ConsumerFinancialServicesLawMonitor.com](https://www.consumerfinancialserviceslawmonitor.com). While you're at it, why not visit us on the web at [troutman.com](https://www.troutman.com) and add yourself to our Consumer Financial Services email list. That way, we can send you copies of the alerts and advisories that we release from time to time, as well as invitations to our industry-only webinars. Of course, stay tuned for a great new episode of this podcast every Thursday afternoon. Thank you all for listening.

Copyright, Troutman Pepper Locke LLP. These recorded materials are designed for educational purposes only. This podcast is not legal advice and does not create an attorney-client relationship. The views and opinions expressed in this podcast are solely those of the individual participants. Troutman does not make any representations or warranties, express or implied, regarding the contents of this podcast. Information on previous case results does not guarantee a similar future result. Users of this podcast may save and use the podcast only for personal or other non-commercial, educational purposes. No other use, including, without limitation, reproduction, retransmission or editing of this podcast may be made without the prior written permission of Troutman Pepper Locke. If you have any questions, please contact us at [troutman.com](https://www.troutman.com).