

Financial Recovery Law

Pre-Packaged Filing for CIT Makes Sense

By: Bill Gray. *This was posted Thursday, November 5th, 2009*

Just this week, another big financial company — [CIT Small Business Lending Corporation](#) — [filed bankruptcy](#). CIT filed a “[prepackaged](#)” filing, in which terms for restructuring are negotiated before the bankruptcy case is filed. In more conventional bankruptcy filings, it can take a year or more before a plan is confirmed; in a [pre-pak](#), filers may have a plan confirmed in a month or two.

Having a confirmed plan, of course, achieves the desired reorganization, and allows the company to continue in business under a new business plan or model, with workable debt load and other stable financial underpinnings. The faith of investors and vendors must be strong for the enterprise to exit and prosper. During the negotiations prior to the filing, the terms can be worked out in a mutually-acceptable manner, rather than with the heavy leverage that courts often apply when they control whether a firm exits intact or is dissolved.

On Tuesday CIT was granted Bankruptcy Court approval to immediately tap \$125 million of a debtor-in-possession loan through Bank of America Corp. when Judge Allan Gropper of the U.S. Bankruptcy Court for the Southern District of New York signed off on numerous routine “First-Day” motions. Included was permission to continue making intercompany loans and pay essential employees and vendors. There is a December 8 hearing date to consider approval of CIT’s reorganization plan, which reportedly already has secured the preliminary approval of 90 percent of eligible debt-holders who signed off on the prepackaged chapter 11 plan.

We sincerely hope that CIT can exit and get back to the essential role of lending to small business quickly. In this economy where glimpses of recovery compete with reports of continued losses in employment and consumer purchasing, a stable and friendly source of capital may be the only sure salvation of many of our best small companies and entrepreneurs.

What else can be done to help small business survive and thrive in the tough times we’re in?

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