

Selling your distressed company

Flexibility and pragmatism are essential

Waves upon waves of economic shocks have negatively affected almost every business sector. Many companies, as a result, are hanging on by a thread these days. If your business faces an uncertain future, finding someone to buy it could be your best remaining option.

Selling a financially distressed company, however, isn't always easy. As a seller, you'll need to walk a fine line between making concessions to your buyer and standing firm to protect your employees and investors. Some factors, such as liquidity and market conditions, will be out of your control. So focus on those you can control.

Play for time

Distressed sellers have only so much time available to arrange a sale. How much depends on liquidity: The less capital you have, the less time you have to sell, and the lower the purchase price you'll likely receive. Consider, for example, that J.P. Morgan paid fire sale prices for Bear Stearns earlier this year after federal regulators indicated to Bear that it had only days to find a buyer.

If you can buy some time through a short-term liquidity injection — such as a private equity investment — you might consider it. The cost of accepting a new co-owner, or even taking on additional debt, may be worth it for the extra weeks or months it could give you to find the right buyer.

Short-term cash infusions at this critical juncture also may provide you with an alternative to unappealing offers from “vulture” buyers. These buyers seek out companies in desperate straits, hoping the company will be so anxious to sell that it will accept a low price and unfavorable terms.

Court your buyer

Your liquidity situation also will determine how you market your company to prospective buyers. If you're facing an imminent liquidity crisis, you may want to confine your efforts to a short list of prospective buyers that are willing to conduct abbreviated due diligence — often in exchange for pricing concessions or strong material adverse clause provisions that enable the buyer to pull out without repercussions.

Also consider which type of acquisition makes the most sense. If you have two or three distinct operations, it may be easier and more lucrative to sell each division to separate buyers. A buyer, for example, may anticipate synergies with one of your product lines, but have no use for another part of your business. Further, one of your divisions may be in a better financial condition than the others, meaning you may get a higher amount for that piece than you would if it were bundled with more-troubled segments.

Shape up

There's only so much you can do to prepare a financially distressed company for the M&A market. Internal improvements alone won't resuscitate collapsing sales, for example. So concentrate on showcasing your strongest assets and ensuring that your financial statements are as transparent as possible. You want to make it easy for a prospective buyer to evaluate your company and, hopefully, determine that it still offers substantial value.

Knowing that prospective buyers will look closely at your numbers, make sure all your accounts payable obligations are current and reflect an accurate picture of your situation. So that all unaccrued payable obligations are accounted for, don't withhold or delay invoices. If possible, pay all outstanding vendor invoices as well. And be sure all of your employees' 401(k) plans are up to date so a buyer won't have to worry about underfunded company contributions.

Recognize buyer needs

Although due diligence often is considered the buyer's responsibility, distressed sellers must perform their own internal due diligence. Buyers considering your company will expect to find some problems, but try to reduce the chance of future surprises. This means, for example, that you should tell the buyer if you expect a further deterioration of your customer base or a lower growth rate going forward.

Also, be prepared to provide the following to serious prospective buyers:

- Your historical financial performance numbers and a current, accurate tally of assets,
- Conservative future growth and performance projections, and
- Detailed analyses of any regulatory issues or outstanding litigation claims.

And provide up-to-date records of suppliers and customers, indicating those that have an outsized effect on your company's bottom line. Note which third-party agreements would most benefit from being renegotiated.

Keep your cool

There are no hard-and-fast rules for selling a distressed company. But you should expect to make some difficult decisions on relatively short notice. Flexibility and pragmatism, therefore, will be essential.