

**SEVENTH ANNUAL  
INTERNATIONAL INSOLVENCY  
CONFERENCE**

**TREADING NEW GROUND WITH  
BONDHOLDER CONSTITUENCIES:  
MEXICO – US INSOLVENCIES**

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## ◆ **ACCESS TO CAPITAL MARKETS: THE EVOLUTION OF CREDITOR CONSTITUENCIES.**

- Liquidity
- Regulatory change
- Risk assessment and ratings
- Traditional banking and restructuring processes
- Government withdrawal
- The rise of private equity and global investment

◆ **Worst of Deals at the best of times**

## **THE HIGH YIELD FUNDS: Differing basis, creative approaches to deeply distressed debt.**

- **Opportunities with strong growth attributes.**

## **TAKING THE AGGRESSIVE APPROACH**

- **Jurisdiction: A review of cross-border provisions (Mexico-US)**
- **Relevant provisions of the Mexican “*Ley de Concursos Mercantiles*” and Chapter 15 in the U.S.**
- **Non-US corporations as US Debtors in Plenary US proceedings: the effects of a pro-active bondholder constituency**
  - **Durango**
  - **Grupo Iusacell**
  - **SatMex**

## **THE IMPORTANCE OF AD-HOC COMMITTEES**

- **Working with high-yield funds: judicially administered – or imposed reorganization: an option to be considered.**
- **Issuers beware: if capital markets are tapped, must abide by the rules; restructurings are intense, disclosure standards cannot be disregarded.**
- **Lenders beware: suprapriorities (labor and taxes)**
- **A word on regulated industries**
- **Definite compatibility in systems: Mexico-Latin American / US procedures.**

- **Legal arguments for jurisdiction, eligibility as debtor.**
  - **Residency / domicile**
  - **Place of business**
  - **Assets**
  - **Contractual submission**
  - **Creditor constituency**
  - **Minimum contacts**
- **Traditional notions of fair play and substantial justice**
- **Ancillary proceeding in aid of foreign proceedings.**

**A key issue. Voting requirements for a reorganization plan / *Convenio Concursal*.**

- **Prepackaged plan..... in Mexico?**
- **Involuntary vs. voluntary proceedings.**
- **Intercompany claims voting: enter the lion.**

## **CONCLUSION**

- **Difficulties in working with bondholder constituencies.**
- **Grey area in voting rights**
- **Nevertheless, generally a success story; “vultures” may be the key to a successful emergence from insolvency.**