

CIT's Bankruptcy: What You Need To Know (Part 2)

1. **Background:** Last month we discussed “[What CIT Group's Bankruptcy Will Mean For You.](#)” Since then, CIT Group Inc. has filed for bankruptcy protection hoping to restructure its debt and remain in business (although dependent on the holding company that has filed for bankruptcy, CIT's operating subsidiaries remain outside of Chapter 11 and are currently serving customers). If you would like to see a CIT's bankruptcy petition or disclosure statement in PDF format (700 pages), please email me a note at jcohen@homefurnishingslaw.com or jcohen@ctswlaw.com.

Although it is rare for a financial institution to emerge from bankruptcy because of anxious clients taking their business elsewhere or triggering a “run on the bank” by drawing down on their credit lines, CIT may have enough support from its bondholders to survive. CIT reports that it has 90% of its voting debt holders on board for a prepackaged reorganization plan and has secured a new \$4.5 billion loan for its operations as well as other funding.

If CIT is able to emerge from bankruptcy by year end as planned with a new business model and an improved balance sheet, then there should not be a material adverse impact to its clients and borrowers. In the meantime, however, expect a tightening of credit available to clients and uncertainty with respect to CIT's remittance of amounts due to clients representing the factored accounts receivable that were “sold” to CIT (see Section 3 of the previous blog).

2. **Action Plan:** CIT clients should consider reducing their exposure and risk of reduced or loss of liquidity by continuing to borrow to the maximum amount possible against their open receivables. This “advance” would also reduce the exposure and uncertainty surrounding CIT's ability to remit to the client the accounts receivable “sold to,” and collected by, CIT (e.g., CIT would continue to collect the accounts receivable and apply the collections to the outstanding advance balance rather than remitting it to the client). In addition, to further reduce exposure, some companies such as Hooker Furniture have recently amended their Factoring Agreement with CIT to clarify that the client rather than CIT retains ownership of accounts receivable submitted to CIT for collection, thus ensuring that such accounts receivable remain outside of CIT's bankruptcy estate. Most importantly, clients should continue to seriously investigate alternative financing sources in case CIT's liquidity issues delay or impede its ability to satisfy the client's borrowing needs, or CIT's reorganization plan fails and CIT must sell its assets or liquidate. Lastly, clients should closely and carefully monitor CIT's bankruptcy process and stay in frequent contact with its CIT representatives.

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We'll be updating this post from time to time so please revisit. If you have a question regarding CIT that you would like to see answered here, please email me at the email addresses above or post a comment below.

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