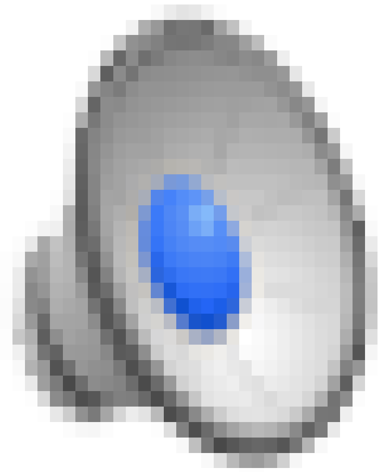
Buying a distress business since an insolvency proceeding

By Gutierrez & Pujadas Asociados SLP

Buying a distress business since an insolvency proceeding

At first glance it seems the investor should think it must be a bargain otherwise he will never assume a such risk.



Buying a distress business since an insolvency proceeding.

Now days, we find there is hedge fund to buy distress debt, distress real state... but almost there is not distress fund which aim is to buy a distress business since an insolvency proceeding. The main reason is because the distress fund is not going to invest money and manage the business in order to increase the price for a future sale. Is it a question of money or is it a question of risk? Mainly is a question of risk, the distress fund will not assume the directors' liability in the likely case the business bought failed.

Introducir video Braveheart attack York

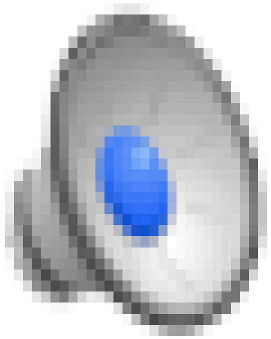
Buying a distress business since an insolvency proceeding.

org

This question open a window to those wealthy business who are seeking for growing in other markets doing the same business or linked business.

The following information is common at all EU member estates. According to the UE Regulation 2015/848 and Directive 2001/23/CE the buyer who is buying a business since an insolvency proceeding will assume the due payments to employees and in some cases the social securities burden. In consequence, the buyer will not assume any other liability.

It is not so difficult to understand:



Buying a distress business since an insolvency proceeding

org

Could it be like this?

If the price + working capital + employees' debt + social security burder is lower than a market assessment it could be worthy to buy this business.

Buying a distress business since an insolvency proceeding

Let's analyze this:

1. The price: apparently, we can conclude that is the easiest element of the above equation, however, the price it depends on the investor's offer, if the investor include just an amount of money or if the investor include as part of the offer to assume the payment of some liabilities, for example, key creditors, key suppliers... Very often, the price will be a combination of both option, money and assumption of liabilities. Over all, the offer will depend on if there will be competence to buy the same business.

2. The working capital: The advantage of buying a business since an insolvency proceeding is that all information is coming from the receiver or the trustee appointed by the court, in consequence, they have not interest to misinform anyone interested to buy the business. The challenger of calculate a business in distress' working capital is to calculate on base of a circumstances and data that figures that after the insolvency proceeding will not exist any more. My recommendation is to calculate a new PL and calculate the the working capital based on this PL.

3. The employees' debt. Buying a distress business since an insolvency proceeding has the advantage that the information source is reliable, in consequence, the receiver or the trustee will provide the investor with the reliable information. Equal regarding, social security burden.