Navigating Credit Agreements

Leveraged Finance

Katie Flanagan
Andrew Hutchinson
Krista Mancini

FINANCIAL POISE

Practical & Entertaining Education for:

• Attorneys • Accountants

• Business Owners

• Executives • Investors

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights

Thank you to our co-producer

Financial Poise Webinars

THE NATIONAL LAW REVIEW

The National Law Review (NLR) is a premier legal news website offering in-depth analysis on a wide range of legal & business topics. Established in 1888, NLR has evolved into a **trusted resource** for legal professionals, business leaders, & the general public, providing timely & relevant information on legislative changes, court decisions, & regulatory developments

Visit *The National Law Review* to learn more - https://natlawreview.com/

Comprehensive Coverage: NLR covers nearly every legal topic, including litigation, AI & the Law, employment law , IP Law, real estate, energy, health care, bankruptcy & much more.

Expert Analysis: Articles are authored by experienced attorneys & legal professionals, ensuring accurate & insightful commentary.

Daily Updates: NLR provides hourly legal news updates, keeping readers informed about the latest developments in the legal world.

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

Thank You To Our Sponsor…

maxXasset

Restructuring & Insolvency Professionals • Bankruptcy Trustees • Chapter 11 Debtors • Assignees • Receivers • Article 9 Sellers

A Better Way to Conduct Single Asset Sales Online!

DailyDAC™ is excited to announce its partnership with maxXasset™, a simpler, easier & better way to conduct asset sales.

Take charge of your sales process! Choose the auction date, set the terms, & establish the closing timeline to suit your needs. Create & upload relevant sale documents behind confidentiality agreements, review every bidder's credentials, decide whether to approve or deny them, & monitor the bidding in real time.

No need to schedule a zoom or have the sale in an office. Now, interested parties can bid anytime, from anywhere! maxXasset™ is also perfect to use in conjunction with real-time auctions, with use cases that include using it as a tool to select a stalking horse or as a tool for a first & or second round in a two-round process.

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

Disclaimer

- The material in this webinar is for informational purposes only. It should not be considered legal, financial, or other professional advice.
  - ➢ You should consult with an attorney & another appropriate professional to determine what may be best for the needs of your specific situation.
  - ➢ While the webinar producers & speakers take reasonable steps to ensure that the information presented is accurate, they make no guarantee in this (or any) regard.

*** These slides were produced in connection with a video webinar that premiered on 6/25/25. Take note, we make the PDF available for free download because the real benefit of a Financial Poise webinar is the conversation that the faculty has around the slide deck. You can access the webinar on-demand at Cerfi's LegalEdge (f/k/a West Legal Ed Center) (for attorneys or accountants seeking CLE or CPE) or Financial Poise (for everyone else).

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights

Meet the Faculty

Panelists

Andrew Hutchinson - Much Shelist, P.C.

Katie Flanagan - Sidley Austin LLP

Moderator

Krista Mancini - Jones Day

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poi

About This Webinar

Navigating Credit Agreements

The leveraged lending market has developed its own set of market terms & conventions, many of which do not exist outside of this market. This webinar gives a basic overview of leveraged finance credit agreements & the legal issues that arise when working on leveraged loans.

Learning Objectives:

- Understand the structure & components of a typical leveraged finance credit agreement.
- Identify key provisions in credit agreements, including:
  - ➢ Representations & warranties
  - ➢ Covenants (affirmative, negative, & financial)
  - ➢ Events of default
  - ➢ Conditions precedent
- Learn the role of baskets, carve-outs, & exceptions in credit agreements
- Understand the negotiation process between borrowers & lenders in leveraged finance
- Analyze borrower-friendly vs. lender-friendly terms & their impact on risk allocation
- Gain insight into the relationship between credit agreements & other transaction documents, such as intercreditor agreements

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

About This Series

Leveraged Finance 2025

Debt has always been an important part of the capital structure of many corporations and private equity portfolio companies. At some point, most companies will need to decide whether and how to incur debt, either in the ordinary course of business or to fund acquisitions or other transformative transactions.

This webinar series focuses on the leveraged finance market in particular, meaning borrowings by companies whose credit rating is (or would be if rated) below investment grade (that is, a rating below BBB- by S&P / Baa3 by Moody's).

Over time, the leveraged finance market has developed its own set of market conventions and terms that may be unfamiliar to traditional lenders.

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

Episodes In This Series

#1: Navigating Credit Agreements

Premiere date: 6/25/25

#2: Tricks & Traps in Leveraged Finance

Premiere date: 8/27/25

#3: Current Trends in Leveraged Finance

Premiere date: 9/24/25

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poi

Financial Poise Webinars

Episode #1

Navigating Credit Agreements

Each Financial Poise Webinar is delivered in Plain English, understandable to investors, business owners, & executives without much background in these areas, yet is of primary value to attorneys, accountants, & other seasoned professionals. Each episode brings you into engaging, sometimes humorous, conversations designed to entertain as it teaches. Each episode in the series is designed to be viewed independently of the other episodes so that participants will enhance their knowledge of this area whether they attend one, some, or all episodes.

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights

Generally speaking what are the different types of credit facilities that you see in the market?

- Loans
- Delayed Draw Facilities
- Revolving Credit Facilities
- Incremental Facilities
- Bridge Facilities
- Secured vs. unsecured
- Lien ranking
- Senior vs. subordinated / mezzanine

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

- Expense reimbursement and indemnity provisions
- Breakage, change in laws and tax gross up (currently very relevant)
- Fixed rate vs. floating rate
- Base rate vs. margin /spread
- SOFR vs. alternative base rate / prime rate
- Interest rate floors

It is often said that lenders work on a "cost plus" basis. What does this mean in terms of the credit facilities?

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

When drafting the credit agreement for an acquisition financing, what are some factors that might impact structuring?

- Public vs. private acquisition
- Friendly vs. hostile
- Purchase of stock and/or assets / merger / recapitalization
- Which entity owns the assets and which will incur the loans
- Where will the other debt be held
- Foreign subsidiaries
- Unrestricted subsidiaries
- Contractual / structural / lien subordination

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

- [Lead] Arranger / bookrunner (not normally a party)
- Administrative / Collateral Agent
- Documentation Agent / Syndication Agent
- Issuing Lender / Swingline Lender
- Lenders

Taking a step back, who are the main parties to the credit agreement?

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

What are some of the mechanical provisions that are more typical in a syndicated credit facility?

- Obligations of lenders are several, not joint
- Special provisions for letters of credit and swingline loans
- All Lenders treated equally based on their respective share of loans and/or commitments
- Reducing / Terminating Commitments
- Increasing Commitments: Accordion / Incremental Facilities
- Defaulting Lenders
- Commitment Fees vs. Facility Fees and Utilization Fees
- Promissory Notes
- Minimums, Multiples and Frequency of Borrowings

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

What are the different types of lenders and how do their economics differ?

- Bank / Pro Rata Lenders
- Institutional Lenders (CLOs, prime rate / loan participation funds, insurance companies, finance companies, other)
- Term Loan A vs. Term Loan B
- Cost of revolver commitments (and related obligations to reserve capital)

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

Could you briefly describe how the interest mechanics typically work?

- Interest Periods
- Elections to continue / convert
- Pricing / step ups / grids
- Default Interest (overdue amounts vs. all amounts, when triggered)
- Adjustments for capital reserves
- Benchmark rate illegality / replacement provisions

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

- Optional / voluntary prepayments (normally prepayable at any time, call protection – soft vs. hard, non-call periods/makewholes, breakage)
- Amortization – TLB vs. TLA (order of applying prepayments to scheduled amortization)
- Mandatory prepayments (equity sweep, debt, asset sales / recovery events, excess cashflow, extraordinary receipts, revolver clean downs)
- Lenders' right to reject mandatory prepayments

What are the main ways in which loans are repaid or prepaid?

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

Financial Poise Webinars

How do the amendment provisions of the credit facilities work?

- Required Lenders / Supermajority Lenders
- "Sacred Rights" – 100% lender approvals vs. each affected lender
- Class voting / revolver only votes
- Approvals of agents, issuing/swingline lender
- Amendments without Required Lender consent
- Defaulting Lenders
- Yank-a-bank provisions

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

What are the roles of the collateral agent and the administrative agent?

- To interface between the loan parties and the secured parties and among the secured parties
- Job is administrative and ministerial only
- Except for maintaining the loan register, the Administrative Agent is the agent for the Lenders and not the Borrower
- Not a trustee or fiduciary
- Exculpation for liability and indemnification
- Delegation

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

What are representations and warranties and what should people be thinking about when drafting or reviewing them?

- Snapshot at a point in time
- Purposes (diligence, affirming understandings on which lenders are extending credit, ongoing monitoring)
- Timing: at closing and on the date of each new borrowing
- No Material Adverse Change (“MAC”) representation
- Completeness of disclosure (SEC Rule 10b-5 (anti-fraud provision)) representation
- Remedy for breach

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

- Purpose: A checklist of what the Borrower must deliver, what actions the Borrower must take and what circumstances must (or must not) exist for credit to be extended
- Conditions to closing vs. conditions to each borrowing
- Acquisition financings: need to ensure everything satisfied vs. certainty of funds
- SunGard (specified acquisition representations, specified representations, collateral, defaults)

What are conditions precedent, or CPs? How might they differ in the context of an acquisition financing?

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

Financial Poise Webinars

What are covenants and what are their purposes?

- Purposes:
  - ➢ Preserving the value of the Borrower
  - ➢ Protecting the Lenders from legal and reputational risks
  - ➢ Providing information to the Lenders
  - ➢ Ensuring that the Borrower complies with model / projections / business plan
  - ➢ Encouraging repayment of loans
- Types of covenant (affirmative, negative, financial)
- Risks regarding excessive control of Borrower (bankruptcy implications / potential lender liability issues)

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

- Affirmative Covenants
  - ➢ Sometimes informational and notification covenants are treated as a separate category of covenants
  - ➢ Many affirmative covenants are “apple pie”-type covenants that require the Borrower to do what it should already be doing
  - ➢ Others are to protect and maintain the collateral and cash flow of the Borrower and its Subsidiaries
- Negative Covenants
  - ➢ More tailored for individual borrower
  - ➢ No cure period

Can you give us some additional thoughts on the differences between affirmative and negative covenants?

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

Could you give us your thoughts on financial covenants, the different types and the related issues?

- Leverage Ratio
  - What indebtedness included?
  - EBITDA (especially addbacks)
- Coverage Ratios (fixed charges vs. interest)
- Liquidity Covenants
- Capex covenants (growth vs. maintenance capex, carry forwards and carry backs)
- Minimum Net Worth
- Covenant Lite / Covenant Wide or Loose
- Annualization of financial covenants / stub periods / pro forma numbers
- No cure period (subject to equity cures)

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

- Cure / grace periods
- Payment defaults
- Reps / warranties (typically no cure)
- Judgment Defaults
- Cross default / acceleration
- Change of Control
- Remedies
- Equity cures
- Impact of Sungard

What is the difference between a default & an event of default? And what are some things to consider in connection with EODs?

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

Sometimes people talk about accordions or incremental facilities.

What are they and what are things to consider in relation to them?

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

Questions or Comments?

If you have any questions about this webinar that you did not get to ask during the live premiere, or if you are watching this webinar On Demand, please do not hesitate to email us at info@financialpoise.com with any questions or comments you may have. Please include the name of the webinar in your email & we will do our best to provide a timely response.

IMPORTANT NOTE: The material in this presentation is for general educational purposes only. It has been prepared primarily for attorneys & accountants for use in the pursuit of their continuing legal education & continuing professional education.

*** These slides were produced in connection with a video webinar that premiered on 6/25/25. Take note, we make the PDF available for free download because the real benefit of a Financial Poise webinar is the conversation that the faculty has around the slide deck. You can access the webinar on-demand at Cerfi's LegalEdge (f/k/a West Legal Ed Center) (for attorneys or accountants seeking CLE or CPE) or Financial Poise (for everyone else).

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

Meet The Faculty

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights r

Katie Flanagan - kflanagan@sidley.com

Katrina (Katie) Flanagan earned her J.D. from Harvard Law School, where she served as Notes Editor and Women's Committee Co-Chair for the Harvard Law Review. Katie graduated cum laude from Williams College with a B.A. in Economics and Psychology.

Prior to joining Sidley, Katie served as a law clerk to the Honorable Henry Coke Morgan, Jr. of the United States District Court for the Eastern District of Virginia. Before her clerkship, Katie represented children in family law matters as a Public Interest Law Initiative Fellow with Chicago Volunteer Legal Services.

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

Financial Poise Webinars

Andrew Hutchinson - AHutchinson@muchlaw.com

Andy is a debt finance attorney who focuses on commercial lending transactions. Over the past 20 years, he has represented direct lenders, banks, private equity sponsors, and corporate borrowers in acquisition finance and corporate finance transactions.

Andy has structured, negotiated, and documented debt financing transactions of various types, including domestic and cross-border acquisition financings, general corporate lending transactions, recurring revenue facilities, syndicated facilities, asset-based loans, debtor-in-possession facilities, workouts, and restructurings.

Prior to joining Much, Andy was a partner in the finance department of a large Chicago-based law firm. Earlier in his career, he spent many years as in-house counsel, first with a New York-based hedge fund and, more recently, with a large direct lender. Andy's significant in-house experience has informed and shaped his practical approach to the transactions he handles on behalf of his clients.

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

Krista Mancini - kmancini@jonesday.com

Krista Mancini represents financial institutions, public and private borrowers, private equity sponsors, project sponsors, and distressed debt investors in a variety of financing transactions. Her experience includes secured and unsecured credit facilities, acquisition financings, project financings, syndicated facilities, and debtor-in-possession financings that encompass a broad spectrum of industries and business sectors.

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

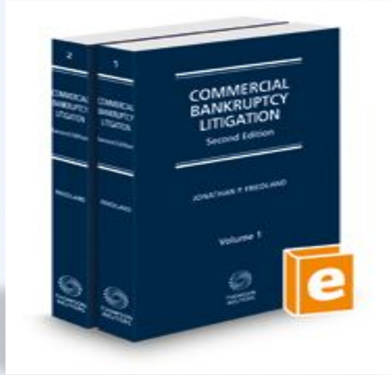
DAILYDAC
Distressed Asset Central

DailyDAC offers a variety of free & paid tools for those involved in corporate distress & insolvency:

- Chapter 11 Alerts - Email notification of all chapter 11 filings in the US (no charge).
- Public Notices - The internet's most visited website to see auction notices of companies & assets for sale through bankruptcy, ABCs, receiverships, Article 9, & in other urgent situations (no charge).
- Webinars & Articles - High quality educational, entertaining, Plain English webinars & articles by objective, expert faculty (articles at no charge).
- Assignee Directory - A comprehensive directory of experienced assignees for the benefit of creditors (no charge).
- Auctioneer Directory - A directory of auctioneers in the "distressed & surplus" asset space (no charge).
- Distressed Deal Data - A weekly newsletter & online database of distressed investment opportunities.

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

eBooks available through Thomson Reuters & Amazon



Commercial Bankruptcy Litigation, 2d, 2025 ed. is a must-have resource for any non-bankruptcy attorney who is involved in a chapter 11 bankruptcy case. It is also a handy "take on the road" treatise for the experienced chapter 11 professional. This 2,000-plus page treatise, updated yearly, & with contributions from some of the country's most respected practitioners from top firms across the U.S., covers topics from general bankruptcy & procedure to appeals.

Strategic Alternatives For & Against Distressed Businesses, 2025 ed. is one of a kind. It is the only resource that provides comprehensive state-by-state comparisons of assignments for the benefit of creditors & receiverships. This alone makes the book a must-have for every insolvency professional.

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

Thank You To Our Sponsor…

Restructuring & Insolvency Professionals • Bankruptcy Trustees • Chapter 11 Debtors • Assignees • Receivers • Article 9 Sellers

A Better Way to Conduct Single Asset Sales Online!

DailyDAC™ is excited to announce its partnership with maxXasset™, a simpler, easier & better way to conduct asset sales.

Take charge of your sales process! Choose the auction date, set the terms, & establish the closing timeline to suit your needs. Create & upload relevant sale documents behind confidentiality agreements, review every bidder's credentials, decide whether to approve or deny them, & monitor the bidding in real time.

No need to schedule a zoom or have the sale in an office. Now, interested parties can bid anytime, from anywhere! maxXasset™ is also perfect to use in conjunction with real-time auctions, with use cases that include using it as a tool to select a stalking horse or as a tool for a first & or second round in a two-round process.

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

Thank you to our co-producer

Financial Poise Webinars

THE NATIONAL LAW REVIEW

The National Law Review (NLR) is a premier legal news website offering in-depth analysis on a wide range of legal & business topics. Established in 1888, NLR has evolved into a **trusted resource** for legal professionals, business leaders, & the general public, providing timely & relevant information on legislative changes, court decisions, & regulatory developments

Visit *The National Law Review* to learn more - https://natlawreview.com/

Comprehensive Coverage: NLR covers nearly every legal topic, including litigation, AI & the Law, employment law , IP Law, real estate, energy, health care, bankruptcy & much more.

Expert Analysis: Articles are authored by experienced attorneys & legal professionals, ensuring accurate & insightful commentary.

Daily Updates: NLR provides hourly legal news updates, keeping readers informed about the latest developments in the legal world.

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.

About Financial Poise

The primary mission of Financial Poise™ is to provide reliable plain English business, financial, & legal education to individual investors, entrepreneurs, business owners, & executives, & to help trusted advisors do the same.

*Newsletter subscribers are occasionally offered free webinars. Subscribers never receive more than one email per week & their information is never shared.

Sign up for our free weekly e-newsletter here*.

Learn how to write or speak for Financial Poise here. The antithesis of "pay-to-play."

Check out our other webinars here.

Send any other inquiry to info@financialpoise.com

Copyright © 2025 • DailyDAC, LLC d/b/a Financial Poise™. All rights reserved.