



Basic Concepts Applicable to All Borrowers & Lenders

Business Borrowing Basics

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Meet the Faculty

Panelists

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Moderator

[Jacqueline Brooks](#)-Duane Morris LLP

About This Webinar

Basic Concepts Applicable to All Borrowers & Lenders

A business borrows when it purchases goods or services on credit. And a small business may only “borrow” money in this fashion. At the other extreme is a large business with multiple lending facilities, with multiple lenders. Regardless of the type of loan (i.e., cash flow, asset-based, etc.), many of the concepts are the same. This webinar arms attendees with the basic vocabulary necessary to negotiate a business loan.

Learning Objectives:

- Understand Fundamental Loan Terminology: Define key loan-related terms, including principal, interest rate, amortization, collateral, and guarantor
- Analyze Loan Metrics and Ratios: Explain the significance of metrics such as Loan-to-Value (LTV) Ratio, Debt-to-Income (DTI) Ratio, and Debt Service Coverage Ratio (DSCR) in assessing borrower creditworthiness
- Differentiate Loan Structures and Features: Distinguish between types of loans (e.g., term loans, lines of credit) and features such as fixed vs. variable interest rates, balloon payments, and repayment flexibility
- Identify Risk Mitigation Tools for Lenders: Discuss the role of covenants, collateral, security agreements, and senior vs. subordinated debt in minimizing lending risk
- Navigate Legal and Regulatory Considerations: Summarize the implications of usury laws, default scenarios, forbearance agreements, and loan syndication in loan agreements
- Apply Key Concepts to Loan Negotiations: Utilize basic loan vocabulary and an understanding of financial metrics to confidently engage in discussions or negotiations regarding business loans

About This Series

Business Borrowing Basics

This webinar is part of a series titled “Business Borrowing Basics 2026.”

Many companies, and most of any size, use borrowed funds as part of their capital structure.

Depending on its nature, size, time in business, whether it has adequate collateral, and other factors, a business has many options when borrowing funds.

This webinar series provides a guided tour of the various borrowing options available to businesses from both a business and legal perspective. Learn the advantages and disadvantages of different types of loans, how to select the right loan for your business, how to negotiate terms, and what happens if the loan is defaulted upon.

Episodes In This Series

1. What Kind of Loan?

Premiere date: 4/15/26

2. Basic Concepts Applicable to All Borrowers & Lenders

Premiere date: 5/6/26

3. Trade Finance and Alternative Structures

Premiere date: 6/17/26

4. Dealing with Defaults

Premiere date: 7/8/26

Episode #2

Basic Concepts Applicable to All Borrowers & Lenders

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.

Basic Business Loan Concepts – General Overview

- Types of Loans
 - Equity v. Debt
 - Secured v. Non-secured
- Conceptual Metrics for Negotiating Loans
 - Loan Negotiation
 - Borrower v. Lender

Some Key Concepts

- Letter of Credit - promise by the issuer of the letter of credit, typically a bank (the issuer), to pay a specified amount to the recipient of the letter of credit (the beneficiary) when the beneficiary presents the letter of credit to the issuing bank stating the conditions specified have been met (default or non-performance)
 - Typically issued at the request of the borrower
- Loan Agreement – document materializing the terms and conditions between lender and borrower
- Loan Fee - processing fee removed from the principal at the time the borrower receives a loan

Some Key Concepts (cont'd)

- Principal - the original amount of the loan, or the amount of the original loan that is still owed
- Promissory Note - the legal agreement between the borrower and lender concerning the loan
- Tax liabilities – tax liability is the total amount of tax debt owed by a business to a taxing authority like the Internal Revenue Service (IRS)
- Term sheet – nonbinding agreement setting forth the basic terms and conditions under which an investment will be made

Types of Loans – Cash Flow v. Asset-Based

- Cash Flow – principal underwriting analyzes the amount of loan, credit history, cash flow, etc.
 - Collateral is “to boot”
 - i.e. Banks
- Asset-Based – secured by borrower’s assets, typically inventory, accounts receivable (A/R), and/or other assets as collateral
 - i.e. PO Financier, Factor (lending on A/R), etc.

Types of Loans – Unsecured Loans

- Lender relies on the borrower's creditworthiness because this loan is not secured by an asset in the event of a default
 - i.e. Commercial Paper
- Unsecured business loan with personal guarantee v. with no personal guarantee
 - Some lenders may require borrower to personally guarantee the loan

Types of Loans – Secured Loans

- Secured by collateral in the event of a default
- Collateral is an asset pledged to the lender by the borrower for the life of the loan, such as:
 - Cash
 - Negotiable securities
 - Buildings
 - Equipment
 - Inventory
 - A/R, etc.
- *Lender's viewpoint* – best collateral is asset that can be quickly liquidated, meaning it can be converted into cash

Types of Loans – Asset-Based Lending (ABL)

- Secured by borrower's assets
 - Generally accounts receivable and inventory
 - *May* include cash, equipment, and real estate
- Structured to provide flexible source of working capital by monetizing assets on a balance sheet
 - Revolving line of credit
 - Term loan

Types of Loans – Asset-Based Lending (ABL) *(cont'd)*

- Revolving line of credit (“Revolver”) is most common structure
 - Allows borrower to draw funds and repay redraws
 - Used to finance short-term assets
 - ✓ i. e. A/R or inventory
 - Cash from sale of inventory and collection of the receivables is typically form of repayment for revolver

Types of Loans – Asset-Based Lending (ABL) *(cont'd)*

- Term Loan – specific amount loan with a set repayment schedule; generally finances capital expenditure with finances assets securing the loans
 - Short term with a floating interest rate, and usually don't exceed 10 years in maturity
 - May be part of large, structured financial transaction that combines ABL with other secured or unsecured debt

Types of Loans – Commercial Bridge Loan or “GAP” Financing

- Short term, high-interest financing designed, as the name implies, to “bridge the financial gap” when long-term financing is needed but not yet available
 - When permanent financing comes through, the borrower typically uses those funds to pay off bridge loan
 - Often used until businesses can secure a permanent source of financing
 - Commonly used in real estate landscape (i.e. investment in real estate)
 - ✓ Most common purpose is for the purchase and improvement of underutilized commercial property
- Primarily asset-based
- Bridge loan lenders will primarily lend on LTC or ARV (after-repair-value)

Types of Loans – Asset-Conversion Lending

- Short-term loan typically repaid by liquidating an asset, usually inventory or receivables
- Secured by collateral
- Frequently used when a business expects a temporary build-up of inventory and requires a quick cash inflow
 - Primarily used by companies with highly seasonal businesses

Types of Loans – Asset-Conversion Lending (cont'd)

Hypo -

A toy company may need to pay its employees in mid-November, but it is cash-poor because it has laid out most of its funds to produce and market toys that won't be purchased until December. One option the toy company might explore is to get an asset-conversion loan. It could take the loan while simultaneously agreeing to put a delivery truck up for sale. When the truck sells, the loan is paid off. If it doesn't sell, the toy company will be in default on the loan, but the lender will have the truck as collateral.

Types of Loans – Cash Flow Lending & Working Capital Lending

- Cash flow lending or Working Capital -
 - Short-term financing used to finance working capital, such as payroll
 - Cash flow loans are repaid using incoming cash to the business (revolver)
- Used to finance a business's everyday operations
 - Not typically used (nor recommended) to buy long-term assets or investments
 - Can be unsecured if borrower has high credit rating otherwise requires securitization

Conceptual Metrics for Negotiating a Loan

- Prior to negotiating any type of financing for your business, it's crucial to become familiar with common financing terms, including –
- Amortization - In business, amortization refers to spreading payments over multiple periods
 - Payments are usually split into principal and interest, where the amount of principal per payment increases (and interest decreases) as the amortization period elapses
 - Amortization of loans and assets
 - Also refers to allocating the cost of an intangible asset over a period of time

Conceptual Metrics for Negotiating a Loan (cont'd)

- Balance Sheet – a picture of the financial health of a company at any given point in time
 - Identifies all assets, liabilities, and equity of a company.
 - Typically used to analyze availability of short-term operational funds.
- Bullet Loan - where principal is payable at maturity in a single lump sum are called bullet loans
- Cash Flow Analysis – the amount of cash being transferred into and out of the company
 - Primarily used to assess a company's liquidity and overall financial performance

Conceptual Metrics for Negotiating a Loan (*cont'd*)

- **Deferment** – a temporary delay in the repayment of a loan
- **Delinquency** - refers to late payments
- **Disbursement** - amount of the loan paid to the borrower
 - Some loans have multiple disbursements – the borrower does not receive the full amount of the loan at one time

Conceptual Metrics for Negotiating a Loan (cont'd)

- Income Statement – presents the company's revenues and expenses over a particular period of time
 - Focuses on revenue, expenses, gains, and losses.
 - Simply put, this explains how a company turns net revenues into net earnings.
- Interest - the expense charged by the lender to the borrower for the use of the money loaned
 - Typically expressed in terms of a yearly percentage charged on the principal borrowed (Annual Percentage Rate or **APR**)

The Basics of Commercial Loan Documents – Checklist Basics

- Personal credit score
- Business credit score
 - Affected by similar factors to your personal credit score—like credit utilization, length of credit history, business credit card payments, etc.
- Basic personal information
- Basic business information and permits
- At least two (2) years of both personal and business tax returns
 - Primarily used for verification of income and revenue

The Basics of Commercial Loan Documents – Checklist Financials

- Recent bank statements
 - Used to determine whether borrower has the liquidity to pay off loan while keeping your doors open
 - ✓ Especially pertinent for seasonal businesses, whose bank balances fluctuate with the weather

The Basics of Commercial Loan Documents – Checklist Financials *(cont'd)*

- Profit & loss statements
 - Used to verify business revenue
- Cash flow forecast
 - Most important indicator of financial health
- Business debt schedule
 - Provides lender with insight into how the borrower is paying off—or is planning to pay off— existing debts
 - i.e. leases, loans, contracts, and any other periodic payments

The Basics of Commercial Loan Documents – Checklist Specifics

- Use of a loan or “loan purpose”
 - Used to determine what the borrower will do with the loan
 - Some loans have explicit use cases around them (i.e. equipment financing)
- Collateral documentation
 - Provides a comprehensive glimpse at borrower’s obligations to pay back the debt to the lender
 - In other words, these documents identify what the borrower will use as collateral
- Business plan
 - Provides a lender with an idea of borrower’s company’s strategy, purpose, and the methods they’ll use to accomplish their goals
 - Especially important for new businesses that don’t have sufficient track

The Basics of Commercial Loan Documents – Real Estate Loans and SBA Loans

- Real estate loans
 - Ownership documentation, insurance, etc.
 - Requirements vary from lender to lender
- SBA loans – require additional information, such as how much equity the borrower put into the business
 - SBA form 912
 - SBA form 159

Negotiating a Loan – Borrower v. Lender

- Borrower's perspective during a loan negotiation –
 - Main concern –
 - ✓ Flexibility of credit agreement
 - ✓ Practicality of adhering to terms
 - ✓ Adverse impact on its ability to operate a business

Negotiating a Loan – Borrower v. Lender

(cont'd)

- Borrower's Goals –
 - Ensure funds are available as needed
 - Minimize expenses
 - Obtain funds at the lowest interest rate possible
 - Apply reasonableness and materiality thresholds
 - Ensure flexibility with grace periods mitigation clauses to avoid triggering events of default
 - Eliminate/dilute covenants, conditions precedents, etc.
 - Provide for the repayment of the loan over a period as long as possible
 - Prepay the loan with the highest flexibility and lowest cost

Negotiating a Loan – Borrower v. Lender

(cont'd)

- Lender's perspective during a loan negotiation –
 - Two (2) main concerns –
 - ✓ Whether it will recover principal sum
 - ✓ Whether it will promptly receive interest payments
 - Lender will seek to protect itself through use & control of money –
 - ✓ Amount of loan
 - ✓ Conditions for borrower to draw the loan
 - ✓ Conditions for early termination if an event of default occurs
 - Overall, lender will seek to covenants to ensure that the financial condition, business, and assets of the borrower remain within the limits that were the basis of the lender's initial credit assessment

Negotiating a Loan – Borrower's POV

- **Most loan facilities have some or all of the following legal documents:**
 - Loan and Security Agreement
 - Guarantees (personal or corporate)
 - Stock (equity) Pledge Agreements
 - Reporting Documents (Compliance and Borrowing Base Certificates)
 - Account Control Agreements (giving lender control over deposit accounts)
 - Landlord Waivers/Access Agreements

Negotiating a Loan – Borrower's POV (cont'd)

- Most lenders in the middle market offer loans documented on standardized forms, which contain **one**-sided terms favorable to the lender, and burden your business with covenants and representations you often cannot keep
 - Negotiate a “customized” loan document
- A borrower's ability to negotiate terms will typically rest on –
 - the creditworthiness of the business;
 - the presence of competing lenders; and
 - the market conditions

Negotiating a Loan – Borrower's POV

(cont'd)

- **Common Provisions to Negotiate**

- A borrower should start negotiating with the lender immediately, specifically certain provisions:
 - ✓ Term sheet provisions
 - ✓ Borrowing mechanics
 - ✓ Calculation of the borrowing base (ABL)
 - ✓ Eligibility requirements
 - ✓ Cash dominion
 - ✓ Affirmative covenants

Negotiating a Loan – Borrower's POV (cont'd)

- **Common Provisions to Negotiate**

- Giving notice of adverse event
- Delivery of financial information

- **Negative covenants**

- Incur other debt
- Sell assets
- Incur liens

Negotiating a Loan – Borrower's POV (cont'd)

- **Benefits of Negotiating**

- The ability to trade for or modify terms
- Major upside with relatively little downside (the worst they can say is “no”)
- You ensure that the agreement is thought-out and vetted thoroughly

- **Potential Pitfalls of “Over-Negotiating”**

- Both sides may incur additional costs (including time spent)
- Possible to begin banking relationship on a sour note
- Even if you negotiate successfully, some items may never come into play

Questions or Comments?

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Jacqueline Brooks is a partner in the Corporate Practice Group at Duane Morris LLP. She concentrates her practice in general business and commercial law. She counsels clients in mergers and acquisitions, commercial finance, private offerings of debt and equity securities, governance matters, commercial transactions, and shareholder derivative matters, including shareholder demand responses and special committee issues. Jacqueline has experience representing public companies, privately owned and managed companies, nonprofit organizations and start-up companies and provides general counsel to these organizations regarding various corporate matters. [Read More](#)

Jonathan Friedland – jfriedland@muchlaw.com



Summary

- Corporate structuring and restructuring attorney with nearly 30 years of experience advising companies, boards of directors, owners, and other stakeholders in various contexts, including distressed, bankrupt, and special situations.
- Represented and advised clients in 150+ transactions and litigation across various industries.
- Serial entrepreneur who understands business from the business person's perspective.
- Consistently ranks as a top business law attorney in various surveys, holding the highest possible ratings from Martindale-Hubbell (AV® Preeminent™), AVVO (10/10), and Justia (10/10). Has repeatedly been recognized as a “Super Lawyer” in multiple practice areas, including Business/Corporate Law and Bankruptcy/Creditor/Debtor Rights, named a “Leading Lawyer” by Leading Lawyers Magazine several times, and selected for inclusion in The Best Lawyers in America® for exceptional work in Corporate Law.
- Admitted to the bars (each by exam) in New York, Illinois, Arizona, and New Jersey.

Thought Leadership Examples

- Principal Author and Editor-In-Chief, [Commercial Bankruptcy Litigation](#) & [Strategic Alternatives for and Against Distressed Businesses](#) (each published annually by Thomson Reuters)
- Author of 100+ articles and speaker at 100+ events. Examples here.

Academics

- Clayton Center for Entrepreneurial Law Visiting Professor at the University of Tennessee College of Law.
- Adjunct Professor of Strategic Management, University of Chicago Graduate School of Business (co-taught with Jamie Sprayregen).
- JD from the University of Pennsylvania, followed by a one-year federal court clerkship; B.S. in Business Administration (magna cum laude in three years) from Albany State University. [Read More](#)

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Harvey Gross is the founder and president of HSG Services Inc. He was formerly a vice president with Bank of America for over 30 years. He served as wholesale credit manager, wholesale team leader, and account executive. Gross supervised in sales, marketing, and insolvency recoveries. He was the past chairman of the Turnaround Management Association New Jersey Chapter and is currently a board member. Gross is also the executive director of the So Cal Chapter of IFA. This year makes 60 years in Factoring for Gross.

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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.

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