

# Managing a Workout: How Creditors, Shareholders, Regulators and Managers Interact

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LATINFINANCE

**Turnaround Management  
and Corporate Restructuring in Latin America**  
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**Shimoda Capital Advisors, Ltd.**  
**Liberty Realty Capital, Inc.**



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# Intro

- **Background of EM Capital, Inc. / Freeman Partners**
- **Strategies to complete an effective restructuring for key participants in the capital structure**
- **Unique considerations of the Latin America market - Cross Cultural Issues**
- **Role of turnaround management to provide the operational and strategic process necessary to execute a restructuring plan**
- **Finding and structuring capital needed to successfully execute turnaround and restructuring plan?**
- **Need for cross-border turnaround and restructuring expertise in a global business environment**



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# Workouts versus Turnarounds

- Financial restructuring or fixing the problems
- Forces of Globalization & Regionalization
- Next generation of Latin managers and shareholders borrowing internationally
- NPL/NPA resolution creating new professional turnaround managers
- Growing impact of institutional investors-domestic & foreign
- Role of Creditor rights in Latin America



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# The strategies are determined by the type and objectives of the parties

- Shareholders
- Major Customers
- Secured Creditors
- Unsecured Creditors
- Regulators
- Management
- Employees
- Board Members
- Prospective acquirers
- Politicians

**Restructure, Cash-out, Sell, Merge or Liquidate?**



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# Effective Restructuring and Turnaround Management Solutions

**Situational assessments define the scope and scale of the problems**

- Evaluating the issues
- Agreeing on the problems
- Proposing alternative solutions
- Recommending a course of action
- The willingness of the parties to agree and proceed
- Determining the best party to manage the process



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# Strategies to complete an effective restructuring for key participants in the capital structure

- Determining and understanding each participant's true objective: \$, Face, Both
- Valuing the assets
- Valuing the going-concern value
- Understanding liquidity
- Regulatory constraints/issues
- Understanding exit alternatives



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# Bankruptcy and Insolvency

- Stigma of bankruptcy in Latin America
- Challenges of different systems in each country
- Uncertain time frames to completion
- Standing
- Confidentiality laws
- Mexico - implementing change in suspension de pagos
- preferences and fraudulent conveyances
- legal versus negotiated solutions



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# Debt negotiations and implementing methods for healthier portfolio companies.

- Defining your desired outcome & time horizon
- Criteria for measuring success
- Power or poker
- Identifying the counter-party's real objectives
- Cost-benefit of tactical alternatives
- Legal process versus practical business solutions
- Cross-border considerations
- Public versus private settlements/resolutions
- Goodwill in concentrated industries
- Opportunity costs
- Walking away



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# Management & Employees

- Role and duties of directors in a workout or restructuring
- Is current board/management the problem or the solution?
- Retaining key staff during the work-out
- Union issues - Legacy liabilities
- Attracting new management



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# What to expect: managing uncertainty

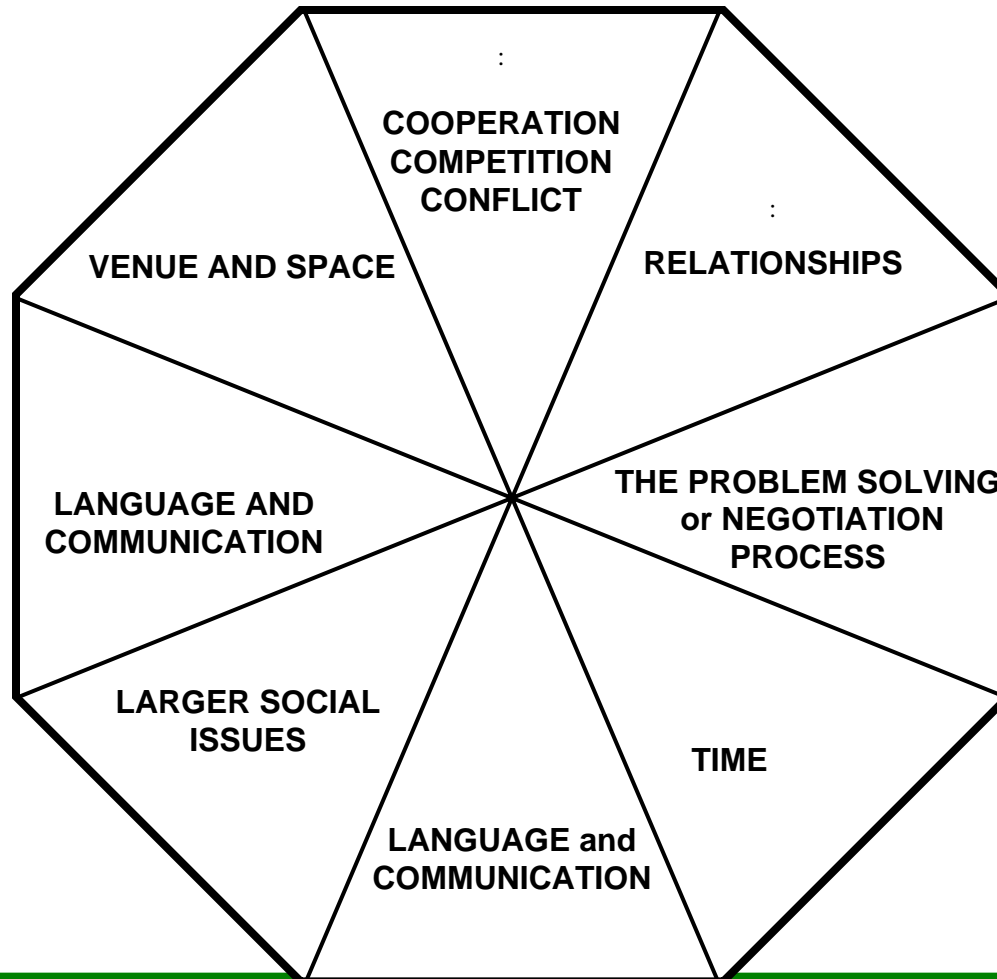
- Maintaining a pace of urgency
- Crucial communication/reporting protocols
- Dynamic business & legal environment
- Exogenous factors impact success
- Discovering fraud++ in the organization
- New conflicts requiring resolution
- Using turnaround professionals proactively



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# Cultural Views & Impacts: Key Variables that Influence Problem Solving and Negotiation



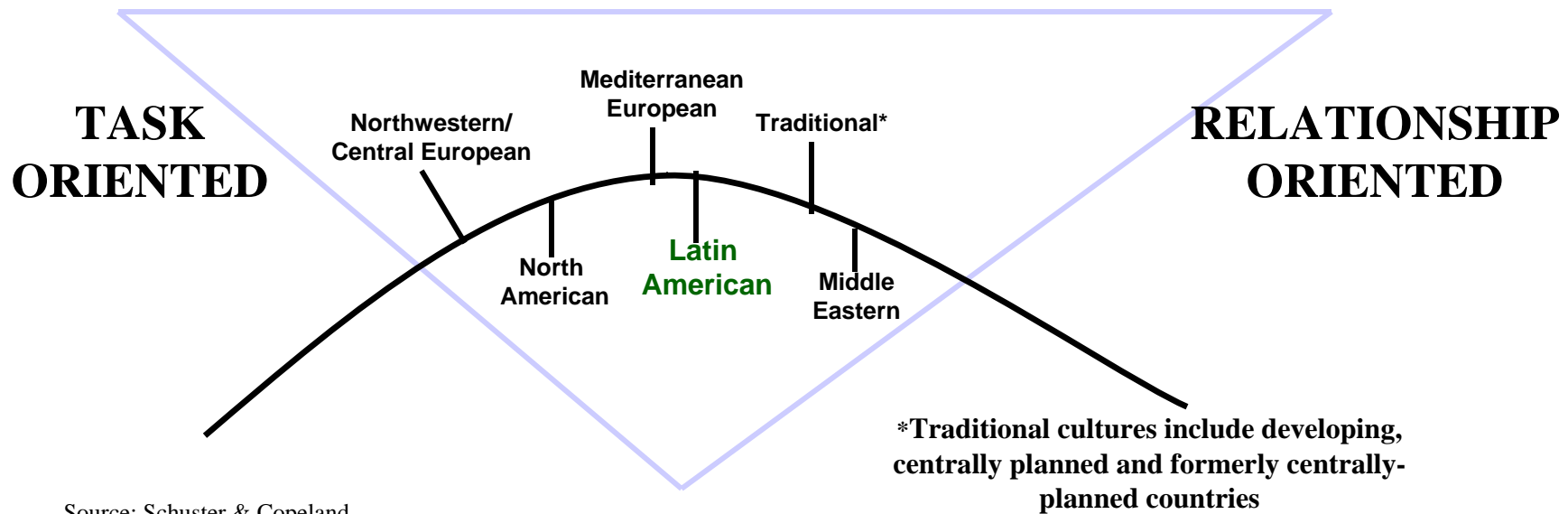
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# Culture Classification Model

The “Hidden Dimensions” of International Workout Transactions

***TIME IS RELATIVE***



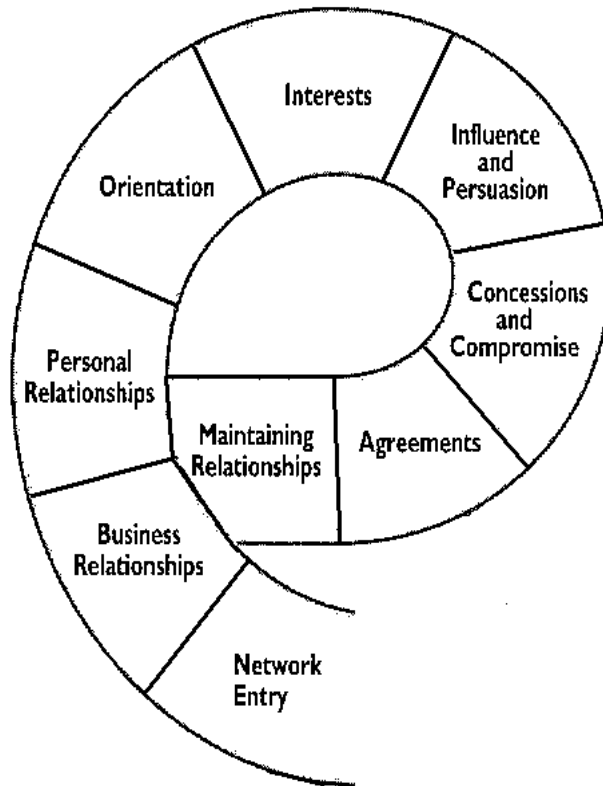
Source: Schuster & Copeland,  
*Global Business*



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# Understanding the Cultural Negotiations Cycle



Source: Schuster & Copeland, Global Business

- Determining whether networks are important is the first step
- Building a business relationship requires a significant investment in time and effort.
- Repetitive interactions are required to become a “business friend”.
- Establishing the necessary orientation, prior to discussing specifics of the transaction is crucial.
- Trust is developed by understanding counterparty’s or client’s interests.
- Western influence and persuasion strategies may not work in other cultures.
- Process of concessions and compromise are different.
- Process and meaning of Agreements differs
- Maintaining relationships is essential for long term success.



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# Finding fresh capital to successfully execute turnaround and restructuring plan?

- Establishing credibility - management & reporting
- A U.S. Chapter 11 to prevent enforcement and to obtain new debt
- Analyzing and leveraging asset classes
- Monetizing the new asset class: IP
- Obtaining liquidity from the major fixed asset: real estate
- International capital sources - asset-based finance
- Creative strategies and overlooked sources of capital



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# **New role of distressed debt buying in a turnaround and restructuring process**

- International “opportunity funds” purchase distressed debt seeking to influence outcome
- Interests generally not aligned with management or shareholders
- May seek to influence secured creditors
- May be a source of additional capital in a workout
- Significantly more sophisticated and decisive than traditional bank lenders



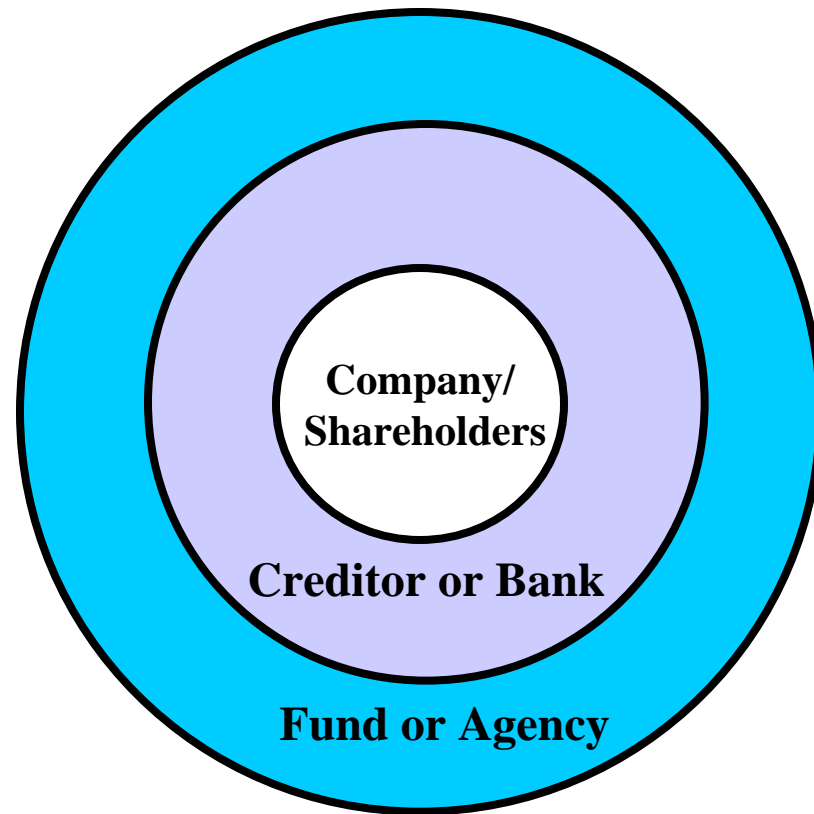
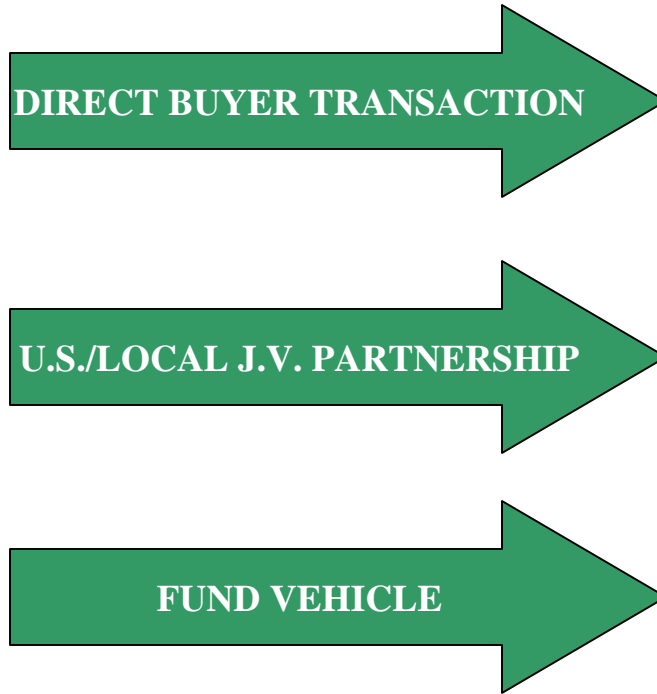
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# Distressed Investor/Buyer Points of Entry

US Buyer Profile

Target Seller Profile



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# Role of turnaround management to provide the operational and strategic process necessary to execute a restructuring plan

- Earlier is always better than later
- Use turnaround managers as **strategic** members of the team pre-acquisition: feasibility, due diligence, planning
- Post-acquisition **tactical** advisors working with investors, creditors, trustees and counsel
- Interim management once control is established
- Creating the highest capital gain upon exit



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# Consulting vs. Active management role?

- Using turnaround and restructuring professionals as consultants
- Engaging interim or crisis managers
- Managing the business side of insolvency
- Negotiating dispute resolution
- Inside or out-side court skills
- Arranging fresh capital
- Managing the disposition or sale/liquidation process



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# What clients should ask

- Do we really need professional help?
- How much help do we need or can afford to pay?
- Are our Interests aligned?
- Track-record and qualifications?
- Do I need strong leadership or a team?
- Timing and engagement duration?
- What is the time committment from the advisor's senior management?
- If things go awry, what are the alternatives and firm resources?
- How do we measure and compensate value?



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# Understanding the restructuring and turnaround professional's risks

- Reputation
- Client management
- Getting paid
- Legal liability exposure
- Conflict of interest



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# The Future

- Domestic firms with expanding foreign debt
- Multinationals with foreign subs in LA
- Impact of foreign-owned banks in LA
- \$Billions of NPL's / NPA's requiring resolution/capital
- Cross-border insolvency & creditor rights
- Cultural and language barriers
- Fraud & corruption
- Speed in decision-making
- Impact of China and India on LA



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# Turnaround & Restructuring Resources

- [www.airacira.org](http://www.airacira.org)
- [www.abiworld.org](http://www.abiworld.org)
- [www.turnaround.org](http://www.turnaround.org)
- [www.insol.org](http://www.insol.org)



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