

Liability Management

	Advantages	Disadvantages
Redemptions	<ul style="list-style-type: none"> • Speed (no registration required, no documentation needed) • Flexible (may redeem all or part of an outstanding class) 	<ul style="list-style-type: none"> • Requires cash on hand • Expensive (redemption price usually preserves yield to maturity) • Notice must be outstanding not less than 30 nor more than 60 days (rates may fluctuate)
Repurchases	<ul style="list-style-type: none"> • Speed (no registration required, no documentation needed) • Privately negotiated; pricing takes advantage of market fluctuations • Less visibility to the market • May help improve Tier 1 position • May be part of an ongoing repurchase program • May engage investment bank to assist 	<ul style="list-style-type: none"> • Requires cash on hand • May only retire a small percentage of securities from a limited number of holders • May trigger disclosure obligations • May trigger tender offer rules
Debt Tenders	<ul style="list-style-type: none"> • Speed (no registration required, not subject to SEC review, unless convertible debt) • Flexible (able to retire an entire series or class of debt securities) • Able to approach all holders (subject to compliance with the tender offer rules) • May engage investment bank to solicit • Can pair with a consent solicitation 	<ul style="list-style-type: none"> • Requires cash on hand • If subject to the tender offer rules, must be held open for 20 business days (for non-investment grade debt) and 7-10 calendar days for investment grade debt • Holdout issue • Convertible debt tenders are subject to the tender rules for equity securities • Must pay all investors of the same class the same price (if subject to the tender offer rules regarding any equity derivative)

	Advantages	Disadvantages
Private Exchange Offer	<ul style="list-style-type: none"> • Speed (no registration required, not subject to SEC review, unless convertible debt) • Does not require cash on hand (only minimal costs) • Flexible (able to retire an entire series or class of debt securities) • May engage investment bank to solicit • Able to pre-certify investor status • No Section 11 liability in respect of offering memorandum • Can pair with a consent solicitation • Limitations on OID tax deductions for certain high-yield obligations issued during 2009 have been suspended • Often can be accomplished largely tax-free for debtholders 	<ul style="list-style-type: none"> • Generally limited to QIBs and non-U.S. investors • No “general solicitation” permitted • Holdout issue • New securities may be “restricted” (but holder may be able to tack) • Holders may request registration
3(a)(9) Exchange Offer	<ul style="list-style-type: none"> • Speed (no registration required, not subject to SEC review) • Flexible (able to retire an entire series or class of debt securities) • Does not require cash on hand (only minimal costs) • Able to approach all holders (subject to compliance with the tender offer rules) • No Section 11 liability with regard to offering memorandum • Can pair with a consent solicitation • Limitations on OID tax deductions for certain high-yield obligations issued during 2009 have been suspended • Often can be accomplished largely tax-free for debtholders 	<ul style="list-style-type: none"> • New securities may be “restricted” (but holder may be able to tack) • Limited ability to engage and compensate investment bank • Holdout issue • May be integrated with offers done in close proximity • Must pay all investors of the same class the same price (if subject to the tender offer rules)

	Advantages	Disadvantages
Registered Exchange Offer	<ul style="list-style-type: none"> • Flexible (able to retire an entire series or class of debt securities) • Does not require cash on hand • New securities are freely transferable • May engage an investment bank to solicit (no restrictions on compensation) • Able to approach all holders (subject to compliance with the tender offer rules) • Can pair with a consent solicitation • Limitations on OID tax deductions for certain high-yield obligations issued during 2009 have been suspended • Often can be accomplished largely tax-free for debtholders 	<ul style="list-style-type: none"> • Time consuming (subject to SEC review and filing requirements) • Must remain open for 20 business days (if subject to the tender offer rules) • Section 11 liability • More expensive than an unregistered exchange offer or repurchase • Holdout issue • Must pay all investors of the same class the same price (if subject to the tender offer rules)
Debt for Equity Exchanges	<ul style="list-style-type: none"> • Used by issuers as an alternative to bankruptcy because of upside potential for investors • Improves debt/equity ratio, potentially improving credit ratings • Does not require cash on hand (only minimal costs) • Can pair with a consent solicitation • Often can be accomplished largely tax-free for debtholders 	<ul style="list-style-type: none"> • If registered, can be time consuming (subject to SEC review and filing requirements) • Must remain open for 20 business days (if subject to the tender offer rules) • Equity issuance may trigger securities exchange issuance limitations • If insufficient share capital, may require shareholder approval • Terms of equity securities may be onerous • Must pay all investors of the same class the same price (if subject to the tender offer rules)
Equity for Equity Exchanges	<ul style="list-style-type: none"> • Does not require cash on hand (only minimal costs) • Terms of new securities may be less onerous • Generally a tax free transaction • Able to approach all holders (subject to compliance with the tender offer rules) 	<ul style="list-style-type: none"> • Must be permitted under state law • If registered, can be time consuming (subject to SEC review and filing requirements) • Must remain open for 20 business days (if subject to the tender offer rules) • No balance sheet impact • Must pay all investors of the same class the same price (if subject to the tender offer rules)

	Advantages	Disadvantages
Consent Solicitation	<ul style="list-style-type: none">• May be done alone or with a tender or exchange offer• Able to modify onerous or restrictive covenants• Not subject to SEC review or tender offer rules• No Section 11 liability• Does not require cash on hand (only minimal costs)• Generally tax-free unless considered a “significant modification” of the debt	<ul style="list-style-type: none">• May require a supermajority to enact modifications• TIA does not permit modification of interest, principal, maturity and other provisions without 100% approval• Modifications may result in the remaining securities being considered “new” for Securities Act purposes• Holdout issue
