

Key Developments and Trends in DIP Financing

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Interest in the DIP financing market on the part of both traditional bank lenders and a new class of institutional investors has continued to increase in recent years, as market participants continue to pursue the generally attractive returns relative to risk that properly structured DIP financings can provide.

In 2014, the Energy Future Holdings Corp. bankruptcy cases were funded with a combined \$9.9 billion of DIP financing under two facilities: a \$5.4 billion DIP for the company's electricity generating subsidiary and a separate \$4.5 billion DIP for its electricity transmission unit. Excluding this massive outlier, however, the volume of new DIP financings during 2014 was generally down compared to 2013, due to a decline in the filing of large bankruptcy cases. Nevertheless, overall bargaining power still weighs generally in favor of DIP lenders. This has allowed DIP lenders to continue to demand higher interest rates, shorter maturities, tighter covenants and more restrictions (such as shorter deadlines to sell assets or to sell the entire company), resulting in more DIP lender control over the debtor and the Chapter 11 process.

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