

## T. QUILA PETROCHEMICALS

### INTERNATIONAL SECURITIZATION CASE STUDY

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Set forth below are brief answers to the International Securitization Case Study relating to T. Quila Petrochemicals. The answers follow the order of the questions in the Case Study.

1. Most emerging market future flow securitizations take the form of a Regulation D private placement or a Rule 144A offering of securities, primarily to institutional investors. These investors typically want fixed rate instruments with a tenor of at least 3 years.
2. Most emerging market future flow securitizations involve the sale of future receivables to a special purpose entity (typically a Cayman corporation), which is tax efficient (no income or withholding taxes in the Caymans). If investors prefer to purchase instruments issued by a US entity, then a 2-step structure is often used whereby the Cayman company issues secured notes to a New York common law trust, which issues trust certificates representing a right to those secured notes.
3. The transaction will minimize Mexican sovereign risk because the proceeds from the receivables will not enter Mexico; customers will agree to make payments on the receivables directly to a trust account in New York. No devaluation hedge is required because the receivables are priced in dollars.
4. Investors (and rating agencies) will require cash flow over-collateralization, i.e. the cash flow in each payment period should be a significant multiple of the debt service owed in that period. For example, investors may require 4x over-collateralization, which means if the required debt service in any period is \$100 then the required collections from receivables in that period would be \$400.
5. Investors (and rating agencies) will require a debt service reserve account to cover shortfalls in collections on the receivables in any payment period. Because investors want to be assured that this reserve account will always be available, the possible investments with cash in the reserve account will be limited to high quality, short term, and highly liquid investments.
6. T. Quila (and his lawyers) will have to carefully review the company's existing loan agreements and other contracts to ensure that they do not in some way prohibit or limit the

securitization transaction. The most common loan agreement restrictions that could cause a problem would be a "negative pledge" clause (i.e., agreement not to offer collateral for debt) and a "sale of assets" clause (i.e., agreement not to sell assets). If these clauses do restrict the securitization, the agreements would have to be amended or waivers sought.

7. Customers will probably be asked to sign Acknowledgements whereby they acknowledge that the receivables have been sold to a special purpose entity and agree to make payments to an account of such special purpose entity. T. Quila will have to explain to customers why they must sign these Acknowledgements, but otherwise the securitization should not interfere with the company's customer relationships.

8. Whether recourse for losses on the receivables is consistent with a "true sale" of the receivables depends on the governing law of the receivables sale agreement and varies from jurisdiction to jurisdiction. In Mexico, it is generally accepted that a fairly large element of recourse is allowable. (This is not true under U.S. law.)

9. Typical governmental approvals that might be necessary would be from the local equivalent of the SEC and the local tax authorities. If the originator of the receivables is a bank, then there may also be a requirement for a Central Bank approval.

10. The deal is NOT an "asset-backed securitization", because the securities issued will not be fully backed by assets (i.e. most of the assets are FUTURE receivables).

11. Like the question of recourse, the issue of whether investors have rights to receivables not yet generated at the time of bankruptcy depends on the governing law of the receivables sale agreement and varies among jurisdictions. In Mexico and many other civil law jurisdictions, this is not a settled matter of law, but many local lawyers take the position that if the transaction is properly structured as a true sale under local law then receivables generated after the insolvency date will still belong to investors.

12. The tax goal of these securitizations is to achieve the same type of tax treatment as if the securities issues were debt of the originator. Usually this is possible, but then the question becomes what is the proper rate of withholding tax on interest. (In Mexico, it will be 4.9% on a properly structured deal.)