

The Deal

TOP INVESTMENT BANKS

All cases active as of Sept. 30, 2007

	Investment bank	No. of active cases	% U.S.	% non-U.S.
1	Mesirow Financial Holdings Inc.	28	100%	0%
2	Houlihan Lokey Howard & Zukin	23	96	4
3	Duff & Phelps LLC*	18	100	0
4	Gordian Group LLC	17	100	0
5	Navigant Capital Advisors LLC	14	100	0
6	Macquarie Securities (USA) Inc.	10	100	0
7	Jefferies & Co.	9	100	0
7	Rothschild	9	100	0
8	General Capital Partners LLC	8	100	0
9	Lazard	6	100	0
9	Peter J. Solomon Co.	6	100	0
10	Cain Brothers & Co. LLC	5	100	0
10	Phoenix Capital Resources	5	100	0

TOP INVESTMENT BANKERS

All assignments active as of Sept. 30, 2007

	BANKER	BANK	No. Active Assignments
1	Kaufman, Peter	Gordian Group LLC	15
2	Owsley, Henry	Gordian Group LLC	13
3	Casas, Edward	Navigant Capital Advisors LLC	11
4	Luria, Neil	Navigant Capital Advisors LLC	10
5	Belinsky, Russ	Duff & Phelps LLC	9
6	Hardie, William	Houlihan Lokey Howard & Zukin	7
7	Barrow, J. Gregory	General Capital Partners LLC	6
7	Feltman, James	Mesirow Financial Holdings Inc.	6
8	Siegert, Eric	Houlihan Lokey Howard & Zukin	5
8	Cullen, Brian	Duff & Phelps LLC	5
8	Madden, John	Duff & Phelps LLC	5
8	Williams, Brent	Duff & Phelps LLC	5
8	MacGreevey, David	Duff & Phelps LLC	5
8	Caldwell, Patricia	Gordian Group LLC	5

BY MATT MILLER

CRISIS MODE

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BANKRUPTCY ADVISORY FIRMS ARE DIVERSIFYING TO MEET CLIENT NEEDS AND A BIG ONE OF THEIR OWN-SURVIVAL. BUT CAN SUCH ADVISERS REALLY PROVIDE A ONE-STOP SHOP?

During its third-quarter, 89-minute earnings call earlier this month, **FTI Consulting Inc.** executives uttered the word "bankruptcy" exactly once. Ditto for the word "turnaround." "Restructuring" got a little more respectable showing, with eight mentions. The rest of the time was spent dwelling on a different laundry list of jargon involving businesses driving FTI's growth: "process improvement," "litigation support," "information technology."

In fact, FTI, one of the biggest players in the restructuring advisory field — and the company that tops this quarter's crisis management firm league tables, the first ones ever by The Deal LLC — generated only 25% of its total \$253.3 million income for the third quarter from the division it terms "corporate finance/ restructuring." Growth in other segments indicates that the percentage of restructuring-related business is likely to decrease, even as FTI's revenue gains. "We worked hard to grow and diversify our offerings," Jack

Dunn, FTI's president and CEO, said during the call.

Indeed, FTI has expanded through aggressive acquisition. The firm now has more than 1,800 "revenue-generating" employees and added more than 100 during the last quarter, said Dunn. "We need all the people we can get."

It's no big secret. An extended period of easy money has meant relatively few bankruptcies. For those in advisory services, that reality has produced a decline in restructuring assignments, sometimes dramatically. Competition for assignments has grown fierce. "You see 14, 15 firms coming to pitch for the creditors' committee in cases as small as \$50 million [in debtor assets]. It's hard to see how that can make economic sense for the bigger firms," says Anthony Schnelling, the founding member of **Bridge Associates LLC**, which ranks fourth (33 active cases) in our list of crisis management firms but whose professional staff is a fraction of an operation such as FTI (99 active cases).

So diversification becomes a first line of defense.

"Given the slowdown in insolvency and restructuring over the past few years, [larger firms] have found creative ways, in my view, to leverage their personnel," Schnelling says.

The result, acknowledges Henry Miller, chairman of investment bank **Miller Buckfire & Co. LLC** (four active cases), is that "guys with a lot of bodies show up in a lot of cases."

Still, that's not always effective, especially given the reputation of some firms for certain disciplines. There's still a tendency, says George Pitts, a Washington-based partner with **Dickstein Shapiro LLP**, to go to certain advisory firms for certain functions. Think of complex bankruptcies and you still think of crisis management firms **AlixPartners LLC** (22 active cases) or **Alvarez & Marsal LLC** (50), he says. Think of a chief restructuring officer and the name Steve Cooper, of **Kroll Zolfo Cooper LLC** (14 cases), comes to mind. But for other advisory

services, it's a different list. "There are different tiers of business," Pitts says.

Big, complex bankruptcies remain out there — **Calpine Corp.**, **Solutia Inc.**, **Delphi Corp.**, and more recently, **New Century Financial Corp.** and **American Home Mortgage Investment Corp.** — but they are more rare than in the past. Hedge funds hold debt and offer refinancing. Out-of-court work has become the norm. All of that means a fundamental reordering of the restructuring trade.

The Deal has taken stock of the situation. We've always separated non-law firms into two categories for our bankruptcy league tables — non-investment banks and investment banks. Now we're separating out crisis management firms from the noninvestment category (see tables, page 84). Increasingly, the non-investment-banking tables mix apples and oranges — bankruptcy services firms that do claims or notice agent work or mostly receiver-type tasks in non-U.S. insolvencies, mix with firms that fill key management posts at bankrupt companies, such as chief restructuring officer, chief financial officer, or CEO, or provide advisory services to lenders and creditors. No longer will FTI and Bridge, in the advisory establishment, be in the same category with, say, **Deloitte Touche Tohmatsu** or **Epiq Bankruptcy Solutions LLC**.

In some cases, even this delineation doesn't go far enough. Take a company such as AlixPartners, ranked eighth among crisis management firms. Only three of its 22 active cases involve classic interim management roles — chief restructuring officer, chief financial officer or crisis manager. Other assignments include claims agent, financial adviser and trustee. "The breadth of offerings in our work in very troubled companies has grown in the past five years,"

says Peter Fitzsimmons, AlixPartners co-president.

At the same time, both AlixPartners and its rivals have moved aggressively into activities such as technology transformation and performance improvement. "Half our revenues are from companies not distressed," Fitzsimmons emphasizes. "They're healthy, but they have issues — three, five, 10 things needed to improve performance."

"It's not quite crisis ER, when there's been cardiac arrest," says Steve Panagos, managing director and national practice leader for crisis management firm Kroll Zolfo Cooper. "It's more like preventative healthcare."

Necessity has driven the evolution. Those in the field report an upturn in restructuring-related inquiries over the past few weeks, but that doesn't necessarily mean a huge increase in business. "New inquiries have doubled from a year ago," says James Loughlin Jr., principal of **Loughlin Meghji + Co.** (three active cases), another crisis management firm. "That doesn't mean they're all going to restructure. It does mean they're beginning to consider their options."

Few, though, predict the kind of froth in advisory services that accompanied the last surge of bankruptcies. Restructuring shops "rode the crest of the wave right into the shore," says Hugh Ray, a veteran bankruptcy attorney and a Houston-based partner at **Andrews Kurth LLP**. "They'll never have that kind of wave again."

So bankruptcy advisory firms aren't just diversifying within the restructuring trade, but outside it. Like FTI, several shops say their businesses, through either organic growth or acquisition, now extend to fields and applications that have nothing to do with bankruptcy and restructuring. At the same time, they have moved laterally, picking up restructuring-

related assignments where they can, in areas such as creditors advisory work, post-bankruptcy services and litigation support. "I've tripled my head count in three years. My current utilization rate is almost 94%," says William Wexler, a managing director and the head of the corporate advisory group at non-investment firm **BBK** (three active bankruptcy cases). "There are 15, 20 matters in my practice. [But only] one is in restructuring. I didn't stand around the beach with my surfboard waiting for the next wave. ... You have to make yourself cycleproof."

Of course, some firms weathered changes better than others. The bankruptcy and restructuring advisory industry is notorious for job-hopping in bad times or good, or as work ebbs and flows. "The DNA makeup of a good turnaround guy is not someone who will retire with a 30-year watch," says Thomas Hays III, principal of the crisis management firm **NachmanHaysBrownstein Inc.** (14 active cases).

Ownership changes have accompanied the upheaval in the marketplace. How well they've worked out is a matter of perspective. Investment bank **Mesirow Financial Holdings Inc.** (28 active cases, first place among I-banks), for example, took over the corporate recovery practice of **KPMG** three years back. This summer, Mesirow laid off about 15% of its restructuring professionals, primarily in three West Coast offices, according to Ralph Tuliano, president and executive managing director of Mesirow's Mesirow Financial Consulting LLC unit. Some competitors believe this is a sign of "disarray," as one puts it. Tuliano, however, stresses that the move was actually a redeployment of personnel. "We're still in the process of adding and expanding," he says. "We will grow, but grow in the right areas."

Those areas, he says, include litigation services, valuations, distressed M&A and investigative services. Diversification is once more key, he believes.

While some rivals question just how well Mesirow's operations have fared, Tuliano, who initiated the move from KPMG to Mesirow, says the merger has been a "phenomenal success." He believes others may even remake themselves with a similar "broadly based platform," that is, a merger between investment banking and advisory services. "Clients increasingly demand a full suite of services, including investment banking, forensic accounting, interim management," he says.

What KPMG did wasn't unique. Other big accounting firms jettisoned U.S.-based restructuring practices in the aftermath of the Arthur Andersen debacle and the advent of Sarbanes-Oxley. (Deloitte, with 632 active cases, stayed in the business, but 94% of it remains outside the U.S.) All sorts of consultants moved; many opened their own shops. "Competition expanded exponentially," says James Lukenda, a managing director with crisis management firm **Huron Consulting Group Inc.** (23 active cases).

Now the big accounting firms are getting back into restructuring as noncompete agreements end and as business prospects look better. They could pull back former colleagues and cause further shifts in who is doing what. "People are looking around in the theater for a better seat when the movie starts," Lukenda says, quoting a banker.

That kind of repositioning could lead to more consolidation. There are signs it's already beginning. In January, Huron acquired Glass & Associates Inc., a New York restructuring boutique that had many interim management assignments. "There's been enough business to keep both gainfully

employed in their core practice," says Lukenda. "We've maintained levels but haven't had growth."

Shops such as NachmanHaysBrownstein have made a conscious effort to move from debtor work to representing creditors. Others, such as AlixPartners, are attempting to work across the restructuring spectrum and positioning themselves as proverbial one-stop shops. These firms move from debtor to creditor work, from tax advisory to financial advisory and even take trustee assignments. Wexler calls it "diversification in a time of consolidation."

Some business advisory services firms include investment banking as part of their pitch — something investment banks dismiss as irritating and misleading. "It isn't as black and white as we'd like it to be," says Miller. "The market by and large is reasonably clearly differentiated."

The Deal has done some tweaking here, too. Some purists contend that true investment-banking firms are registered with **NASD Inc.**, formerly the National Association of Securities Dealers, as broker-dealers, meaning they can buy, sell and underwrite securities. And, in fact, we have switched **Brown, Gibbons, Lang & Co.**, **Brookwood Associates LLC** and **Asante Partners LLC** to the investment-banking ranks from the non-investment-bank ranks because they have NASD active status.

Still, using such a strict definition can be too doctrinaire about the investment-banking services bankrupt companies need. Granted, while being a broker-dealer is helpful when trying to help a bankrupt company re-engineer the liability side of the balance sheet, it doesn't mean you have to have such status to help a debtor raise money, arrange for debtor-in-possession financing, exit financing, or run an auction —

investment-banking functions all. (Miller points out another distinction: Restructuring advisers get paid by the hour; investment bankers by the month.)

As a result, companies such as **Miller Mathis & Co. LLC**, **Beringea**, **Chiron Financial Advisors LLC** and **General Capital Partners LLC**, to name a few without active NASD status, are still in the investment-banking tables. We have moved **Traxi LLC** (27 active cases) out and into the non-investment-bank category, not just because it lacks NASD status but also because many of its assignments are consulting-related.

It's not an inconsequential move, either; had Traxi stayed in the investment-banking standings, it would rank second only to Mesirow. The bigger the firm, it seems, the more impetus to diversify. "If you want to have a 500- or 1,000-person firm, restructuring is hard to build as your sole product," says Loughlin Meghji's Loughlin.

Some also wonder whether big accounting firms can regain a foothold in bankruptcy services. Deloitte and **PricewaterhouseCoopers LLP** (272 active cases, 95% of them non-U.S.) are giants — overseas. "Clearing conflicts is difficult," says Pitts. "With these larger organizations, they may, in the end, not take the case or take two weeks to clear."

"The reason why we brought the practice to Mesirow is because of the conflicts inherent in a Big Four accounting platform," adds Mesirow's Tuliano.

Some systems or technology expertise can be portaged from restructuring to other waters. Jonathan Carson, the president and co-founder of non-investment bank **Kurtzman Carson Consultants LLC** (67 active cases), tells how his company developed a platform for Chapter 11 claims work and then pleasantly discovered that the technology can be used for

nonbankruptcy work. "We are a business outsourcing provider that began in restructuring as a claims and noticing agent and [has] since expanded our services to support other legal and financial transactions," he says.

Certain restructuring expertise, some say, are highly specialized. Others can easily move from a company on the brink of liquidation to one that needs tweaking here and there.

One such area is operations consulting, which "is hot as a pistol," says BBK's Wexler. He cites the following example: A private equity firm buys a company with 30 plants. It then makes a bolt-on acquisition that brings with it another 30 plants. "Our job is to make 30 plus 30 equal 42," he says.

Sometimes, the need to diversify is driven by clients. Stuart Kessler, the founding partner of crisis management firm **Clear Thinking Group LLC** (27 active cases), says he founded his Hillsborough, N.J., firm six years ago strictly to do corporate restructurings and turnarounds. However, after Clear Thinking helped guide one client through a successful turnaround, the client came back to Clear Thinking for more advice. "They asked us: 'Can you help us move forward?' " recalls Kessler, adding that such requests to "move to the next level" are becoming increasingly common. "We have [now] looked at issues such as supply chain, customer support, office and distribution center relocation."

Not every staff, however, is as interchangeable. Huron is beefing its nonrestructuring work in healthcare and education, hiring folks who have catered to them. "These marketplaces require incredibly specific skill sets," Huron's Lukenda says.

Also, out-of-court restructuring has become far more commonplace than even just two years ago. One big reason is the changes made two

years ago to the bankruptcy law, including tighter deadlines and a less debtor-friendly atmosphere. Another major factor has been a bounty of capital.

A distressed company that in 2002 almost certainly would have filed for Chapter 11 now has far more opportunities for an out-of-court workout, gaining necessary capital to live another day. Or year.

Pitts describes one case in which twice lawyers literally got on a plane to Delaware with the intention of filing and got called back once they had landed. "It's now bankruptcy avoidance," he says about the current mood.

Also, an increasing number of companies that do go into Chapter 11 are prepackaged or prearranged bankruptcies. That means out-of-court work may last 12 or 14 months, while the bankruptcy itself lasts 40 days.

Those in non-investment-bank advisory services report another big change: their employers. Instead of the debtors themselves, private equity shops and hedge funds are becoming an increasingly important source of work. After all, private equity ownership is more commonplace, and hedge funds are getting more into distressed debt. "Hedge funds and private equity have changed the dynamics" of the field, says Kessler.

Buyout shops call in advisory firms to conduct due diligence on potential targets and assess and improve operations on acquired companies. Hedge funds need to determine or be advised on the severity of problems of companies whose debt has been purchased. Both new-breed types of buyer should play a critical role during the next bankruptcy wave as well, whether as acquirers of assets out of Chapter 11 or holders of debt.

"Hedge funds are bringing us on to their side," says Kroll Zolfo Cooper's Panagos. "Private equity firms are hiring us to head off problems and figure out a fix."

Finally, some restructuring shops are moving further afield geographically. While this has been happening over the past few years and the major accounting firms still dominate European receiverships and liquidations, their grip on non-U.S.-related distress is loosening.

Many larger restructuring advisory firms have beefed up European and Asian offices. AlixPartners has 180 individuals in Europe, Fitzsimmons reports. That's from necessity as its U.S. clients — distressed or not — have international operations. "It's more true today than five years ago," he says.

Still, Andrews & Kurth's Ray is right. The last big wave of bankruptcies makes advisers nostalgic, even if they've adjusted to the current landscape. "We've made a successful transition, although we're not making money like we used to make money," adds Hays.

Misplaced wistfulness? No, just a recognition that the easy money is gone — something many prospective clients have yet to come to grips with. That, too, will change. **TD**