Structuring Incremental Loan Facilities: Key Terms, Most Favored Nation Provisions and Incremental Equivalent Agreements

Lender and Borrower Perspectives in Negotiating Incremental Facilities

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Today’s Program

I. Introduction to Incremental Facilities
II. Incremental Capacity
III. Other Key Terms
IV. Most Favored Nation Provisions (MFN)
V. Conditions Precedent and Closing Conditions
VI. “Sidecar” or Incremental Equivalent Debt
VII. Documentation
VIII. New Developments
I. Introduction to Incremental Facilities

What is an Incremental Facility?

An incremental facility is an extension of new commitments and/or loans implemented under the aegis of a Borrower’s existing credit facility documentation, which extensions of credit are made subject to the specific incremental incurrence requirements set out in such existing credit facility documentation.

In this section:

• Characteristics of Incremental Facilities
• Uses of Incremental Facilities
• Advantages of Incremental Facilities
• Disadvantages of Incremental Facilities
I. Introduction to Incremental Facilities

Characteristics of an Incremental Facility

An incremental facility:

- May consist of immediately funded or delayed-draw term loans, or of revolving credit commitments
- May be implemented as either a new credit facility or as an upsizing of an existing credit facility
- May be implemented via an amendment agreement, an incremental assumption agreement or an amendment and restatement of the existing credit document
I. Introduction to Incremental Facilities

Uses of Incremental Facilities

Incremental facilities may be incurred for a number of purposes:

- Financing acquisitions of business entities or assets
- Increasing borrowing capacity to reflect the Borrower’s growth / general corporate purposes
- Refinancing existing debt (including for purposes of repricing)
- Funding dividends or other distributions (i.e. a “Dividend Recap”)
I. Introduction to Incremental Facilities

Advantages of Incremental Facilities

Incremental facilities are advantageous to a Borrower because:

- Implementation requires only the consent of the new lenders under the incremental facility and the administrative agent, and not that of the existing lenders under the Borrower’s current credit facility (with limited exceptions for incremental revolving facilities)
- The credit documentation necessary to implement an incremental facility tends to be relatively light and cost-effective
- The new incremental lenders are able to share in existing guarantee and security arrangements without the need for new intercreditor agreements (other than where incremental capacity is implemented as non-pari passu incremental facilities)
- Marketing and syndication tend to be quick, as the market is very familiar with the process of implementing incremental facilities
- The incremental credit facilities constitute permitted indebtedness and permitted liens under the terms of the existing credit documentation (and often are also already permitted under the Borrower’s public or 144A indebtedness)
I. Introduction to Incremental Facilities

Disadvantages of Incremental Facilities

Incremental facilities may be disadvantageous to a Borrower because:

- Other than certain terms specific to the incremental facility (including price, maturity, amortization and size), new incremental lenders generally inherit the terms and provisions of the existing credit documentation, which may not be “market” terms at the time of the implementation of the incremental facility.

- With certain exceptions, prepayments are shared with the existing credit facilities.

- The administrative and collateral agents are already in place.
II. Incremental Capacity

The total amount of commitments (and loans) under incremental facilities that the Borrower may incur pursuant to the provisions of the existing credit documentation.

In this section:

- Incremental Fixed Amount
- Leverage Governed Incremental Amount
- Prepayments Amount
- Order Of Use
- Reloading Of Incremental Capacity
II. Incremental Capacity

**Incremental Fixed Amount**

- The Incremental Fixed Amount (herein, the “Fixed Amount”, and sometimes referred to as the “freebie amount”) is usually the most straightforward component of the Incremental Capacity.

- Traditionally, the Fixed Amount was simply expressed as a fixed dollar basket which would be reduced by each use of capacity under the Fixed Amount.

- In some more recent and aggressive transactions, the Fixed Amount has become a “grower” basket linked to the Borrower’s Consolidated Adjusted EBITDA (i.e. “the greater of (x) $[__] million and (y) [__]% of the Borrower’s Consolidated Adjusted EBITDA for the most recently completed four fiscal quarter period for which financial statements have been provided”)

- As noted below, it is usually the Borrower’s preference to apply the Fixed Amount capacity last after all other sources of capacity have been used.

- In the case of an asset-based lending (ABL) revolving credit facility, the applicable Incremental Capacity will generally consist of only a fixed amount, which may be applied to increase the commitments under the existing ABL facility, or to add new last-out revolving credit facilities and/or add new first-in, last-out (FILO) term loan facilities.
II. Incremental Capacity

Leverage Governed Incremental Amount

- The Leverage Governed Incremental Amount (herein, the “Ratio Amount”, and sometimes referred to as the “unlimited amount”) tends to be the most complicated component of the Incremental Capacity, and often the most heavily negotiated.

- Essentially, the Ratio Amount permits the incurrence of however much incremental debt may be incurred without causing the Borrower to exceed an agreed upon maximum leverage ratio, with such leverage ratio calculated using the results of the most recently reported four fiscal quarter period and giving pro forma effect to the incurrence of the requested incremental debt (or incremental commitments, in the case of an incremental revolving commitments).
II. Incremental Capacity

- Where incremental debt is incurred to fund an acquisition or other investment, the credit documentation may also provide:
  - That the Ratio Amount is to be tested giving pro forma effect to the application of such incremental debt (i.e. giving effect to “purchased EBITDA”), though in such cases “anti-looping” language should be included to ensure that incremental proceeds are not included in any cash netting provision; and
  - That the Ratio Amount may be tested at the time that the Borrower enters into an acquisition agreement (or similar agreement), rather than at the time of incurrence, to allow the Borrower to provide more funding certainty to the seller in such transaction.
II. Incremental Capacity

Choice of Maximum Leverage Ratio(s)

- The choice of which leverage ratio or ratios to use in testing for the Ratio Amount will be guided by the Borrower’s capital structure, and the priority characteristics of the debt which the Borrower is permitted to incur under the applicable incremental provisions.

- Where the lender’s principal credit facilities are secured on a first lien basis, the maximum leverage ratio governing the Ratio Amount would typically be a maximum first lien secured leverage ratio, although a maximum senior secured leverage ratio or a maximum total leverage ratio could also be used, if the maximum ratio levels were set appropriately low.

- Where the Borrower has both first and second lien secured term loan facilities, one would normally expect the Ratio Amount under the first lien credit agreement to be governed by a maximum first lien secured leverage ratio, and the Ratio Amount under the second lien credit agreement to be governed by a maximum senior secured leverage ratio.
II. Incremental Capacity

- In cases where the Borrower is only permitted to incur incremental debt that is *pari passu* in lien priority with the debt then-outstanding under the existing credit documentation, the choice of appropriate leverage ratio and the application of the maximum leverage test is relatively simple.
II. Incremental Capacity

More Recent Formulations

- In the last few years, credit documentation has permitted Borrowers to also incur debt with a junior lien priority (compared to the existing secured debt) and even senior unsecured debt (herein, collectively “Junior Debt”)

- Where the Ratio Amount test is a maximum leverage ratio, testing for the ability to incur Junior Debt is simple, as all forms of debt will impact the maximum total leverage ratio test in the same way

- Where the Ratio Amount test is a maximum senior secured leverage ratio or a maximum first lien secured leverage ratio, the more traditional or conservative approach is to deem any incremental Junior Debt to be debt of the same lien priority as that tested under the applicable maximum leverage ratio (and such deeming would also be applied to all previously incurred incremental Junior Debt)
II. Incremental Capacity

- A more recent and aggressive approach is to include multiple maximum leverage ratio tests in the provision defining the Ratio Amount, and to test each incurrence of incremental debt under only the appropriate maximum leverage ratio depending on such incremental debt’s actual lien priority.
  - This approach has at least some inherent risk in that it could allow a Borrower to incur substantial incremental senior unsecured debt up to the maximum permitted total leverage ratio, and then subsequently obtain additional first lien secured incremental debt up to the maximum first lien secured leverage ratio, resulting in a very high total leverage ratio.
  - In a few recent transactions, the Borrower has also been permitted to use a minimum fixed charge coverage ratio test for the incurrence of senior unsecured incremental debt under the Ratio Amount, as an alternative to the maximum total leverage ratio test.
II. Incremental Capacity

Accounting for Incremental Revolving Facilities

- Because it is not expected that incremental revolving facilities will be immediately drawn in full, in performing the *pro forma* calculation necessary to test a Borrower’s ability to obtain additional incremental revolving credit capacity under the Ratio Amount, it is necessary to assume that the entire amount of such incremental revolving capacity is fully drawn for the purposes of running such *pro forma* test.

- In addition, the incremental provisions of the credit documentation should also provide that, in testing for the ability to use the Ratio Amount, all previously incurred incremental revolving capacity should also be assumed to be fully drawn.
II. Incremental Capacity

Prepayments Amount

- The Borrower may also acquire additional incremental capacity based on its voluntary prepayment of other debt, whether occurring prior to, or contemporaneously with, the incurrence of new incremental debt
  
  - By permitting contemporaneous voluntary prepayment of existing debt, a Borrower can use incremental debt to refinance outstanding debt, which may be useful when the debt being incurred does not meet the requirements to qualify as “Refinancing Indebtedness” under the credit documentation, or when a Borrower is using incremental debt to refinance out non-consenting lenders in the context of an “Amend and Extend” transaction
  
  - Generally, Incremental Capacity will only be generated by the voluntary prepayment of term debt, though in some cases the prepayment of pari passu revolving debt, along with a permanent reduction in the revolving credit commitments, will be given credit under the Prepayments Amount
  
- Where the debt being refinanced was originally incurred as incremental term debt, the Borrower should only be given prepayment credit where such debt was originally incurred in reliance on the Fixed Amount, or on the Prepayments Amount (though this could also include Incremental Equivalent Debt incurred under those amounts)
II. Incremental Capacity

Order of Use

- In many recent transactions, the credit documentation will specify that if there is a contemporaneous incurrence of incremental debt under both the Fixed Amount and the Ratio Amount, that such incurrence will be deemed to have first used all available capacity under the Ratio Amount, and that any remainder will be deemed to have occurred under the Fixed Amount (and that the maximum leverage covenant test for the incurrence under the Ratio Amount shall be calculated as if there was no incurrence of the remainder under the Fixed Amount). In cases where this type of provision is not included, Borrowers will often include timing language in the incremental amendment that is designed to achieve the same effect.

- Recently, Borrowers have been requesting the ability to reclassify incremental debt which was originally incurred under the Fixed Amount, as incremental debt incurred under the Ratio Amount, if the Borrower later satisfies the applicable pro forma maximum leverage ratio test. In some cases, Borrowers have even requested that such reclassification occur automatically.
II. Incremental Capacity

**Reloading of Incremental Capacity**

- In cases where (1) a Borrower is obtaining incremental commitments or loans in circumstances where lenders sufficient to constitute the “Required Lenders” under the credit documentation will be party to the documents implementing such incremental incurrence, and (2) such incremental incurrence is being made in reliance on the Fixed Amount (or previous incremental incurrences have been made in reliance on the Fixed Amount), the Borrower may take the opportunity to request that the Required Lenders agree to an amendment which “reloads” the Fixed Amount to its original full capacity.

- The Required Lenders determination as to whether to grant such consent would depend on the Borrower’s financial performance and its *pro forma* leverage levels as compared to any maximum leverage ratio tests governing incurrence under a Ratio Amount.
III. Other Key Terms

The incremental provisions of the credit documentation will generally include a number of other key provisions limiting the terms of the incremental debt which may be incurred.

In this section:

• Maturity / Tenor
• Weighted Average Life To Maturity
• Application / Sharing of Prepayments
• Guarantees and Security
• Lien Priority
• Additional Covenants / Financial Covenants
• Minimum Principal Amounts
III. Other Key Terms

Maturity / Tenor

- In general, incremental term loans will not be permitted to mature earlier than the maturity date of the original term loan debt outstanding under the credit documentation, though in some cases the requirement will be that incremental term loans must mature at least 91 days after the original term loans, to account for the bankruptcy preference period.

- More recent credit documentation will use a “Latest Maturity Date” (or similar) definition to ensure that any each new incremental term facility matures after the maturity of the latest-maturing previously incurred incremental term loan facility, essentially creating an automatic, adaptable minimum term provision.

  - “Latest Maturity Date” means, as of any date of determination, the latest maturity or expiration date applicable to any Loan or Commitment established hereunder, at such time, including the latest maturity or expiration date of any Incremental Loan, Extended Term Loan or Extended Revolving Commitment, in each case as may have been extended from time to time in accordance with the provisions hereof.

- Recently, a few Borrowers have begun requesting a carve-out from the maturity requirement which would allow the Borrower to incur some incremental term loans with earlier maturities, up to a maximum principal amount governed by a fixed dollar basket; this is a controversial point.
III. Other Key Terms

Weighted Average Life to Maturity

- In general, incremental term loans may not have a weighted average life to maturity that is shorter than the weighted average life to maturity of the exiting term loans under the credit documentation.

  - **“Weighted Average Life to Maturity”** means, when applied to any indebtedness, disqualified stock or preferred stock, as the case may be, at any date, the quotient obtained by dividing (x) the sum of the products of the number of years from the date of determination to the date of each successive scheduled principal payment of such indebtedness or redemption or similar payment with respect to such disqualified stock or preferred stock multiplied by the amount of such payment; by (y) the sum of all such payments.

- Recently, a few Borrowers have begun requesting a carve-out from the minimum weighted average life to maturity requirement which would allow the Borrower to incur some incremental term loans with shorter weighted average life to maturity, up to a maximum principal amount governed by a fixed dollar basket; this is a controversial point.
III. Other Key Terms

Application / Sharing of Prepayments

- Generally, incremental term loan facilities will share in voluntary and mandatory prepayments on a pro rata basis, though over the last few years it has become more common to permit incremental term facilities to share on a less than pro rata basis if the applicable incremental lenders agree to do so in the incremental documentation.

- In recent, more aggressive transactions, the Borrower has the right to allocate voluntary prepayments among different existing and incremental term loan facilities such that original term loan facilities receive less than a pro rata share of voluntary prepayments.

- Borrowers have also requested the ability to allocate mandatory prepayments such that existing term loan facilities would receive a less than pro rata share, but with the exception of refinancing specific term loan facilities and allocating mandatory prepayments to term loan facilities with an earlier maturity date, lenders have not agreed to this request.
III. Other Key Terms

Guarantees and Security

- Incremental debt will generally be guaranteed by the same guarantors, and on the same basis, as the existing debt under the credit documentation.

- To the extent that incremental debt is secured debt, it will be secured by pledges of the same collateral as is already pledged to secure the existing secured debt under the credit documentation, either on a pari passu basis with the existing secured debt, or where permitted, on a junior lien basis.

- In no event will secured incremental debt be secured by a pledge of collateral which has not been pledged to secure the existing secured debt.
III. Other Key Terms

Lien Priority

- The most common structure is to only permit incremental debt to be secured *pari passu* as to lien priority with the existing debt under the credit documentation.

- More recent credit documentation will permit incremental debt to be issued on a junior lien secured basis (subject to an intercreditor agreement on terms reasonably acceptable to the administrative agent under the credit documentation), or on a senior unsecured basis.

- Although incremental debt may have a lien priority that is junior to that of the existing debt under the credit documentation, all incremental debt will be *pari passu* in right of payment with the original debt under the credit documentation (where permitted, subordinated debt may be incurred as Incremental Equivalent Debt, subject to subordination terms reasonably acceptable to the administrative agent under the existing credit documentation).
III. Other Key Terms

Additional Covenants / Financial Covenants

- In general, an incremental facility will be subject to the same covenants and other terms as the existing facilities under the credit documentation (other than pricing, maturity, amortization, lien priority (where permitted) and prepayments (as discussed above))

- The credit documentation will usually provide that if an incremental facility is made subject to any additional protective covenants (including any financial maintenance covenants), that such covenants must be reasonably acceptable to the administrative agent under the credit documentation, except that:
  - If an incremental facility is made subject to a financial maintenance covenant, then as long as such financial maintenance covenant is also applied to the existing debt facilities under the credit documentation, the consent of the administrative agent will not be required; and
  - If an incremental facility is made subject to additional protective covenants (including financial maintenance covenants) which do not become effective until after the scheduled maturity of the existing debt, such additional covenants will not require the consent of the administrative agent.
III. Other Key Terms

- Borrowers have recently begun requesting that terms applicable to incremental facilities which are inconsistent with the terms of the credit documentation, but which are on market terms at the time of the incremental incurrence (as determined in good faith by the Borrower), be permitted without the consent of the administrative agent, but this request has not been generally accepted.
III. Other Key Terms

Minimum Principal Amounts

- In general, the credit documentation will provide for a minimum size for incremental incurrences ($10 million is common) and for minimum increments in excess thereof ($1 million is common), though the credit documentation may provide that an incremental incurrence may be in a lesser principal amount that is equal to all of the then-remaining incremental capacity.

- Some credit documentation may require a higher minimum principal commitment amount for additional incremental revolving facilities, and may permit a lower minimum principal commitment amount for incremental revolving capacity implemented as an upsizing of an existing revolving credit facility.

- In practice, since there is no commitment under the original credit documentation to undertake any incremental issuances, the minimum amount of an incremental facility or incremental increase will also be influenced by the minimum amount that the underwriter or arranger reasonably believes that it can place in the market.
IV. Most Favored Nation Provisions

The “Most Favored Nation” provision or “MFN” is a provision designed to prevent a Borrower from incurring incremental loans with substantially higher pricing than the pricing under the original credit documentation.

In this section:

• The MFN Provision
• Sunset and Flex
IV. Most Favored Nation Provisions

The MFN Provision

- An MFN provision operates such that, if any incremental facilities have a higher all-in yield than the all-in yield under the corresponding existing debt facilities (but subject to a cushion, currently commonly set at 50 bps), then the interest rate margin applicable to the corresponding existing debt will be increased to produce an all-in yield that is equal the all-in yield under the incremental facilities (subject to the cushion)
- MFN protection will generally not apply to junior lien or senior unsecured incremental debt
- In many recent cash-flow transactions, MFN protection only applies to the term facilities, and may be further differentiated between existing and incremental term loan A facilities, and existing and incremental term loan B facilities
- To the extent MFN is applied to revolving facilities, the most common use is in ABL Facilities
IV. Most Favored Nation Provisions

- The determination as to whether to apply the MFN provision to increase the pricing on a tranche of existing debt is made based on the respective all-in yields of the two debt tranches being compared.

- Although definitions will vary slightly across lenders and transactions, the all-in yield is generally determined inclusive of interest rate margins, interest rate floors, and original issue discount and upfront fees (based on a four-year average life to maturity), but excluding arrangement, structuring, underwriting and other similar fees paid arrangers.
IV. Most Favored Nation Provisions

Sunset and Flex

- In more aggressive transactions, the MFN provisions are often drafted so that they terminate (or “sunset”) after an agreed period of time (18 months is currently typical)
- In committed or underwritten financings, the MFN sunset is often subject to the Market Flex provisions of such financing, permitting the underwriters or lead arrangers to extend the sunset provision for an additional specified period, or to eliminate the sunset entirely and cause the MFN provisions to apply for the life of the committed credit facilities
V. Conditions Precedent and Closing Conditions

Typical conditions to incurrence of incremental loans include:

- No Default or Event of Default is continuing or would result therefrom
  - If the proceeds of the incremental loans will be used to finance a permitted acquisition, some incremental facilities may waive this requirement or limit it to payment and bankruptcy defaults
- Accuracy of representations and warranties
  - If the proceeds of the incremental loans will be used to finance a permitted acquisition, some incremental facilities may limit this to (known as “SunGard” conditionality):
    - Certain fundamental reps and warranties in the credit agreement (e.g., power and authority, due authorization, non-contravention of organizational documents, etc.)
    - Such of the reps and warranties made by or on behalf of the applicable acquired company or business in the acquisition agreement as are material to the interests of the lenders under the credit agreement (but only to the extent that the borrower or its affiliates has a right to terminate the acquisition as a result of a breach of such reps and warranties)
- In some cases, pro forma compliance with a financial covenant
- Incurrence in excess of minimum amounts
- Delivery of customary closing documentation (discussed in greater detail below)
V. Conditions Precedent and Closing Conditions (Cont.)

- Other than as described below, the terms, provisions and documentation of the incremental loans may be as agreed by the borrower and the incremental lenders.

- Timing of testing ratio test
  - At time of incurrence
  - At time of commitment

- If tested at time of commitment, an issue that gets negotiated is how to address subsequent transactions
  - Test on pro forma basis assuming transaction has closed
  - Test on actual basis
  - Either/or or both?
  - A la carte approach

- Most common in large cap transactions

- Rarer in middle market and then often tied to additional limitations; e.g., time limit between date of commitment and incurrence.
V. Conditions Precedent and Closing Conditions (Cont.)

- Common limitations on incremental loans:
  - Must rank *pari passu* (or, in some cases, junior) in right of payment and lien priority
  - May participate on a *pro rata* basis or less than *pro rata* basis (but not on a greater than *pro rata* basis) in any voluntary or mandatory prepayments of loans
  - May not mature earlier than applicable existing loans
  - May not be secured by assets, or guaranteed by guarantors, different from existing loans
  - In the case of incremental term loans:
    - Must have a weighted average life to maturity no shorter than the weighted average life to maturity of the existing term loans
    - May have an amortization schedule as agreed by the borrower and the incremental lenders
  - Yield on incremental loans may be as agreed by the borrower and the incremental lenders, except:
    - If the yield on incremental loans exceeds the yield on applicable existing loans by more than 50 basis points, the yield on such existing loans must be increased to within 50 basis points of the yield on incremental loans
      - This is referred to as an “MFN”
      - Methodology for calculating “yield” will be agreed in the credit agreement, but typically includes interest rate margins and floors, as well as upfront fees or OID, but not arrangement fees
    - In some cases, may be subject to a “sunset” of between 6 and 24 months
VI. “Sidecar” or Incremental Equivalent Debt

- In addition to the ability to incur additional secured debt under the incremental facility, some credit agreements give the borrower the flexibility to “incremental equivalent debt” outside the credit facility.

- May take the form of *pari passu* secured notes or loans (often referred to as “sidecar” loan agreements) or junior lien, unsecured or subordinated loans or notes.

- Relationship with baskets for incremental facilities:
  - Fixed dollar basket typically shared with the fixed dollar basket for incremental facilities.
  - Any “leveraged-based” test typically mirrors the “leveraged-based” test for incremental facilities.

- Example:
  - Indebtedness in an amount not to exceed the sum of (x) $[100,000,000] (minus the aggregate principal amount of Revolving Commitment Increases and Incremental Term Loans incurred under Section [X]), plus (y) an unlimited amount so long as the [Total] [Secured] [First Lien] Leverage Ratio, calculated on a Pro Forma Basis (but without giving effect to the cash proceeds of such Indebtedness) as of the most recently completed period of four consecutive fiscal quarters for which the financial statements required by Section [X] have been delivered (calculated assuming that such Indebtedness is fully drawn throughout such period), does not exceed [5.00] to 1.00, plus (z) the amount of all prior voluntary prepayments of Term Loans, Revolving Loans or Indebtedness incurred pursuant to this Section [X] that is secured by a Lien on the Collateral on a *pari passu* basis with the Obligations (in each case, with respect to any revolving loans, to the extent accompanied by a permanent reduction in such revolving commitments).
VI. “Sidecar” or Incremental Equivalent Debt (Cont.)

- Application of MFN. Variations include:
  - Does not apply at all
  - Applies in all cases where additional debt is *pari passu*
  - Applies only if the incremental equivalent debt is *pari passu* AND is in the form of notes
    - MFN does not apply to pari passu secured notes
- Typical in larger syndicated deals. Market practice in the mid market is mixed
VII. Documentation

- Incremental amendment
  - Borrower, administrative agent, new lenders
  - Reaffirmation by guarantors

- Customary closing documentation
  - Borrowing request
  - Legal opinions, including (where applicable) from local counsel
  - Board resolutions
  - Solvency certificate
  - Good standing certificates
  - Secretary’s certificates

- Fungibility
  - Desire to have the incremental term loans and existing term loans trade as a single class – increases liquidity
  - As a result, incremental loans are usually structured to be fungible from a tax perspective
  - General concept is that the incremental loans must be issued at same interest rate as existing loan
  - However, exceptions based on timing and for de minimis OID; rules are complex and fact-specific
  - If existing term loan has had amortization payments, typical to reset the amortization based on the amount outstanding at the time the incremental facility was incurred and to increase the amortization percentage in order to ensure that existing lenders get the same dollar payment
VIII. New Developments

- Hardwire ability to amend existing loans in a manner not adverse to existing lenders, e.g.,
  - Extend or renew soft-call protection
  - Increase amortization (to preserve fungibility)
- Add general concept that if debt incurred based on different tests (e.g., dollar basket and a leverage test), debt incurred under the dollar basket is not included in pro forma calculation
- “Freebie” basket has a percentage of total assets or EBITDA grower
- Impact of leveraged lending guidance
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