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# Tax Equity Structures and Solutions for Today's Renewable Projects

July 19 - 20, 2022 | Akin Gump Strauss Hauer & Feld LLP Offices | New York, NY

Tuesday, July 19, 2022

8:00 – 8:50 am	<i>Registration and Networking Breakfast</i>
8:50 – 8:55 am	Welcome Remarks by Infocast
8:55 – 9:00 am	<p><b>Introduction and Opening Remarks by Lead Instructor</b></p> <p><b>Shariff Barakat</b>, <i>Partner</i>, AKIN GUMP STRAUSS HAUER &amp; FELD LLP</p>
9:00 - 9:45 am	<p><b>Session 1: Understanding Federal Tax Incentives and the Situation Now</b></p> <p>Structuring the tax equity portion of renewable project financings to attract investors and optimize the economic benefits to the project has always been a difficult task, but that has been compounded over the last couple of years. This session will review:</p> <ul style="list-style-type: none"> <li>• Who can be a tax equity investor?</li> <li>• What tax incentives are available for renewables projects now?</li> <li>• What might be the implications on tax equity and renewable energy project finance from the Build Back Better Act?</li> <li>• How might a decade-long extensions and expansions of the ITC and PTC impact Tax Equity deals and the industry overall?</li> <li>• How has the ongoing COVID-19 crisis affected the rules of the road?</li> <li>• How are supply chain and workforce issues impacting renewable energy finance?</li> <li>• What's in store for 2022?</li> </ul> <p><b>Shariff Barakat</b>, <i>Partner</i>, AKIN GUMP STRAUSS HAUER &amp; FELD LLP <b>Jeff Cohen</b>, <i>Senior Counsel</i>, AKIN GUMP STRAUSS HAUER &amp; FELD LLP</p>
9:45 - 10:45 am	<p><b>Session 2: Partnership Rules and a Focus on Capital Accounts</b></p> <p>This session will take a deep dive into partnership and LLC tax issues, and how they are incorporated into legal structures for renewable projects. Issues addressed include:</p> <ul style="list-style-type: none"> <li>• What do you need to know about capital accounts?</li> <li>• Inventory Account of Electricity, Allocation of Tax Credits and Capital Account Profiles of Wind, Solar Yield and Solar Time flip structures</li> <li>• Leases, loans and service contracts: how do you determine ownership for tax purposes?</li> <li>• How can you better understand more complex partnership issues?</li> <li>• What do you need to know to assess economic substance and its implications for tax equity structures?</li> <li>• How does debt fit into the equation?</li> </ul> <p><b>Shariff Barakat</b>, <i>Partner</i>, AKIN GUMP STRAUSS HAUER &amp; FELD LLP <b>Jeff Cohen</b>, <i>Senior Counsel</i>, AKIN GUMP STRAUSS HAUER &amp; FELD LLP</p>
10:45-11:00 am	<i>Morning Break</i>

11:00 -12:00 pm

**Session 3: Understanding and Implementing Capital Structures for Renewables Partnership Flip**  
Partnership flip structures and transactions are both widely used and among the most difficult to craft in the project finance world. This session will discuss the three main types of partnership flip structures, how to tailor these structures to meet the needs of investors while optimizing the economic benefits to projects. Practical implementation of key concepts will be illustrated through walk throughs for both wind and solar projects.

- Typical flip structures: what are they and what do they look like for wind and solar projects?
- Walk Through of example structures and economics
- Exit strategies: how do you form them and what do they look like?

**Shariff Barakat, Partner, AKIN GUMP STRAUSS HAUER & FELD LLP**

**Jeff Cohen, Senior Counsel, AKIN GUMP STRAUSS HAUER & FELD LLP**

12:00 – 1:00 pm

**Session 4: Walkthrough of Partnership Flip Models**

This session will walk through some partnership flip models to illustrate how the concepts in the sessions above are applied in financial projections.

**Shariff Barakat, Partner, AKIN GUMP STRAUSS HAUER & FELD LLP**

**Jeff Cohen, Senior Counsel, AKIN GUMP STRAUSS HAUER & FELD LLP**

1:00 -2:00 pm

*Lunch Break*

2:00 - 3:00 pm

**Session 5: Understanding and Implementing Capital Structures for Renewables Inverted Lease**  
The inverted lease or lease pass-through is a unique structure that is being increasingly used in solar and other project financings. This session will explore its usage, and work through developing these structures through detailed walk throughs.

Issues addressed include:

- What are the advantages and disadvantages of inverted lease structures?
- Walk Through Rev. Proc. 2014-12
- What are the risks in inverted lease structures?

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**Jeff Cohen, Senior Counsel, AKIN GUMP STRAUSS HAUER & FELD LLP**

3:00 – 3:15 pm

*Afternoon Break*

3:15 - 4:15 pm

**Session 6: Tax Equity Documentation**

This session will familiarize attendees with the primary legal documents, technical reports and other deliverables involved in a tax equity transaction. This will enable deal participants to know where to look for and quickly identify if desired contractual items are included.

- Understanding what the key documents are for tax equity transactions and their key elements:
  - ECCA (equity capital contribution agreement)
  - LLCA (limited liability company agreement)
  - Sponsor guarantee
- Where to look for specific funding conditions, indemnities, and transaction details:
  - Equity contract
  - Project representations
  - Flip mechanics
  - Transfer mechanics

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**Jeff Cohen**, *Senior Counsel*, AKIN GUMP STRAUSS HAUER & FELD LLP

4:15 – 4:45 pm

Session 7: **Day 1 Wrap-up**

This session will serve as dedicated time to discuss the day's most intense topics.

**Shariff Barakat**, *Partner*, AKIN GUMP STRAUSS HAUER & FELD LLP  
**Jeff Cohen**, *Senior Counsel*, AKIN GUMP STRAUSS HAUER & FELD LLP

4:45 pm

*Day 1 Concludes*

Wednesday, July 20, 2022

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8:00 – 8:30 am

*Networking Breakfast*

8:30-9:15 am

Session 8: **Appraisals for Projects that Generate ITCs**

This session will help attendees understand how tax insurance can be used to enhance the bankability of a project, attract tax equity and firm up balance sheets, and this session will also provide a deep dive into appraisal and tax basis risk, including:

- Why do appraisals matter for tax equity? What is “tax basis” risk?
- What do the recent court cases mean for deal structures today and in the future?

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9:15-10:15 am

Session 9: **Understanding “Begun Construction” and an Update on Safe Harbor Rules and Strategies**

Given the stakes involved, getting one's safe harbor strategy right and making sure it is executed well is critical. This session will look at what safe harbor strategies are being adopted and how they are being operationalized. It will address such questions as:

- Understanding the 5 percent safe harbor standard
- What are the leading strategies?
- On-site and off-site physical work including transformer strategies
- What are the risks associated with these strategies?
- What are the long-term risks?
- What are the constraints in execution?
- What are the trends in Treasury/IRS regulation?
- Update on continued delays caused by the repercussions of COVID-19

**Shariff Barakat**, *Partner*, AKIN GUMP STRAUSS HAUER & FELD LLP  
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10:15-10:30 am

Morning Break

10:30 – 11:30

Session 10: **Hybrid Projects: Handling Tax and Structuring Issues with Solar + Storage Projects**

Adding storage to solar or other renewable energy projects significantly increases the complexity of incorporating tax equity investment in financing structures. This session will explore some of the factors that should be considered, including:

- How does storage with solar qualify for the ITC?
- How will the charging source affect capture of ITC benefits?

- How might a direct-pay option and/or a standalone Storage ITC change tax equity investment and availability for hybrid projects?
- What are the advantages of DC-coupled vs. AC-coupled inverter technologies?
- What is the potential for tapping different sources of tax equity for solar vs. storage project components?

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11:30 – 12:00

Session 11: **Master Class Wrap up**

Instructors will recap key points from both days of the program and open the floor for an interactive discussion to answer attendees' most pressing questions.

**Shariff Barakat**, *Partner*, AKIN GUMP STRAUSS HAUER & FELD LLP

**Jeff Cohen**, *Senior Counsel*, AKIN GUMP STRAUSS HAUER & FELD LLP

12:00 pm

*Master Class Concludes*

12:00 -1:00 pm

*Transition to Hedging Master Class*