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Financing GPUs and Data Center Equipment in Canada: A Practical Guide for US Equipment Finance Companies

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The AI boom is creating unprecedented demand for GPUs, servers, power systems, cooling infrastructure, and other data center assets in Canada. As highlighted in the Equipment Lease & Finance Association's (ELFA) recent article, as part of the data center "gold rush", equipment finance has become a critical part of the capital stack supporting data center development, with lenders increasingly financing GPU-backed infrastructure and related technology assets. Canada's cooler environment, expansive geography and access to abundant water and electricity in certain provinces, make the country a desirable location to build data centers.

For US equipment finance companies, Canada presents an attractive opportunity as the relevant legal framework is substantially similar to the US personal property security legislation. In fact, the various provincial Personal Property Security Acts (PPSA) are modeled on *Uniform Commercial Code* (UCC) Article 9. Many concepts such as Purchase Money Security Interests (PMSI), defined priority rules and asset recovery broadly follow the UCC concepts.

As there are typically no withholding taxes from a Canadian obligor to a US finance company on cross-border loans (except under unusual circumstances), equipment finance companies without a presence in Canada can enter into equipment finance loan arrangements to finance GPUs and other data center equipment utilizing their domestic agreements, with few changes to reflect the cross-border nature of the transaction. US finance companies that have a Canadian presence can also enter into lease structures, provided that the leases are in the name of the Canadian entity. Notwithstanding the similarities in legal regimes, there are nuances and key issues to consider.

Key Issues to Consider

1. Protect Your PMSI Position

Where possible, lenders should structure transactions to obtain PMSI priority. Given the significant value of GPU and AI infrastructure assets, super-priority can be critical where borrowers already have existing secured lenders.

As in the United States, timing matters. Canadian PPSA regimes require careful attention to registration and notice requirements in order to preserve PMSI priority. Particular care should be taken where financed assets are integrated into a broader technology stack, acquired through resellers or deployed across multiple facilities. Further, if the GPUs are subject to customer contracts that may be more akin to a lease, consideration should be given to whether the GPUs are inventory in the hands of the borrower, as opposed to equipment, which require specific PMSI considerations.

Where PMSI protection may not be available, lenders should consider obtaining waivers, priority agreements, acknowledgements from senior lenders or intercreditor arrangements early in the transaction process. In large-scale data center projects involving construction financing, project-level debt and equipment financing, documenting priority arrangements upfront can avoid costly disputes later.

2. Landlord and Access Agreements Matter

Many financed assets are housed in leased facilities or third-party data centers. A PPSA registration is only part of the solution.

Lenders should also consider obtaining landlord waivers, mortgagee waivers and access agreements to ensure they can enter the facility, inspect collateral and remove equipment following a default. In practice, access to the equipment may be just as important as having a perfected security interest.

From an enforcement perspective, a lender's remedies can be significantly impaired if access to a facility is restricted. For GPU clusters and server assets, delays in obtaining access can have a material impact on collateral value, particularly given the pace at which AI hardware evolves. Accordingly, lenders should understand not only where the equipment is located, but also who controls access to the premises and what consents may be required to remove assets.

3. Review Colocation Agreements Carefully

Where equipment is located in a colocation facility, lenders should carefully review the colocation agreement and related site arrangements.

Key considerations include:

- Assignment and transfer restrictions.
- Access rights following a borrower default.
- Equipment identification and segregation.
- Service dependencies, including power, cooling and connectivity.
- The ability of a secured lender or receiver to assume customer rights under the agreement.

4. Consider Fixture Risks

Certain assets, such as generators, cooling systems and electrical infrastructure, may become fixtures depending on how they are installed and integrated into the facility.

Lenders should evaluate whether fixture filings or additional protections are appropriate to preserve priority and enforcement rights. While GPU servers are typically personal property, support infrastructure often presents more complex characterization issues. The earlier these issues are addressed, the easier it will be to enforce against the assets if the project encounters financial difficulties.

Canada Is Generally a Creditor-Friendly Enforcement Jurisdiction

The insolvency of a debtor can unfold in a variety of different manners, all of which have similarities to US law and practice. Canada has similar creditor enforcement strategies that exist under Article 9 of the UCC under Part 5 of the PPSA (for all provinces except Quebec). Like Article 9 enforcement, the process is generally predictable and efficient.

Subject to statutory notice requirements, secured creditors can often seize, dispose of and realize upon collateral without first obtaining a court order. Unlike some jurisdictions where enforcement is heavily court-driven, Canadian secured lending remedies frequently allow lenders to proceed on a relatively streamlined basis provided the applicable notice periods and commercially reasonable disposition requirements are satisfied.

For technology assets such as GPUs and servers, where values can change rapidly as technology evolves, the ability to act quickly can be a significant advantage. However, for larger or more complex insolvencies, debtors tend to seek protection under insolvency statutes which are briefly outlined below.

As insolvency legislation is complex and ever evolving, it is not possible to set out a fulsome description of such legislation other than to briefly describe an overview.

Debtors can seek protection in Canada under the *Companies' Creditors Arrangement Act* (CCAA) and the *Bankruptcy and Insolvency Act* (BIA). At first glance, these statutes can appear similar to Chapter 11 proceedings in the US.

In a CCAA restructuring, a court will often impose an initial stay of proceedings while the debtor attempts to develop a restructuring plan. During that period, secured creditors may be temporarily restricted from exercising remedies without court authorization. Importantly, however, secured creditors remain central stakeholders, and restructuring efforts are typically focused on preserving going-concern value for the benefit of all constituents, including secured lenders. These proceedings tend to be faster than their Chapter 11 counterparts but are much less rules based.

Under the BIA, secured creditors similarly face statutory limits once certain insolvency proceedings commence. Nevertheless, the legislation expressly contemplates secured creditor enforcement, including the appointment of receivers and receiver-managers in appropriate circumstances.

From an equipment finance perspective, if the debtor does not seek protection, then receiverships are often an effective remedy. A court-appointed receiver can take control of the business and assets, preserve operations, market collateral and conduct a sale process. In the context of an operating data center, this can be particularly valuable because maintaining power, cooling and connectivity may preserve collateral value while buyers are identified.

Lenders should also recognize that Canadian courts generally take a practical and commercially minded approach to insolvency proceedings. Where there is no realistic restructuring path, courts frequently permit secured creditors to pursue realization strategies designed to maximize value. As a result, Canada remains widely regarded as a stable and creditor-friendly jurisdiction for equipment finance transactions, particularly when security has been properly documented and perfected.

The Bottom Line

Canada's data center market offers US equipment finance companies a compelling opportunity to participate in the AI-driven infrastructure boom. The legal framework is largely familiar, the PPSA closely resembles UCC concepts, and enforcement regimes are well established. Success, however, depends on getting the basics right: PMSI protection, landlord and access agreements, careful review of colocation arrangements, and a practical enforcement strategy.

For lenders seeking exposure to one of the fastest-growing equipment classes in North America, Canada remains a market where equipment finance-led strategies can help accelerate data center development while delivering attractive financing opportunities.
