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Rights Offerings in Bankruptcy: Negotiating and Executing New Equity Financing, Overcoming Creditor Challenges

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1pm Eastern | 12pm Central | 11am Mountain | 10am Pacific

Today's faculty features:

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Rights Offerings in Chapter 11

Strafford Webinar

February 5, 2020

Presented by:
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1 Overview of Rights Offerings

Rights Offerings Trends in Chapter 11

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- Rights offerings continue to be a popular tool in chapter 11 cases.
- Investors have injected almost $9.5 billion through rights offerings between 2016 and 2019, in addition to more than $2 billion of add-on private placement direct investments.
  - The oil & gas sector is responsible for than half of the aggregate capital raised through rights offerings.
- Between 2016 and 2019, debtors in 39 chapter 11 cases completed rights offerings.
- Unsecured noteholders are the most common class of creditor to participate in rights offerings. Secured creditors and prepetition equity holders sometimes participate as well.
- Rights offerings for majority stakes in the reorganized debtor are not the norm, but do occur.

* Data from Debtwire Restructuring Database. Dates determined according to plan effective date. Plan value data not available for all cases.

Rights Offerings Trends (2016-2019)

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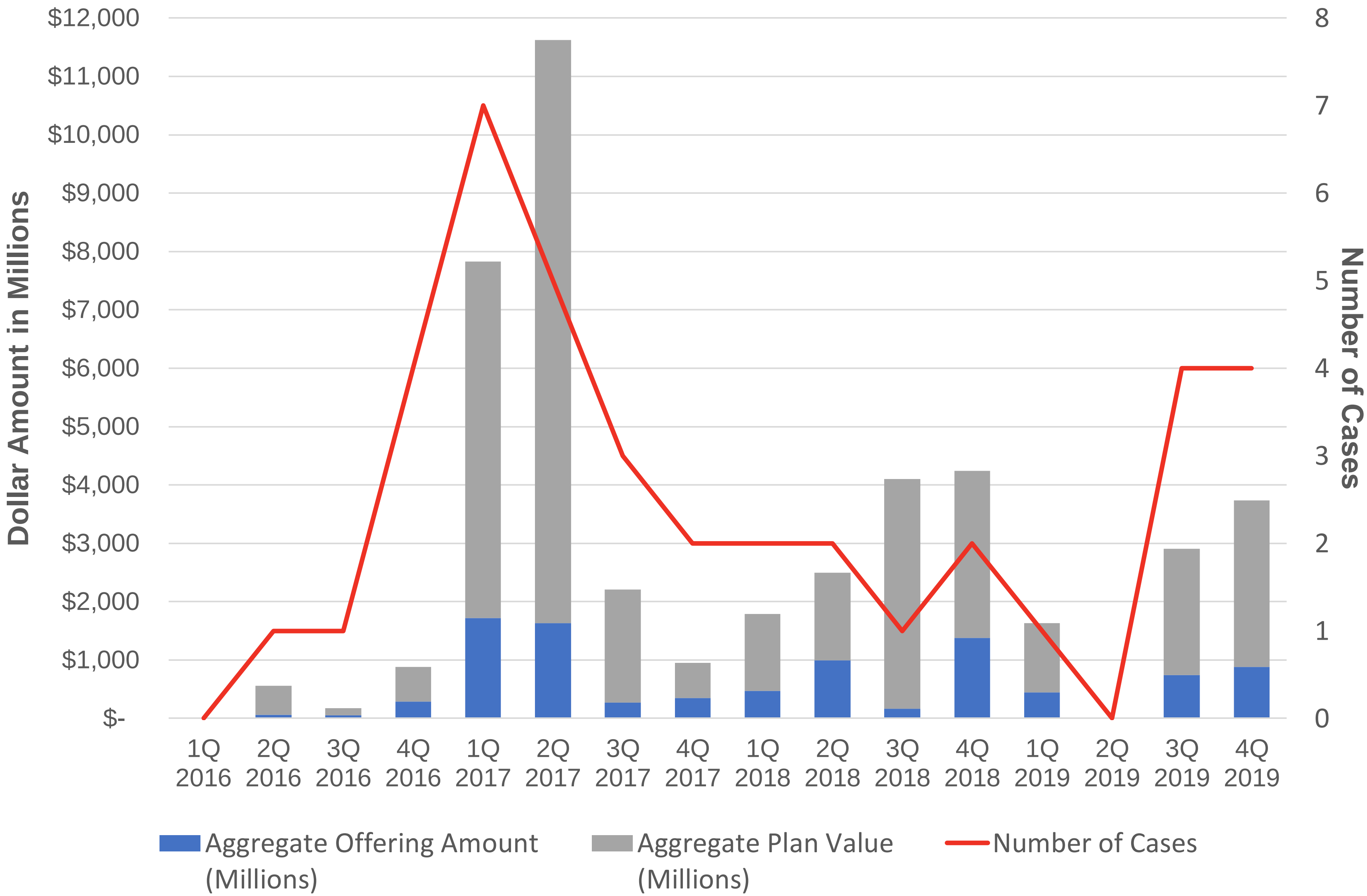

* Data from Debtwire Restructuring Database. Dates determined according to plan effective date. Plan value data not available for all cases.

Rights Offerings: Company Perspective

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Companies use rights offerings to:

- Fund emergence costs, plan distributions, and provide post-emergence liquidity — exit financing
- Ensure a right-sized post-emergence capital structure
- Ensure plan confirmability
  - Achieve consensus and secure an impaired consenting class of creditors under section 1129(a)(10)
  - Satisfy plan feasibility requirement under section 1129(a)(11)

Rights Offering: Creditor Perspective

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Creditors view rights offerings as a(n):

- Opportunity to purchase new equity or debt securities at a discount to plan value in a de-leveraged capital structure
  - Typically, the discount to plan value ranges between 10 percent and 25 percent, with the median discount being approximately 25 percent.[1]
- Means for junior constituents to "put their money where their mouth is" and possibly become "fulcrum” security; however, failure to raise capital can result in a negative market determination
- Vehicle to increase creditor recoveries
- Ability to shape post-emergence corporate governance matters
- Backstop opportunity — can be used to shift recoveries to those willing to backstop

[1] Data from Debtwire Restructuring Database. Dates determined according to plan effective date.

Discounts to Plan Value (2016-2019)

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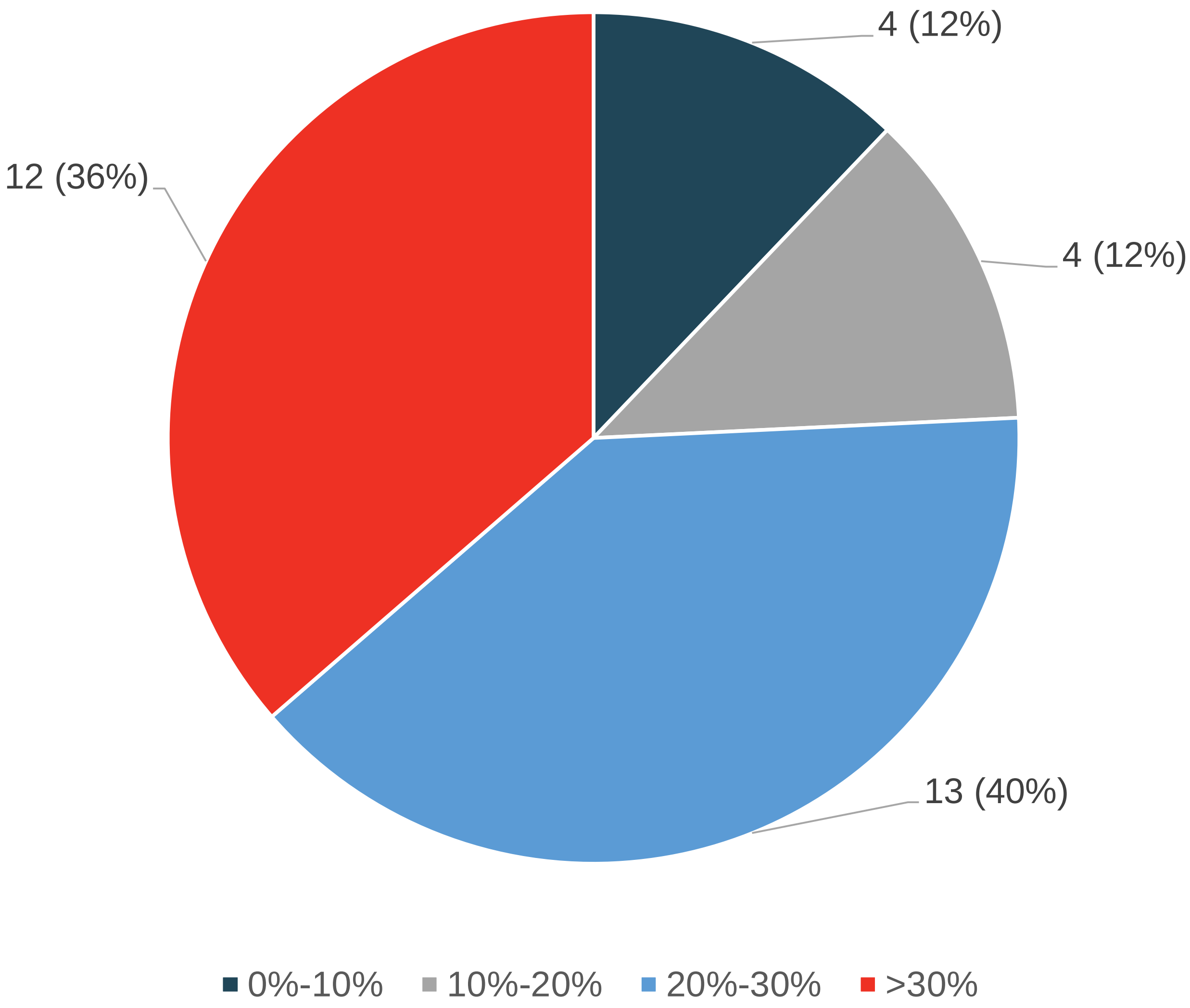

* Data from Debtwire Restructuring Database. Dates determined according to plan effective date. Includes only rights offerings in which plan value data was available and in which equity securities or securities convertible into equity were offered.

Rights Offering Structure

- In a rights offering, a class of creditors (or equity holders) receives the right to purchase securities through a chapter 11 plan.
  - Commonly, the offering is of equity securities but can be debt, and in some cases may be securities in a non-debtor entity owned by the debtor.
- To complement a rights offering, debtors may use private placements, which involve the direct issuance of securities to certain creditors (typically, a subset of a class or an ad hoc group) who have already agreed to participate prior to the placement.
- Rights offerings are nearly always accompanied by a backstop agreement (often in the form of an equity commitment or securities purchase agreement that includes a commitment fee) under which a subset of the rights offering participants commits to fund the rights offering if not fully subscribed.
- Plan support agreements from backstoppers are another common feature.

Rights Offering Approval

- Rights offering procedures and the accompanying documents (backstop agreements, plan support agreements, etc.) are typically approved at the disclosure statement hearing, i.e., when the debtor receives approval to solicit plan votes.
- Generally, approval of these documents is pursuant to Bankruptcy Code section 363 and subject to the business judgment rule.
- Rights offering procedures set forth ground rules for:
  - Who is eligible to participate and their respective subscription allocations
  - How and when to make eligibility certifications and participation elections; length of subscription period
  - Over-subscriptions, under-subscriptions, and transferability restrictions
  - Funding and escrowing of securities purchase
  - Setting of record date (coordination between depositary trust company and solicitation agent)

Backstop Consideration

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- Pursuant to a backstop agreement, backstop parties commit to purchase a certain amount of securities offered under the plan (may be on a joint or several basis).
- These parties may receive minimum allocations and/or direct-purchase rights in a private placement as consideration for committing to backstop the rights offering.
- Backstop parties typically negotiate a package of additional consideration, which may be paid in the form of stock or cash.
  - Backstop/commitment fees typically include: (a) a flat fee payable in cash or securities; (b) a percentage of subscription rights; or (c) a direct allocation of equity. In recent deals, backstop fees typically range between 3 and 9 percent of the total rights offering, with fees averaging approximately 6 percent.
  - Breakup fees may be payable if the debtor chooses to partner with a different group of backstop parties and are paid upon execution or consummation of an alternative transaction. Breakup fees typically fall between 3 and 5 percent of the total rights offering and are additive with other fees.
  - Backstoppers generally also receive expense reimbursement.

Backstop Consideration (2016-2019)

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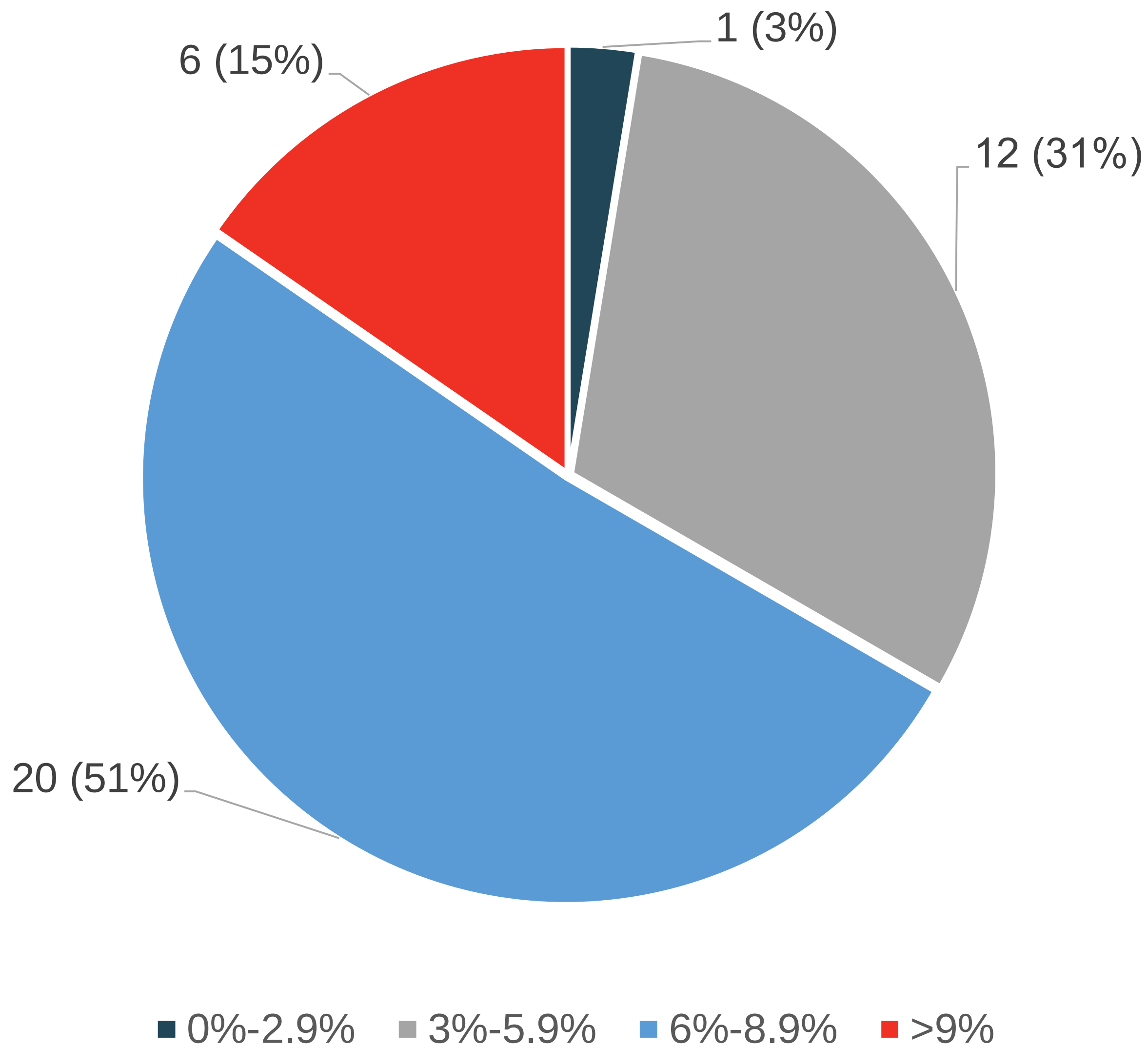

* Data from Debtwire Restructuring Database. Dates determined according to plan effective date. Backstop data not available for all cases.

Backstop Protection and Challenges

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- Backstop parties may negotiate other protections, including:
  - Restrictions on the debtor’s business operations prior to the consummation of the rights offering
  - Conditions precedent to consummation of the rights offering, including representations and warranties and other conditions that may have heavily negotiated “material adverse event” qualifiers
  - Shelf registration requirements
  - Transferability restrictions for other rights offering participants
  - Limited restrictions on debtors’ solicitation of alternative proposals
- Challenges to backstop agreements typically arise at the disclosure statement hearing, when backstop protections are locked in.
  - While approval is a business judgment inquiry, courts will focus on timing, fee triggers, marketing process, and the burden on the estate versus having a “bird in the hand”.
  - Backstop agreements must balance the tension between the backstop parties’ funding commitments, the parties’ walkaway rights (conditionality), and the debtor’s representations and warranties.
  - To justify the breakup fee, debtors cannot be prevented from considering higher or better proposals.

2 Registration Exemptions

Section 1145 Registration Exemption

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- Companies typically seek to avail themselves of securities registration exemptions to minimize the cost and delay associated with a registered rights offering or private placement.
- Section 1145(a)(1) of the Bankruptcy Code permits the offer or sale of unregistered securities where the offer or sale is either:
  - in exchange for a party's claim or equity interest; or
  - **"principally" in exchange for a party's claim or equity interest and "partly" for cash or property**

Section 1145 Limitations

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- The "principally/partly" requirement limits the amount of cash that can be raised in a rights offering using the section 1145(a)(1) exemption.
  - SEC no-action letters suggest that that the "principally/partly" requirement is met when the cash purchase price is no more than 75% of the value of the underlying claim. *See* Bennett Petroleum Corporation, SEC No-Action Letter, 1983 WL 28907 (Dec. 27, 1983); Jet Florida System, Inc., SEC No-Action Letter, 1987 WL 107448 (Jan. 12, 1987).
  - This means that a rights offering that raises more than $75 million in cash in exchange for $100 million worth of claims may not qualify for the section 1145(a)(1) exemption.
  - This test is applied using the economic value of the claim (rather than the face value), which may be determined by value of the plan distribution to a class.
- Section 1145(b)(1) does not permit the offer or sale of unregistered securities to "underwriters".
- An "underwriter" is a party that:
  - Purchases a claim against, or an interest in, the debtor for the purpose of distributing the securities received
  - Offers to sell securities offered or sold under the plan for the holders of these securities
  - Offers to buy the securities with the intent to distribute them under an agreement made in connection with the plan
  - Is an "issuer" for the purposes of section 2(a)(11) of the Securities Act

Section 4(a)(2) Registration Exemption

- Section 4(a)(2) of the Securities Act provides a registration exemption for “transactions by an issuer not involving any public offering” but is limited to the issuance of securities to:
  - Accredited investors (including qualified institutional buyers or “QIBs”)
    - An “accredited investor” includes a litany of sophisticated parties including, among others, the issuer, its directors and executive officers, banks, registered brokers or dealers, insurance companies, registered investment companies, corporations with total assets in excess of $5,000,000, and natural persons with net worth in excess of $1,000,000 or individual income in excess of $200,000 (or $300,000 combined with one’s spouse) for the previous two years.
    - “QIBs” include several types of entities that own and invest on a discretionary basis at least $100 million in securities issued by non-affiliates.
  - Up to 35 non-accredited investors who, either alone or with their purchasing representatives, meet a legal standard for “knowledge and experience in financial and business matters”

Section 4(a)(2) Limitations

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- Retail investors generally do not qualify as accredited investors for the purposes of the section 4(a)(2) exemption.
  - Debtors may have to develop alternate treatment for retail holders to avoid unequal treatment arguments.
- Securities issued under section 4(a)(2) are "restricted securities" subject to transferability restrictions and will contain a legend describing such restrictions.
- Transferability restrictions on securities purchased in a section 4(a)(2) rights offering may be handled with a shelf registration post-closing obligation.
- A shelf registration effectively pre-registers securities for sale after chapter 11 emergence.
- Debtors may use both the section 1145 exemption and section 4(a)(2) exemption in tandem.

3 Case Studies

Themes in Rights Offering Objections

- **Excessive backstop consideration.** Consideration offered to backstop parties must be an exercise of the debtors' business judgment (at the disclosure statement stage) and must not violate Bankruptcy Code section 1129 requirements (at the confirmation stage).
- **Unequal treatment.** Section 1123(a)(4) of the Bankruptcy Code requires that a plan must "provide the same treatment for each claim or interest of a particular class, unless the holder of a particular claim or interest agrees to a less favorable treatment of such claim or interest."
- **Bad faith / vote buying.** To comply with section 1129(a)(3) of the Bankruptcy Code, a plan must be proposed in good faith and not by any means forbidden by the law. Votes not obtained in good faith could be designated (i.e., not counted) upon motion.
- **Unfair participation restrictions.** Parties excluded from participation in a rights offering or private placement may seek the right to participate in the equity issuance or demand equivalent economic value.

In re Peabody Energy
Case No. 16-42529 (BSS)
(E.D. Mo.)

Peabody Energy Transaction Structure

- After mediation resolving a prepetition creditor dispute, Peabody Energy Corp. proposed to raise $1.5 billion from certain unsecured noteholders and second-lien noteholders (the "Noteholders") through a:
  - $750 million rights offering of new common stock (45% discount to plan value) and
  - $750 million private placement of new preferred stock (35% discount to plan value).
- To participate in the private placement, a qualifying creditor needed to (1) make commitments under a private placement agreement; (2) agree to backstop the rights offering; and (3) sign a plan support agreement.
- Backstop parties received a commitment premium equal to 8% of the rights offering ($60 million) and a "ticking premium" worth 2.5% of the rights offering ($18.75 million), each payable in common stock upon closing.
- In the first phase of the private placement, noteholders who participated in the mediation (the "Noteholder Co-Proponents") received the exclusive right to purchase 22.5% of the preferred equity after signing the relevant agreements (prior to their filing with the Court).
- Second, after the agreements were filed, the broader group of qualifying creditors was given a three-day window to sign the relevant agreements to participate in 5% of the private placement.
- Third, the remaining eligible creditors could elect to participate following the bankruptcy court's approval of the relevant agreements to participate in the final 72.5% of the private placement.

Creditor Challenges in *Peabody Energy*

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- At the backstop approval hearing, an ad hoc group of noteholders representing approximately 3% of the debtors' funded debt (the "Ad Hoc Group") who elected not to participate in the initial mediation and private placement argued that:
  - The valuations underlying the debtors' private placement and rights offering were flawed, resulting in excess value being shifted to creditors who initially agreed to participate the private placement;
  - The commitment fee for backstop parties was too high; and
  - The participation structure of the private placement was coercive and constituted premature plan solicitation.
- The bankruptcy court rejected these arguments, stating that it would "[l]et the creditor body vote and tell me that the expenses are too high, the valuation is not right … we didn't solicit the market for the best price for the loans, et cetera."
  - Court noted that, by approving the relevant agreements at the disclosure statement stage, it was not making a decision on plan confirmation requirements.
- The debtors rejected an alternative rights offering proposal from the Ad Hoc Group because (a) the proposal could not accomplish the debtors' restructuring goals and (b) it could not be pursued without imposing significant costs on the estates.

Peabody Confirmation: Lower Court Rulings

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- At confirmation, the Ad Hoc Group argued that (a) the private placement treated creditors within the same class unequally, violating section 1123(a)(4); and (b) the plan was proposed in bad faith.
- The bankruptcy court confirmed the debtors' plan over the Ad Hoc Group's objection, holding that:
  - The backstop consideration was given for valuable commitments by the Noteholder Co-Proponents and was not treatment on account of their prepetition claims; and
  - The discounts and consideration offered under the private placement were not evidence of bad faith; nor was the process by which the debtors sought participation.
- The district court affirmed the bankruptcy court's rulings and dismissed the Ad Hoc Group's appeal as equitably moot, as the plan had been substantially consummated.

Peabody Eighth Circuit Ruling

- The Ad Hoc Group appealed to the Eighth Circuit, arguing that: (a) the private placement constituted a violation of 1123(a)(4); and (b) the plan was not proposed in good faith.
- The Eighth Circuit affirmed the lower courts' substantive rulings (declining to rule on mootness), making it the first circuit court to rule on the subject. *In re Peabody Energy Corp.*, 933 F.3d 918 (8th Cir. 2019).
- The Court specifically distinguished the Supreme Court's holding in *Bank of America National Trust & Savings Ass'n v. 203 North LaSalle Street Partnership*, 526 U.S. 434, 119 S.Ct. 1411, 143 L.Ed.2d 607 (1999), noting that:
  - The Ad Hoc Group had the opportunity to participate in the mediation but declined to do so;
  - The Initial Support Noteholders gave the debtors meaningful value in exchange for backstop consideration; and
  - The debtors had considered and, in their business judgment, rejected alternative proposals.
- **The Court found no violation of section 1123(a)(4); consideration for backstop not treatment for the Noteholder Co-Proponents' claims. Consideration was for valuable new commitments in the form plan support and backstopping the rights offering.**
- The Court also remarked that the consideration offered under the private placement aided the debtors in attaining "tremendous consensus" around the plan, which had the support of 95% of unsecured creditors.
- While the Eighth Circuit noted that it was "somewhat sympathetic" to the Ad Hoc Group's argument that the debtors used a coercive process to garner plan support, it was convinced that the debtors' process was driven by the need to close a transaction quickly.

In re SunEdison, Inc. Case No. 16-10992 (SMB) (Bankr. S.D.N.Y.)

The *SunEdison* Rights Offering

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- Following a successful multi-party mediation, SunEdison sought to raise up to $225 million through a rights offering of new common stock and new Class A shares of non-debtor yieldco subsidiary TerraForm Power (TERP) at a 2.4% discount to plan value.
- Participation in the rights offering was available to (a) second lien creditors whose debt was not rolled up in the debtors' debtor-in-possession financing (90% of the offering) and (b) general unsecured creditors (10% of the offering).
- The rights offering was accompanied by a backstop commitment from supporting lenders holding 68% of the non-rolled-up second-lien debt, who would also have the opportunity to buy up to an additional $75 million in reorganized SunEdison common stock and TERP Class A shares.
  - These lenders had executed non-disclosure agreements with the debtors and were subject to trading restrictions.
- Backstop consideration included:
  - A put premium of 7% of the total equity commitment, payable in common stock in the reorganized debtor and TERP upon consummation of the rights offering;
  - A graduated breakup fee equal to 3% of the total equity commitment ($9 million), which under certain circumstances would be reduced to 1.5% ($4.5 million); and
  - Expense reimbursement.

Equity Commitment Agreement Hearing

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- A holder of convertible notes and certain non-participating second-lien lenders (the “Objecting Parties”) objected to the proposed rights offering and backstop agreement at the disclosure statement stage.
- They argued that:
  - Consideration offered to the backstop parties constituted vote-buying; and
  - Debtors must consider a competing backstop proposal from the Objecting Parties allegedly offering better recoveries to unsecured creditors.
- The bankruptcy court overruled the objections and approved the rights offering procedures and backstop agreement, holding that the debtors exercised business judgment in entering the equity commitment agreement.
  - Breakup free obligation reasonable in light of equity commitment agreement’s benefits as an “insurance” policy (execution risk vs. bird-in-hand)
  - Commitment fee payable in stock, preserving liquidity
  - Debtors free to negotiate a better deal
  - Relied on testimony from CEO and investment banker regarding marketing and valuation efforts
  - 1123(a)(4) unequal treatment and vote-buying questions left for confirmation
- Objecting second-lien lenders were subsequently permitted to participate as backstop parties.

Confirmation Ruling

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- At confirmation, the convertible noteholder again objected, arguing that the plan failed the 1129(a)(3) "good faith" requirement because the backstop consideration constituted vote-buying.
- The Bankruptcy Court confirmed the debtors' plan (and the settlements integrated therein) over the convertible noteholder's objections.
  - Rejected the vote-buying argument, noting that "the entire purpose of Chapter 11 is to foster negotiation, resulting in a plan that everyone will support"
  - Backstop purchasers were receiving a benefit for their commitment to backstop the rights offering, undercutting the notion that the backstop parties were being "bribed" to vote a certain way and that the backstop consideration was on account of the backstoppers' claims
  - Convertible noteholder's real complaint was that they were not the chosen backstop parties; "[t]he debtors are free to offer to anyone on a preferential basis, the opportunity to provide exit financing"
- The Court noted the importance of the rights offering within the context of a global settlement that garnered significant consensus (including 81% of unsecured claims in amount; 77% in number), allowing for the debtors' restructuring to proceed.

In re Pacific Drilling S.A.
Case No. 17-13193 (MEW) (Bankr. S.D.N.Y.)

If at First You Don’t Succeed…

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- Following a multiparty mediation, the debtors selected a plan construct proposed by an ad hoc group (the “Ad Hoc Group”) of undersecured creditors.
- Pursuant to this construct, the debtors would issue new equity at a 46.9% discount to plan value through a:
  - $400 million rights offering for holders of certain undersecured notes and prepetition term loan debt (the “Undersecured Claims”); and
  - $100 million private placement for the Ad Hoc Group.
- The rights offering would be backstopped by the Ad Hoc Group, in exchange for a backstop consideration package that included a(n):
  - Commitment fee equal to 8% of the total issuance (payable in new equity); and
  - Expense reimbursement and indemnification.
- The debtors’ majority shareholder, Quantum Pacific, proposed an alternative structure under which it would be able to participate in a private placement at a higher valuation. This proposal also included a 7% backstop fee.
- The bankruptcy court declined to allow Quantum Pacific to propose an alternative plan but ordered the parties to engage in further mediation.

…Try…

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- The debtors, the Ad Hoc Group, and Quantum Pacific later reached a global settlement that included a revised equity issuance consisting of a:
  - $350 million rights offering open to holders of the Undersecured Claims;
  - $100 million private placement for the Ad Hoc Group; and
  - $50 million private placement for Quantum Pacific.
- The backstop arrangement with the Ad Hoc Group did not change under the revised proposal.
- Judge Wiles refused to approve the debtors' proposed issuance and backstop agreement, describing the arrangement as a "plum opportunity for certain large creditors" whose support was needed for the plan.
  - Raised concerns that the private placement for the Ad Hoc Group was really a disguised mechanism for giving those creditors unequal treatment in violation of section 1123(a)(4), not a standalone financing arrangement
  - Suggested that the private placement was a way to buy off potential objectors to the debtors' plan
  - Disapproved of the commitment fee, commenting that it seemed disproportionate and unnecessary in light of the discount to plan value offered in the private placement

…Try Again.

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- The debtors proposed a revised equity issuance composed of a:
  - $460 million rights offering open to holders of Undersecured Claims; and
  - $40 million private placement for Quantum Pacific.
- The commitment fee was reduced to the sum of:
  - 8% of the uncommitted portion of the rights offering; and
  - 5% of the remaining equity issuance (consisting of the Ad Hoc Group's pro rata share of the rights offering and the Quantum Pacific private placement).
- Judge Wiles again expressed skepticism:
  - Expressed concern that the evidence of risk/volatility of oil prices was not consistent with the 46.9% discount
  - Questioned application of business judgment standard to fees payable in stock since the real impact is on the creditors who are diluted
  - Noted the danger of large creditors getting together to divide up value without regard to smaller creditors
- Judge Wiles nonetheless approved the new equity issuance construct, remarking that it had broad creditor support and faced no objections.

In re Washington Mutual, Inc.
Case No. 08-12229 (MFW)
(Bankr. D. Del.)

and

In re Gulfmark Offshore, Inc.
Case No. 17-11125 (KG)
(Bankr. D. Del.)

Participation Rights in *Washington Mutual*

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- In *In re Washington Mutual, Inc.*, the debtors sought to raise $100 million through a rights offering restricted to parties holding claims in excess of a $2 million minimum claim value threshold.
- A creditor whose claim fell below the minimum threshold objected, arguing that he was deprived of the valuable right to participate in the rights offering in violation of section 1123(a)(4).
- The debtors argued that:
  - The restriction avoided the administrative burden of issuing stock to small holders; and
  - There is no unequal treatment because the offering was of no value, since the stock was not being offered for a discount.
- The Court disagreed with both of these arguments, holding that:
  - There is no administrative convenience exception to section 1123(a)(4); and
  - The subscription right was not valueless even if there was no discount to par, since the value of a subscription right includes the possibility that the security will appreciate in value. *In re Wash. Mut. Inc.*, 442 B.R. 314, 360-61 (Bankr. D. Del. 2011).
- The rights offering component was removed from the subsequently modified chapter 11 plan.

Participation Rights in *Gulfmark*

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- In *In re Gulfmark Offshore, Inc.,* the debtors, seeking to utilize the section 4(a)(2) exemption, proposed to limit participation in a $125 million rights offering to unsecured noteholders who were accredited institutional investors.
- In lieu of subscription rights, unsecured noteholders who were not accredited investors would receive a payment (in cash, common stock, or warrants) based on the size of their holdings.
- The compensatory payment of $69.41 per $1,000 of noteholder claims was calculated by multiplying (a) the number of shares allocated to each $1,000 of notes held (5.75) by (b) the per-share discount in the rights offering ($12.07 or 36.7%).
- Certain retail noteholders who were unable to participate in the rights offering filed an objection, arguing that the rights offering violated section 1123(a)(4), because creditors who were not accredited investors were unable to participate, and the size of the compensatory payment was not large enough.
- The Court found that the compensatory payment represented the value of the opportunity to participate in the rights offering, stating that "the key inquiry under section 1123(a)(4) is not whether all of the claimants in a class obtain the same thing but whether they have the same opportunity." Oct. 10, 2017 Hr'g. Tr. 74:12-22, *In re Gulfmark Offshore, Inc.*, No. 17-11125 (KG) (Bankr. D. Del.).

4 Takeaways

Takeaways

- **Consensus is king.** Even when they have misgivings about a transaction construct, bankruptcy courts have demonstrated a reluctance to undo the product of consensus-building exercises by the debtors and other key stakeholders in the restructuring process.
- **Outcomes matter.** In a similar vein, bankruptcy courts evaluate transactions within the context of the overall restructuring process and tend to avoid disrupting momentum towards a successful emergence from bankruptcy.
- **Process is substance.** Arm's-length negotiations and real marketing efforts support the economics of a transaction. A light record on the negotiations or marketing efforts may raise red flags.
- **Put your money where your mouth is.** Stakeholders making real financial commitments that facilitate the debtor's restructuring can set themselves up for a reward.
- **Free-rider issues.** Meanwhile, creditors who fail to take initiative in working with the debtor or refuse to get restricted to move the restructuring forward may get characterized as free-riders.

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Jim Mazza represents debtors, creditors, asset purchasers and private equity investors in corporate restructuring transactions, both in and out-of-court, involving clients' interests across the globe.

Mr. Mazza's experience extends to a wide variety of industries, including automotive, airlines, energy, financial services, health care, gaming, real estate and retail. He also regularly advises companies' management and boards of directors regarding fiduciary duty issues in financially distressed situations.

Mr. Mazza's representative clients include:

- TridentUSA Health Services, a nationwide mobile diagnostics health care provider, in:
  - its successful reorganization in Chapter 11 proceedings in the U.S. Bankruptcy Court for the Southern District of New York, which delevered the company's balance sheet by approximately $600 million. This matter was named Healthcare/Life Sciences Deal of the Year ($500MM or more) by The M&A Advisor; and
  - its $216 million out-of-court recapitalization;
- SunEdison, Inc., a renewable energy project developer, in its Chapter 11 case (the largest filed in 2016) and successful emergence from bankruptcy;
- Exide Technologies, a global transportation and industrial battery manufacturer, in its successful Chapter 11 restructuring of more than $600 million of debt;
- C&S Wholesale Grocers as the co-chair of the official committee of unsecured creditors in the second Chapter 11 case of the Great Atlantic and Pacific Tea Company (A&P), a grocery store chain;
- Unified Grocers as co-chair of the official committee of unsecured creditors in the Chapter 11 case of Haggen, Inc., a grocery store chain; and
- Dynegy Inc. in connection with certain corporate transactions.

Prior to joining Skadden in 2012, his major representative matters included handling major Chapter 11 cases for Visteon Corporation (auto supplier), A&P (grocer), Calpine Corporation (power producer) and UAL Corporation (parent of United Airlines).

In 2014, Mr. Mazza was recognized as one of the nation's "Outstanding Young Restructuring Lawyers" by *Turnaround and Workouts*, which annually recognizes 12 individuals nationwide under the age of 40 for their individual accomplishments in corporate restructuring.

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Chad Husnick is a partner in Kirkland & Ellis' Restructuring Practice Group. He represents debtors, creditors, equity holders, and other stakeholders in all aspects of corporate liability management, restructuring, bankruptcy, and insolvency proceedings.

Chad has represented clients in a variety of industries, including energy, retail, infrastructure, manufacturing, transportation and distribution, hospitality and gaming, real estate, automotive, and printing. He works closely with his clients to address issues proactively and efficiently. He regularly advises clients on corporate governance issues facing financially distressed companies, including liability management strategies, fiduciary duties, and executive compensation.

Chambers recognized Chad in the 2017–2019 editions of *Chambers USA, America's Leading Lawyers for Business,* noting that he is "one of the best tacticians and one of the most knowledgeable scholars when it comes to the law" and "one of the next generation of big hitters in the business." The American Bankruptcy Institute selected Chad for the 2018 edition of *ABI's* "Forty Under Forty–Emerging Leaders in Insolvency Practice," with interviewees observing that [w]hat is most impressive about Chad is his vision of how things can and will play out. He can think through the many different scenarios facing a company and apply the law, the process and (perhaps most importantly) the practical realities of the world to deliver sound strategic advice and thoughtful guidance for his clients." *Law360* selected Chad as one of five Bankruptcy "Rising Stars for 2018" in its list of top attorneys under 40. Chad also earned recognition in the 2017 edition of *Chicago Daily Law Bulletin* and *Chicago Lawyer*'s "40 Attorneys Under Forty," with interviewees describing him as "hard-working, smart, diligent and committed to achieving the best results for his clients." Chad was named a "Dealmaker of the Year – 2016" by *The American Lawyer* for his role in the $40+ billion restructuring of Energy Future Holdings Corporation and "Outstanding Young Restructuring Lawyer – 2017" by *Turnarounds and Workouts.*

Chad is a Lecturer in the Law at the University of Chicago Law School and a Contributing Author for *Collier on Bankruptcy*—the leading treatise on bankruptcy law.

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