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Claims Traders Beware: More Risk Than You Bargained For!

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Bankruptcy claims trading was once largely dominated by trade creditors hoping to receive some value for their claims against a company in bankruptcy. Over the past several years, however, the size, scope, and nature of the claims trading market has changed dramatically, as has the sophistication of market participants and the complexity of the underlying claims being traded. In many large bankruptcy cases, the small trade creditors have been joined by hedge funds and investment banks as unsecured creditors seeking to unlock liquidity with respect to swap, hedge, vendor, or structured financial product claims against large debtors such as Lehman Brothers and Enron. SecondMarket, a claims trading marketplace, has estimated $8 billion in claims traded in 2009 and $40 billion in claims traded in 2010, demonstrating a 400 percent increase in year over year growth in this asset class. Whether an investment fund looking for exposure to claims or a non-debtor counterparty looking for short term liquidity, parties must understand the potential risks of participation in this market.

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