

ALERTS

ABI Commission's Plan Process and Confirmation Recommendations: A Mixed Bag for Secured Creditors

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This *Alert* is one of a series published by Schulte Roth & Zabel that analyzes the report released on Dec. 8, 2014 by the American Bankruptcy Institute Commission to Study the Reform of Chapter 11 (“Commission”), which recommended numerous changes to Chapter 11 of the Bankruptcy Code. This *Alert* focuses on the Commission's proposed changes regarding the Chapter 11 reorganization plan process, plan confirmation requirements and their impact on secured creditors. The set of proposals represents a mixed bag for secured creditors. Some of the proposals — particularly those endorsing uniform standards for third-party releases and adoption of a market-based approach for determining a “cram-down” discount rate — should be viewed favorably by secured creditors. On the other hand, the voting-related proposals may reduce creditor leverage and, in turn, increase the risk of impairment of creditor recoveries. To compensate for this additional risk, secured creditors may demand higher fees or interest when providing financing to borrowers.

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