

A Dangerous Mix: Multiple Board Service and Insolvency

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Directors of U.S. companies in certain industries or with sponsor shareholders frequently serve on the boards of multiple entities within a single corporate family — often, the parent company and one or more subsidiaries. Under the law of Delaware (where many U.S. companies are incorporated), these directors are often called “dual fiduciaries” because they owe fiduciary duties to each entity that they serve. Developments in the law regarding the duties owed — and the conflicts faced — by dual fiduciaries should heighten directors’ awareness of certain risks if they serve on the board of a parent corporation and one or more subsidiaries that is (or might soon become) insolvent.