

Valuation in Chapter 11: Overview and Tools for Consensual Resolution

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One of the cornerstones of the U.S. Chapter 11 process is the absolute priority rule, which requires that, unless they consent otherwise, junior creditors may not receive any value on account of their claims unless senior creditors are paid in full. The problem is that it can be difficult to determine whether a given class of creditors is paid in full. In cases where the currency of payment is debt or equity in a going-concern, valuation of the business underlies this important determination. But the valuation of a going-concern is based in part on future performance, and determining that value is not an exact science. The bigger and more complicated the business, the more inexact the science.

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