

Just How Iron-Clad are Contractual Rights to Payment On Preferred Stock of a Solvent Company?

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Minority equity investments in public companies are on the rise. These are often structured as an investment in convertible preferred stock to give the investor a senior position to other equity while preserving equity upside through the ability to convert to common stock.

While the investor is willing to give up the seniority of a debt position, it is still keenly focused on optimizing its right to receive repayment of its preferred investment on the contractually stipulated redemption date and to receive its contractually stipulated dividends on each dividend payment date.

But, preferred stock is equity and, unlike debt, in some circumstances, even a clear contractual right to preferred payments is subject to “legal overrides”

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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