

Out-of-Court Restructurings After *Marblegate*: Trust Indenture Act Section 316(b) & Beyond

MARCH 29, 2017

The Second Circuit's decision in *Marblegate* appears to have ended the "resurgence" of Trust Indenture Act (TIA) Section 316(b) as a tool for minority bondholders to challenge out-of-court restructurings. Recent cases had brought 316(b) from a long period of latency to the forefront of restructuring negotiations and litigation. Now, issuers and bondholders are left to consider the breadth of the *Marblegate* decision and whether TIA Section 316(b)—or another mechanism—remains available to prevent certain types of non-bankruptcy bond restructurings.

WilmerHale Partner George Shuster, along with the other panelists, will discuss what TIA Section 316(b) was intended to protect in the first place, how TIA Section 316(b) was interpreted for the first 70 years of its existence, how TIA Section 316(b) gained traction in recent years, on what basis the Second Circuit curtailed the use of TIA Section 316(b) in *Marblegate*, and what issuers and bondholders can expect in a post-*Marblegate* era. Will restructuring transactions revert to the pre-*Marblegate* status quo? Will indentures be drafted differently to incorporate more minority bondholder protections? Are recent legislative efforts to amend TIA Section 316(b) now moot? Are there out-of-court restructurings that TIA Section 316(b) will prevent even considering *Marblegate*? To what extent can minority bondholders rely on indenture trustees to protect their interests? Are there other legal mechanisms that minority bondholders can use to challenge out-of-court restructurings?

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Speakers



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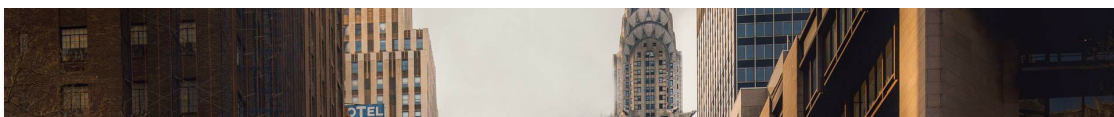
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