

## **Chapter 11: Fact Sheet**

### **What is Chapter 11?**

Chapter 11 provides a company with time, under protection of the court, to reorganize its business and/or capital structure before having to meet the financial claims of its creditors. Unlike an insolvency proceeding or liquidation (Chapter 7), companies that file for Chapter 11 generally continue to operate their business with the goal of emerging from the process as a viable and financially healthier enterprise.

### **Why?**

Companies file for Chapter 11 for a number of reasons, but generally they are seeking to protect their assets while trying to address financial problems – such as excessive debt, insufficient liquidity, unreasonable contractual obligations, and/or unmanageable liabilities. The process also is sometimes used by companies to sell assets free and clear of any obligations.

### **How?**

Chapter 11 is a legal process by which a company files a petition with a federal bankruptcy court to reorganize under Chapter 11 of the U.S. Bankruptcy Code. The filing triggers a legal mechanism known as an “automatic stay,” which temporarily prevents creditors from taking action against the company to collect any monies or property they are owed from before the filing. The automatic stay also temporarily prevents lawsuits against the company from moving forward. The automatic stay can only be lifted with specific court authorization, which for most matters does not occur until the conclusion of the Chapter 11 proceeding.

### **How does it affect employees?**

It is customary under a Chapter 11 proceeding for a company to receive court authorization to continue to provide employees with their regular compensation and benefits. In addition, U.S. federal law generally protects the funds in 401(k) savings plans and in qualified defined benefit pension plans from the claims of a company’s creditors.

### **How does it affect customers and suppliers?**

A company that files for Chapter 11 generally is able to continue to meet its obligations to its customers as usual. Likewise, the company generally is able to pay suppliers for goods and services provided after the filing under existing terms. However, the “automatic stay” generally prevents a company from paying suppliers for goods and services provided before the filing without specific court authorization. For this reason, it is not unusual for many of a company’s suppliers to be creditors in its Chapter 11 proceeding.

### **How does a company emerge from Chapter 11?**

The Chapter 11 process ends after the Court has confirmed a Plan of Reorganization, which provides for a distribution of the company’s economic value to its creditors and, possibly, equity holders. This plan is usually developed by the Company in conjunction with its creditors.

### **What is a Section 363 Bankruptcy?**

Section 363 refers to the section of the U.S. Bankruptcy Code that allows a company to enter a court-supervised process to sell assets quickly as the best means to protect value for the benefit of all stakeholders. Unlike a typical bankruptcy proceeding, which can often take a few years to resolve, the advantage of 363 bankruptcy is speed. Through the 363 process, a company is able to emerge from bankruptcy in approximately 30 to 60 days.

### **Additional information on bankruptcy can be found at:**

[www.uscourts.gov/bankruptcycourts/bankruptcybasics/chapter11.html](http://www.uscourts.gov/bankruptcycourts/bankruptcybasics/chapter11.html)

<http://sec.gov/investor/pubs/bankrupt.htm>