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LIABILITY MANAGEMENT PROTECTIONS IN AMENDMENTS AND WAIVERS: A PRACTICAL GUIDE

Liability management transactions have become a prominent feature in the leveraged loan market, enabled by covenant flexibility that allows companies to transfer assets, incur senior debt, and alter creditor priorities outside of bankruptcy. In response, a growing set of contractual blockers has been designed to limit the transaction pathways that make these restructurings possible. This article provides a practical guide to the principal blockers and the key drafting considerations for lenders seeking to incorporate them in amendments, waivers, rescue financings, and post-LMT credit agreements.

By Adam L. Shpeen, Jon Finelli, and David Kratzer *

Out-of-court liability management transactions (“LMTs”) have emerged during this decade as a core restructuring tool for companies to address liquidity shortfalls, extend maturities, and capture discount.¹ These transactions are made possible by the covenant flexibility found in many credit agreements that allow companies to, among other things, transfer assets outside the loan party group, pledge assets not included in the existing collateral package, and incur new debt that is senior in right of payment or security to the companies’ existing debt.² As a result, companies often use this

flexibility to strengthen their negotiating leverage with lenders — either by executing an LMT and subsequently requesting lender concessions, or by using the mere threat of an LMT to leverage a company-friendly deal.

In response, lenders have developed an array of contractual protections — commonly known as “blockers” — to prevent or constrain specific LMTs. Early blockers were narrowly tailored to address

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¹ Jason Kyrwood, Brian Resnick & Ken Steinberg, *Liability Management Goes Mainstream*, Financier Worldwide (Jun. 2023), <https://www.financierworldwide.com/liability-management-goes-mainstream>.

² James A. Florack, Meyer C. Dworkin, Vanessa L. Jackson & Kenneth J. Steinberg, *Recent Trends in Liability Management Transactions*, Chambers’ Banking & Finance 2025 (Oct. 9, 2025), [\[guides/banking-finance-2025/usa/trends-and-developments;\]\(https://www.davispolk.com/sites/default/files/202408/Banking%20%26%20Financial%20Services%20-%20Drop-down%20financings%20in%20today%27s%20market.pdf\)
Adam L. Shpeen, Jon Finelli & Timothy H. Oyen, *Drop-Down Financings in Today’s Market*, The Review of Banking & Financial Services \(Aug. 21, 2024\), \[chrome-extension://efaidnbmninnbpcjpcglclefindmkaj/https://www.davispolk.com/sites/default/files/202408/Banking%20%26%20Financial%20Services%20-%20Drop-down%20financings%20in%20today%27s%20market.pdf\]\(https://www.davispolk.com/sites/default/files/202408/Banking%20%26%20Financial%20Services%20-%20Drop-down%20financings%20in%20today%27s%20market.pdf\).](https://practiceguides.chambers.com/practice-</p></div><div data-bbox=)

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