

**American College of Investment Counsel**  
**2018 Fall Annual Meeting and Education Conference**

***Current Debates in Bankruptcy and Restructuring***

**Moderator:**

Jeffrey L. Jonas  
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**Panelists:**

Aleksandar Zivanovic John Hancock / Manulife	Anders Maxwell Peter J. Solomon
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**I. Inter-Creditor Disputes: The “Long v. Short” Maturity Issue**

**A. Defining the Issue**

1. Different/similar treatment of noteholders holding notes with long-dated v short-dated maturities
2. When does the issue arise?
  - a. Amendments and consents
  - b. Multi-creditor debt restructurings/modifications
3. Legal rights v. commercial understanding and expectation
  - a. Contractual position and pari passu ranking
  - b. When is debt “due and payable”?
  - c. Automatic acceleration
  - d. Impact of chapter 11 filing/insolvency

**B. Inter-Noteholder Issues Arising in Different Scenarios**

1. Maturities extended/shortened
2. Differing coupon/compensation

3. Treatment of make-whole amount

**C. Potential Solutions**

1. Solutions typically negotiated among noteholders with assistance of legal and financial advisors
2. No “one size fits all” approach

**II. Valuing Distressed Securities: Expert Testimony and Market Evidence.<sup>1</sup>**

- A. Does the Market “Speak for Itself” or Is Expert Testimony Required?**
- B. Hindsight Bias Versus Bankruptcy Price Distortions.**
- C. Market Efficiency in the Absence of Liquidity.**
- D. Bankruptcy Judges as Investment Bankers?**

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<sup>1</sup> See accompanying Exhibits 1-2.