

The Benefits of GM Bankruptcy

Harvard Professor Argues The Option's Best for All; Will UAW Be on Board?

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By Heidi N. Moore

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As [General Motors](#) passes around an ever-larger tin cup to Washington lawmakers, people are pondering the nuclear option: letting GM file to reorganize under Chapter 11 of the U.S. Bankruptcy Code. Law professor Mark Roe at Harvard Law School says it is a route that looks more and more sensible.

Deal Journal talked with him about what a GM bankruptcy might look like.

Deal Journal: Why is bankruptcy a good idea?

Mark Roe: There are three issues that GM cited as reasons to avoid bankruptcy. One is the idea that consumers wouldn't buy from a company in Chapter 11, two is the report that the bondholder negotiation is already difficult, and the third is that the supply chain would be affected as suppliers filed for bankruptcy.

DJ: How might it work?

Mr. Roe: Here's one resolution: GM files for Chapter 11. The company puts together the automotive operations, and leaves behind the legacy obligations to retired workers and the bond obligations. It takes the auto operations and sells them intact.

Section 363 of the Bankruptcy Code provides for these kinds of sales. This would leave behind restructuring the bond debt and the legacy claims. Whatever GM gets from the automotive sale will go to pay off the bonds and pay off the legacy claims. That part is in some ways straightforward.

If it can be completed, consumers would be looking at a viable GM that has exited bankruptcy. Then the claims -- the legacy claims and the like -- will be resolved. Of course, anybody buying GM's operations needs to know what kind of arrangements there are going to be with the UAW, management and any buyer.

So GM could leave behind the legacy claims and a buyer wouldn't care what the value of those would be because that would be resolved in a bankruptcy.

But the buyer does need to know what the arrangement would be with UAW. A bankruptcy doesn't get GM out of having to deal with the United Auto Workers union. There's frequently talk that bankruptcy would allow GM to get out of the contract. It doesn't. It still has to persuade the UAW.

DJ: So how does a GM bankruptcy benefit the communities, financing companies and suppliers that depend on the auto maker?

Mr. Roe: The picture GM's been painting is that if it goes into Chapter 11, it closes up and affects the supply chain. But there are more factors protecting GM in Chapter 11 than outside Chapter 11. There are two features of the bankruptcy process that protect them: Bankruptcy judges know you can't run a manufacturing company without inventory, supply and the like. New inventory supplies to GM actually go to the top of the queue in getting repaid. The idea is that bankruptcy judges know that they have to get sheet metal to hammer into car bodies, or else the company dies. So these get priorities in payment.

DJ: What about the complaint that a GM bankruptcy would be long and expensive?

Mr. Roe: Bankruptcy can be long, but this process of bailing GM through handouts out may be longer. There's no reason why the bankruptcy process has to be any longer than the restructuring process.