



AMERICAN
BANKRUPTCY
INSTITUTE

Southwest Bankruptcy Conference

Newsworthy Bankruptcy Issues

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ABI Southwest Bankruptcy Conference

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August 2025



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Ducera

I. Capital Markets Update

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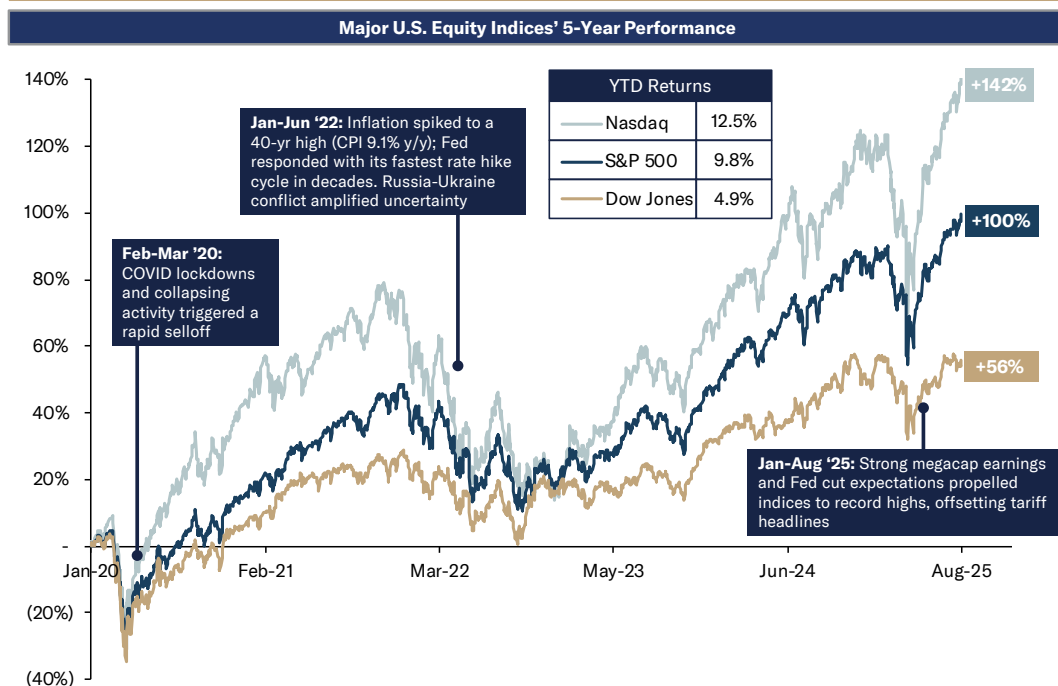
Agenda

- 1 **Equity Markets Update:** Where major indices currently sit following a volatile Q1 and Q2 and the role of buybacks in the recent equity markets surge
- 2 **Key Macro Themes:** What are the key macroeconomic drivers shaping today's capital markets?
- 3 **Credit Markets Update:** Where are credit markets today in relation to COVID-19 and, more recently, policy volatility?
- 4 **Private Credit:** The emerging role of private credit in buyouts and strategic partnerships with banks
- 5 **M&A Activity:** How the current policy and rates environments are shaping capital deployment in the M&A landscape
- 6 **LMEs & Restructuring:** Where distress levels currently are, and the rising prominence of LMEs in restructuring
- 7 **Future Outlook:** The future state of play for capital markets



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1 Equities Surge YTD Despite Tariff Noise...

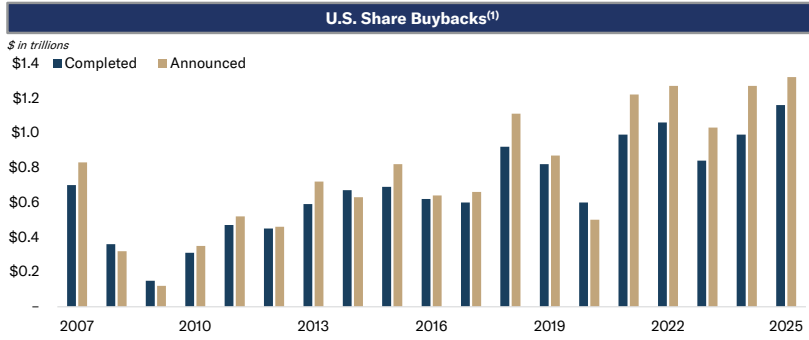


4 Sources: Bloomberg; FactSet; Wall Street Journal; Reuters (Data through 08/12/2025)

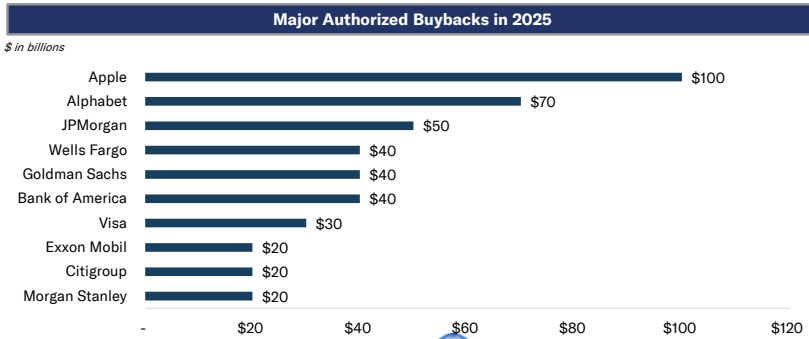


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1 ... Driven by Record Levels of Share Buybacks



U.S. buyback authorizations are running at a record pace in 2025, with approx. \$984 billion YTD and full-year totals projected above \$1.1T



The surge in repurchases – led by megacap tech and the big banks – has provided a meaningful tailwind in equity performance

⁵ Sources: Wall Street Journal; Birinyi Associates; Company Filings (Data through 08/07/2025)
Notes:
(1) Estimated datapoints from Birinyi Associates



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2 Current Key Macro Themes

1 Tariffs

- In April, the Trump administration implemented a 10% baseline tariff on all imports, and has since outlined higher reciprocal rates for countries with large trade surpluses (e.g. EU ≈20%, China ≈34%)
- Goldman Sachs estimates suggest that a +1ppt on the effective tariff rate can add ≈0.1ppt to core inflation and trim GDP by ≈.05ppts
- Trump has also suggested the idea of sector-specific duties (e.g. pharma and semis), introducing risk to those industries
- In August, The White House struck deals letting Nvidia and AMD resume AI-chip sales to China if they pay 15% of related revenue to the U.S. (effectively a new levy atop existing tariffs); Beijing has already urged local firms to avoid Nvidia chips

2 Geopolitics

- The intermittent cease-fire diplomacy in the Middle East has produced only tentative frameworks, keeping risk premia elevated across strategic fields such as crude oil and other emerging markets
- Furthermore, the Russia-Ukraine conflict keeps infrastructure and export routes at risk, reinforcing investor concerns and a “risk-off” appetite while supporting security and defense themes

3 One Big Beautiful Bill

- On July 4, Congress passed the “One Big Beautiful Bill,” extending many 2017 tax cuts, adding new targeted breaks (e.g., for tipped income), and lifting the State and Local Tax (SALT) cap to \$40,000 through 2029
- The Bill is expected to benefit small-business cash flow and consumer spending, particularly in high-tax states, but the additional fiscal support may slow the decline in inflation and keep long-term yields higher

4 Trump's Influence on Federal Reserve

- An unexpected Board vacancy at the end of July (Adriana Kugler) and Trump's early vetting of Powell's 2026 successor elevate policy uncertainty, particularly around the pace and extent of rate cuts
- Active debates over the Fed's structure and policy alignment with the White House spur longer-term concerns about the Fed's independence, especially as policy becomes increasingly perceived as politically driven

5 Artificial Intelligence

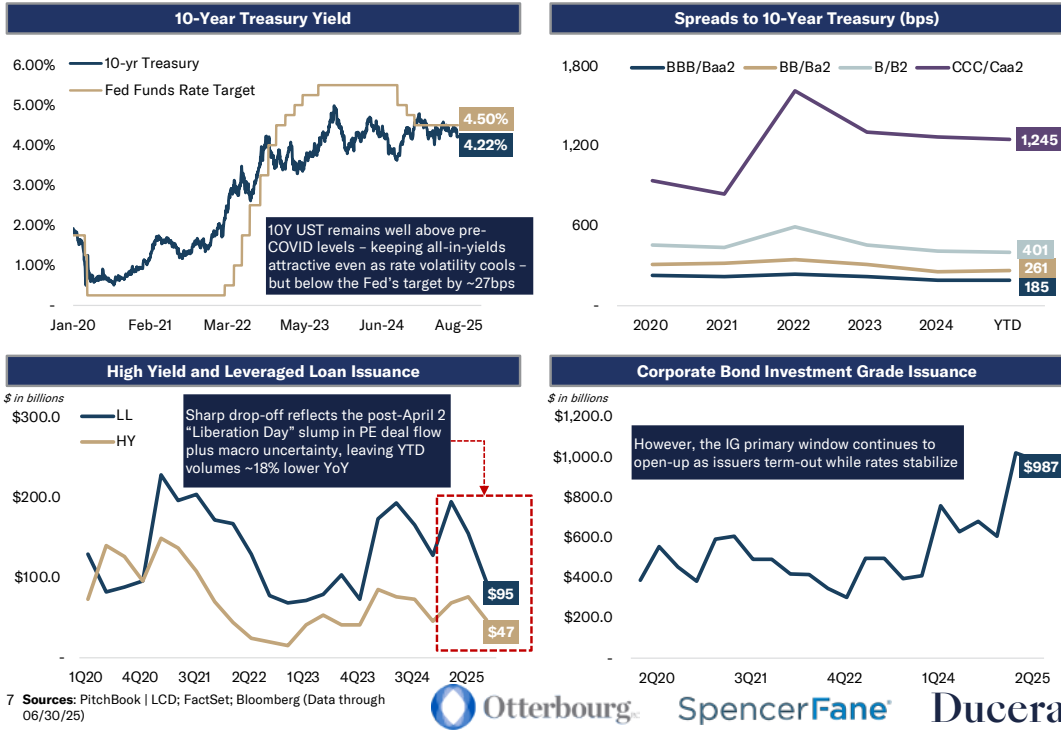
- AI-related capex for 2025 is guiding toward record highs (estimates for hyperscalers in the ≈\$200B range) as demand for accelerators, power, and select infrastructure plays have become core themes for tech giants
- Power constraints are the latest bottleneck; utilities expect higher grid investment and are requesting data-center developers to shoulder more costs, with the largest U.S. power grid (PJM Interconnection) noting strain

⁶ Sources: Bloomberg; Wall Street Journal; Reuters; Goldman Sachs (Data through 08/07/2025)



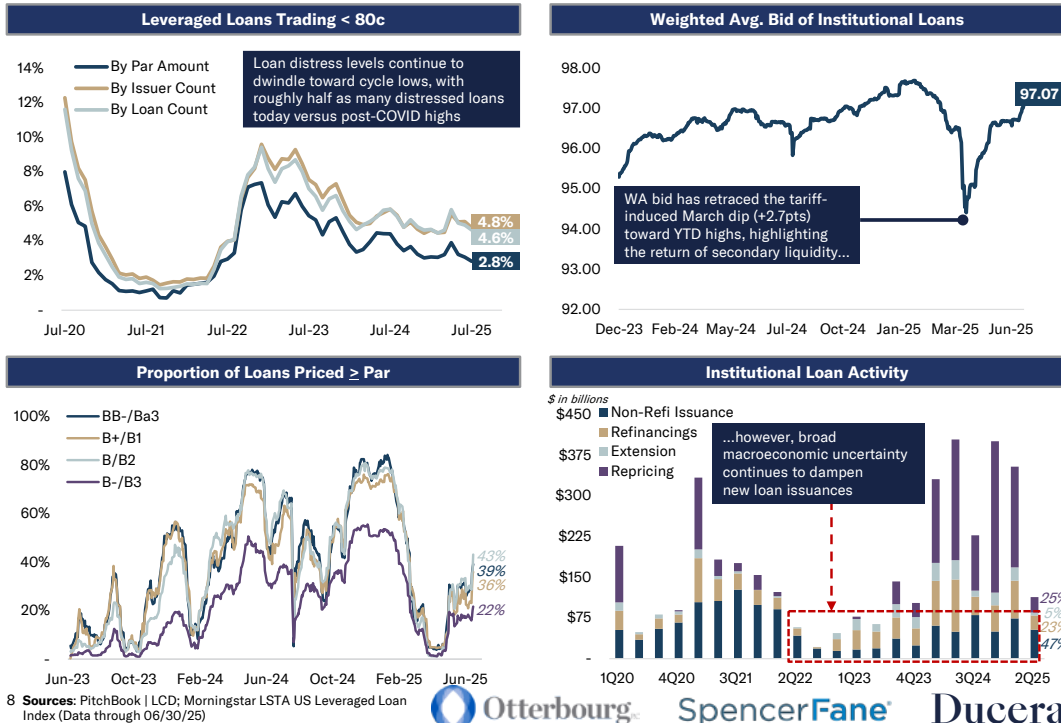
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3 IG Window Open While HY Issuance Down



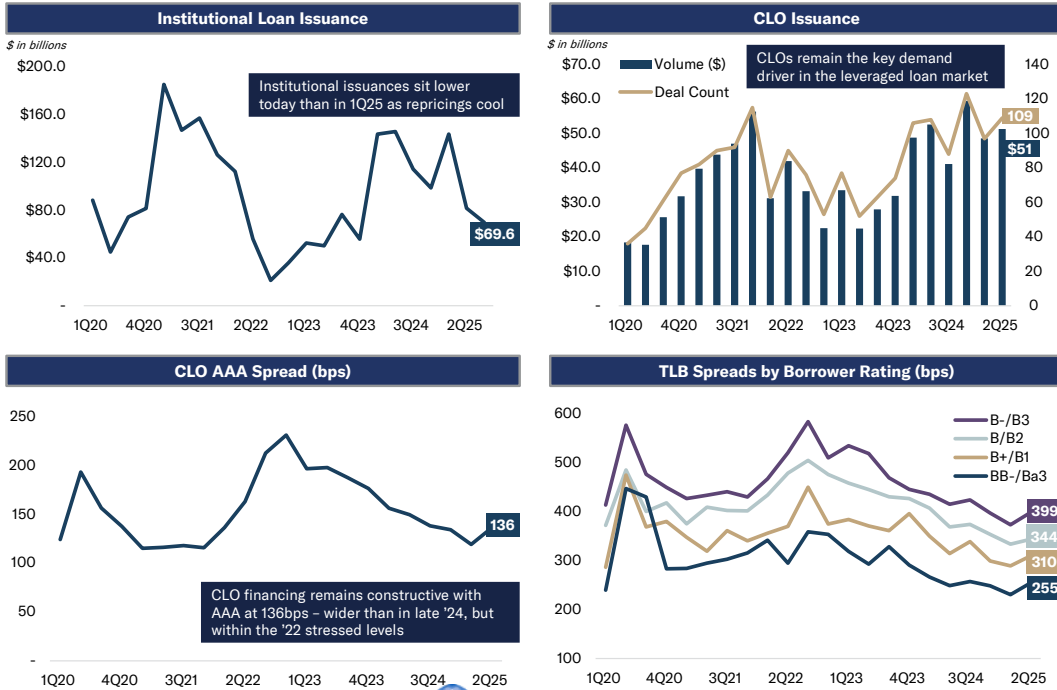
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3 Credit Markets Have Shrugged Off Tariffs... For Now

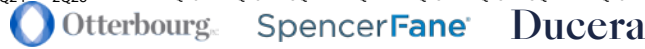


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3 CLOs Remain the Engine of Demand in the Loan Market

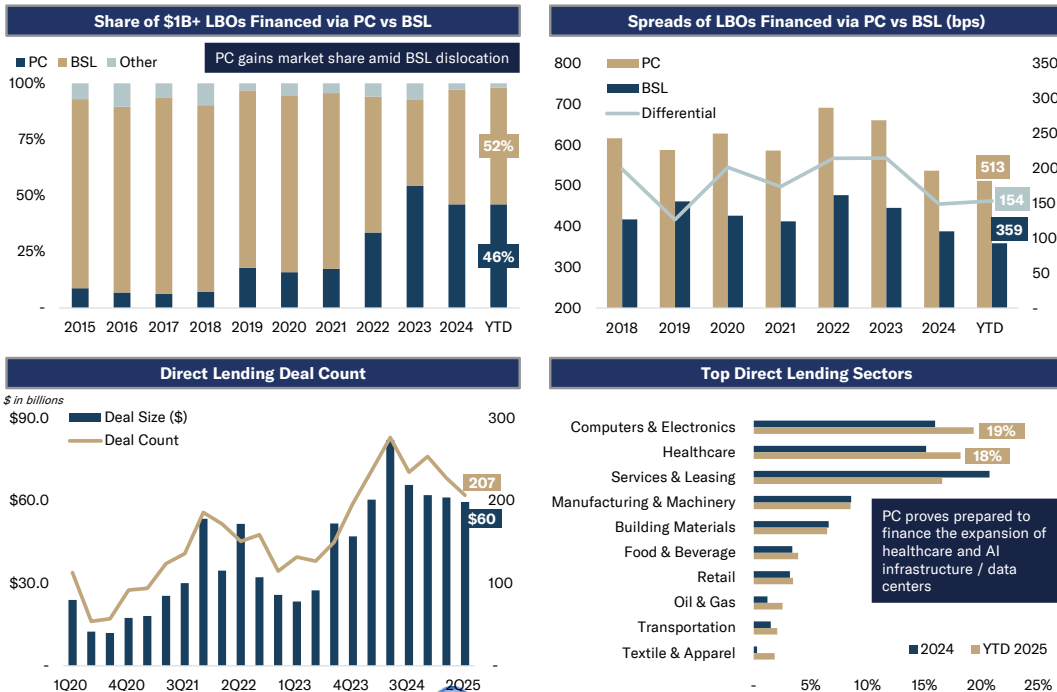


9 Sources: PitchBook | LCD; Morningstar LSTA US Leveraged Loan Index (Data through 06/30/25)



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4 Private Credit Fills the BSL Gap and Scales into LBOs

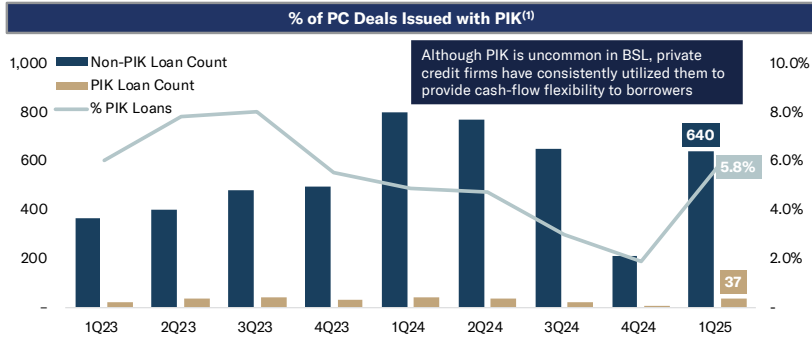


10 Sources: PitchBook | LCD; Morningstar LSTA US Leveraged Loan Index (Data through 06/30/25)



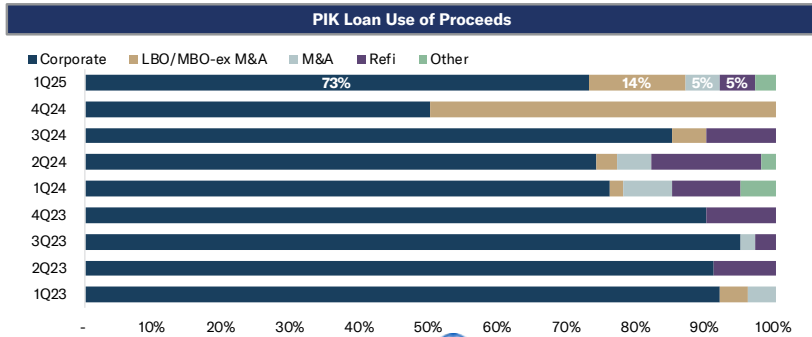
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4 PC is Equipped with Cash-Flow Flexibility via PIK Coupons

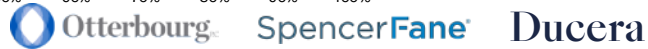


PIK coupons are popular in private credit, swapping cash pay for higher stated yields and offering faster, more flexible execution

PIK helps provide a liquidity buffer for borrowers, especially in higher-rate environments, while shifting risk forward



11 Sources: Debtwire (Data through 07/16/2025)
Notes:
(1) Estimated datapoints from Debtwire



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4 Bank and PC Partnerships Create New Opportunities

Date	Bank	Asset Manager(s)	Details
May 2025	UBS	General Atlantic	Strategic partnership to originate North American private credit across mid- and large-cap borrowers. Covers corporate and sponsor-backed structures
Mar 2025	Deutsche Bank	DWS Group	Strategic cooperation giving DWS preferred access to asset-based finance, direct lending, and other private credit deals originated by Deutsche Bank
Mar 2025	Silicon Valley Bank	Pinegrove Venture	Lending relationship with a combined \$2.5B in venture debt loans targeting technology and life science companies
Jan 2025	Standard Chartered	Apollo	\$3B partnership to finance clean-energy projects: Standard Chartered takes a minority stake in Apollo's Apterra platform, which will lead origination
Dec 2024	Santander	Pemberton	Strategic partnership to launch Invenza, a new company focused on providing mid- and large-sized corporates with supply chain inventory solutions
Oct 2024	Mizuho	Golub Capital	Mizuho buys a passive, non-voting minority stake in Golub Capital and becomes a strategic distribution partner in Japan. Proceeds will support Golub's expansion of financing solutions for PE sponsors
Oct 2024	JPMorgan	FS Investments, Cliffwater, Shenkman, and others	JPM, which has set aside \$10B of its own balance sheet for its foray into direct lending, will co-lend with select private credit managers, allowing side-by-side investments on its direct-lending deals for a fee. The bank will source opportunities, emphasizing non-sponsored borrowers
Oct 2024	Piper Sandler	BC Partners Credit	Strategic lending alliance: BC Partners Credit provides capital while Piper Sandler originates
Sep 2024	BNP Paribas	Apollo's ATLAS SP	BNP Paribas commits an initial \$5B, expected to grow, to support investment-grade, asset-backed credit originated by Apollo and ATLAS. Includes a capital-markets collaboration
Sep 2024	Citigroup	Apollo	Apollo and Citi, with Mubadala and Athene, form a \$25B private credit program. It expands access to financing for corporate and sponsor clients
May 2024	Wells Fargo	Centerbridge	Strategic relationship to launch Overland Advisors, a BDC focused on direct lending to non-sponsor U.S. middle-market companies, with lending capacity of ~\$5B
Sep 2023	PNC	TCW	Private-credit platform combining PNC's middle-market reach with TCW's direct-lending track record, focused on directly originated senior secured cash-flow and asset-based loans

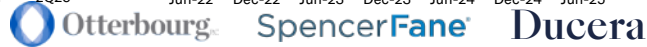
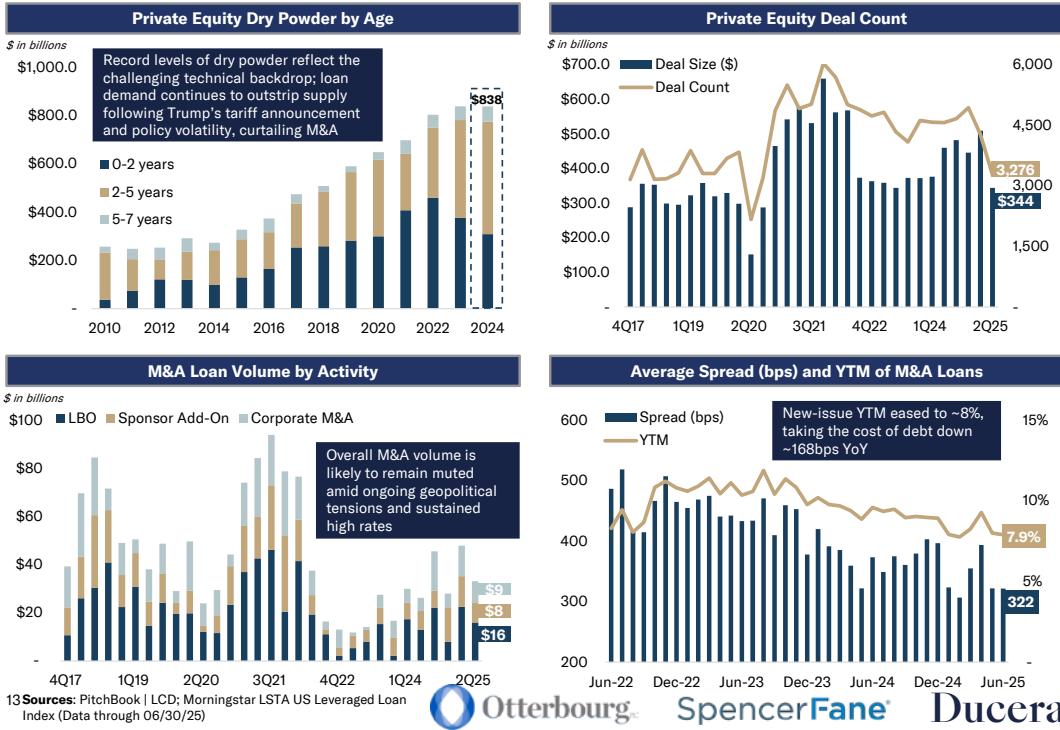
Banks are increasingly partnering with private credit managers via minority stakes, co-lending, and securitizations to shift toward an origination-and-distribution model that expands fee income and introduces scaled, proprietary deal flow

12 Sources: PitchBook | LCD; Company Filings (Data through 06/30/25)



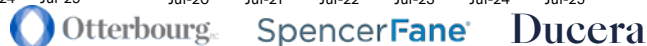
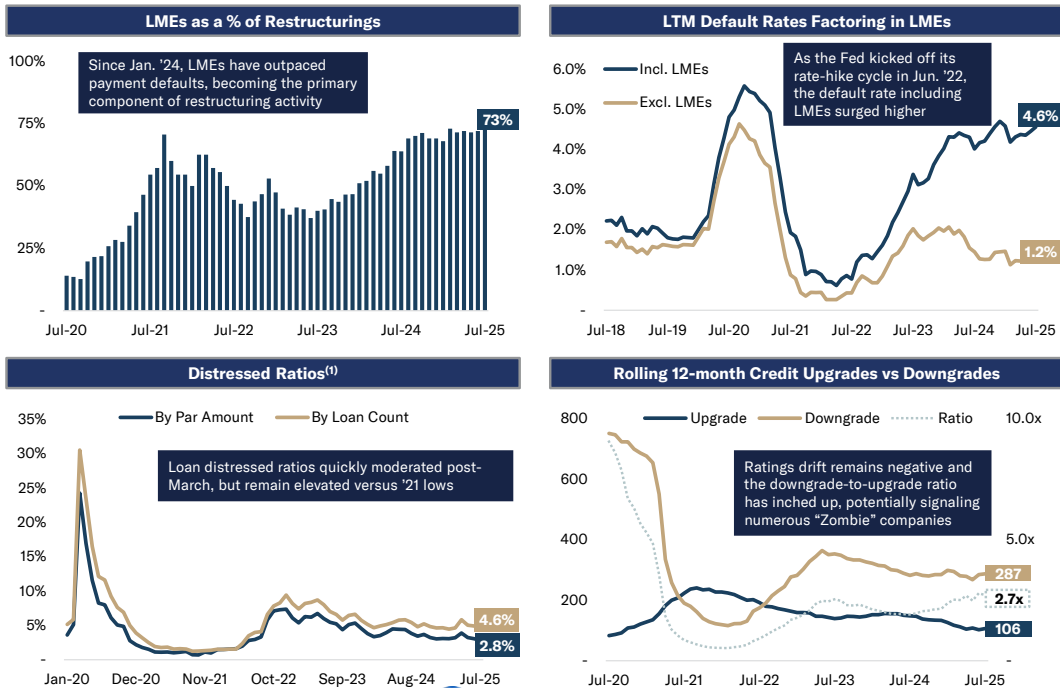
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5 Despite Cheaper Debt, Policy Uncertainty Tempers M&A



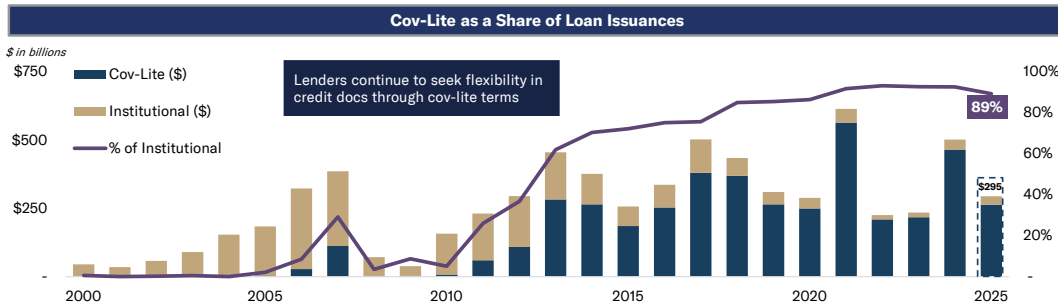
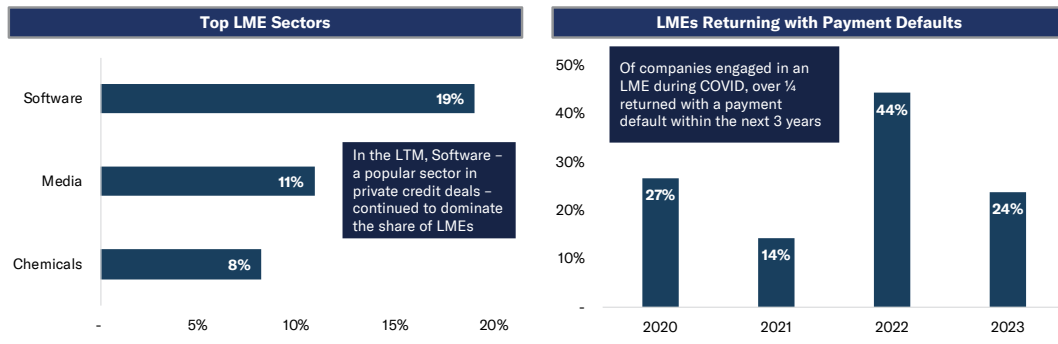
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6 LMEs Dominate the Restructuring Cycle



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6 LMEs Are Not Always Panaceas



15 Sources: PitchBook | LCD; Morningstar LSTA US Leveraged Loan Index (Data through 06/30/25)



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6 Key Observations in Restructuring Today

Restructurings have become increasingly multilayered; lenders defend with co-op agreements and pro-rata protections, while sponsors counter with exclusionary LMEs, restrictive NDAs, and sacred-rights amendments

Key Observations in Restructuring Today	
Legal Documentation	Co-Op Agreements <ul style="list-style-type: none"> Traditionally, co-op agreements united same-priority creditors to protect their interests and boost negotiating leverage via a voting block Now, they often span the full cap stack to counter LMEs (e.g., Bausch, Allen Media, Astound) Many have included pro-rata provisions to block non-pro-rata deals and to secure participation rights in new money, backstops, and fees
	More Opportunistic LMEs <ul style="list-style-type: none"> Exclusionary LMEs (e.g., Wesco, Mitel) have produced materially worse outcomes for outsiders than more inclusive deals such as Rackspace, GoTo, and Valcour; in turn, sponsors and ad hoc groups may accept lower economics to reduce litigation risk The Fifth Circuit's Serta ruling - finding that the uptier was not an open-market purchase - should encourage more pro-rata transactions, with insiders still advantaged via backstop fees and differential economics Even "open to all" deals allocate value unevenly, creating clear winners and losers
	Aggressive Use of NDAs <ul style="list-style-type: none"> Companies have begun weaponizing NDAs by adding provisions that proactively prohibit lenders from organizing and communicating with other holders for a better deal
	Amending Sacred Rights <ul style="list-style-type: none"> Rights once viewed as "sacred" have been amended by majority or supermajority votes (notably AMC and iHeart), and they often do not protect covenant baskets Certain LMEs extend grace periods or effectively skip debt service without 100% consent to buy time for stabilization - approaches that are controversial and litigation-prone Notable recent examples of this approach include Incora, AccentCare, Diebold Nixdorf, Cornerstone Chemical, and RobertShaw

16 Sources: PitchBook | LCD; Morningstar LSTA US Leveraged Loan Index (Data through 07/31/25)



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7 Where Do We Go From Here?

1 Markets are Seeking Tariff Stability – *What Can Lenders Underwrite?*

- The 10% baseline U.S. import tariff is the base case going forward; it's in effect and has already filtered into pricing and supply-chain plans
- Companies that can pass through costs / localize production will be better suited to weather tariff-related challenges

2 Equities – *How High Can it Go?*

- Valuations are elevated versus history – stirring discussions of a “bubble” – primarily driven by a record number of share buybacks and momentum concentration in a handful of megacaps

3 LMEs Continue to Evolve – *Will it Ever Subside?*

- The restructuring toolkit has expanded – including uptiers, drop-downs, “layer-cake” stacks, inside-out structures, and more – but courts and documentation are pushing back on the most aggressive credit-on-credit moves
- LMEs may be the norm going forward as lenders emphasize cooperation and pro-rata provisions

4 “Today’s LME is Tomorrow’s C11”

- The increasing number of LMEs will continue to provide runway for distressed companies – extensions, PIK, new-money layers, and more – but don’t necessarily address underlying operational troubles
- A subset of LMEs will likely have to file in-court to address greater capital structure challenges

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II. One Big Beautiful Bill



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One Big Beautiful Bill Act (“OBBA”)

940-page austerity budget combines: (a) tax cuts for Americans and businesses; (b) spending reductions in clean energy, health care, education and other industries; (c) spending increases in military and immigration enforcement, fossil-fuel industry

Overview	
Perspectives	<ul style="list-style-type: none"> Proponents argue OBBA will secure the border, propel economic growth and empower businesses Opponents argue OBBA could undermine long-term economic stability, weaken US global competitiveness and accelerate fiscal strain
Key Terms	<ul style="list-style-type: none"> Extends 2017 Tax Cuts and Jobs Act (TCJA) policies as well as implements new tax cuts Makes permanent the larger standard deduction, more generous child tax credit, lower ordinary tax rates and tighter limitations to certain itemized deductions Makes permanent full expensing of domestic R&D, bonus depreciation for short-lived asset investments
Impact on Working Americans	<ul style="list-style-type: none"> New tax deductions for working Americans No tax on tips No tax on overtime wages Deductions for interest paid on car loans Additional deduction for seniors
Other Features	<ul style="list-style-type: none"> Repeals green energy tax credits (e.g., EVs and residential energy) Benefits for fossil-fuel and steel industries, defense contractors Imposes restrictions on Medicaid, ACA Marketplaces and enhanced premium tax credits Increase limits on federal student loans and taxes on endowments

19 Sources: Bipartisan Policy Center; Reuters; KFF; NPR; American Immigration Council; IRS; HR Block; Tax Foundation



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OBBA: Impact on Businesses and Consumers

- The OBBA will continue to have a number of effects on businesses and consumers, including:

1 Clean Energy

- Redeployment of investment from clean energy to fossil fuel and steel
- Potential increase in clean energy bankruptcy filings

2 Healthcare

- Risk of millions of individuals becoming uninsured
- Reductions in funding could result in cutbacks in service or even facility closures
- Reduced benefits for lower-income households could result in less discretionary spending, impacting local economies

3 Higher Education

- New limits on federal student loans
- Eliminates certain repayment options
- Taxes on endowment programs

20 Sources: Bipartisan Policy Center; Reuters; KFF; NPR; American Immigration Council; IRS; HR Block; Tax Foundation



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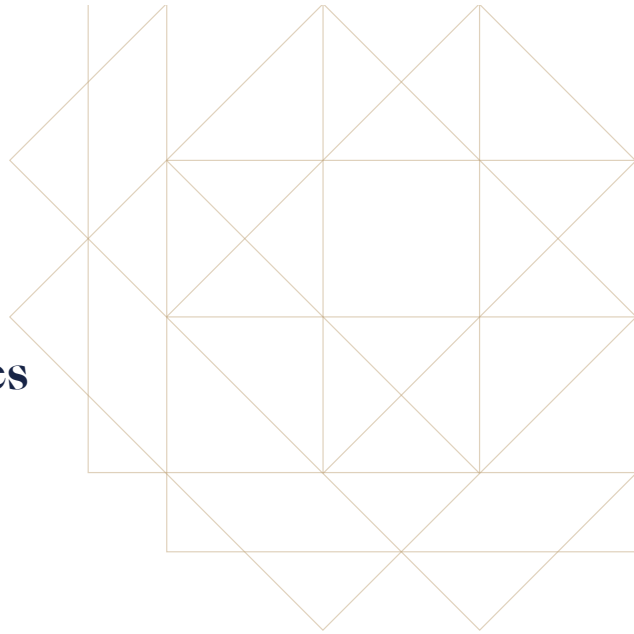
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III. Immigration Issues



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Overview of U.S. Visas

- U.S. Visas can be organized into two main categories:

1

Nonimmigrant Visas

For temporary stays (tourism, work, study, business)

2

Immigrant Visas

For those seeking permanent residence (Green Card)

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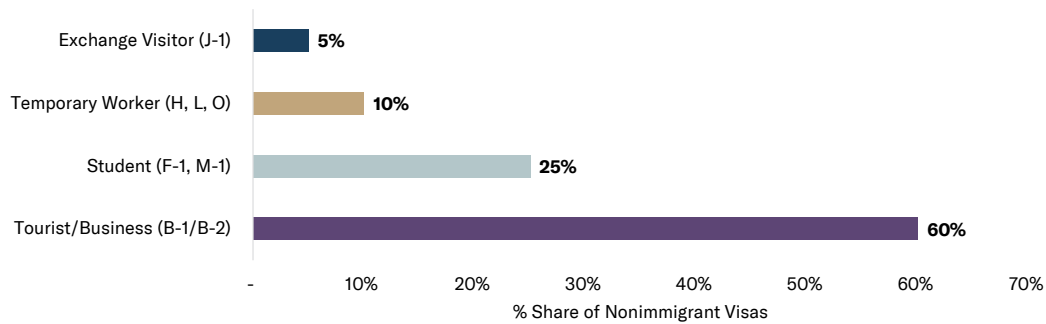
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1 Nonimmigrant Visas

There are four primary nonimmigrant visas:

- A Exchange Visitor (J-1)**
 - Cultural exchange, research, or teaching
- B Temporary Worker (H-1B, H-2B, L-1, O-1, etc.)**
 - Employment in specialized fields or temporary labor
- C Student (F-1, M-1)**
 - For academic or vocational studies
- D Tourist & Business (B-1/B-2)**
 - Short visits for tourism, business meetings, or family visits

Common Nonimmigrant Visa Types



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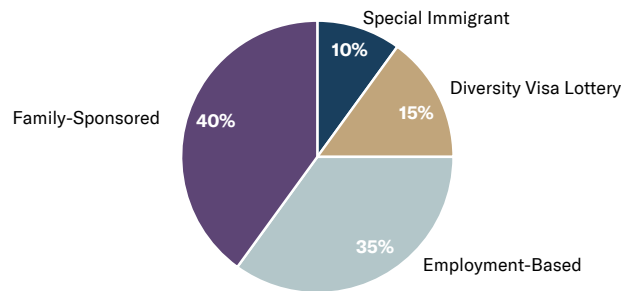
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2 Immigrant Visas

There are four primary immigrant visas:

- A Special Immigrant**
 - Refugees, asylees, and certain other humanitarian cases
- B Diversity Visa Lottery**
 - For applicants from countries with low U.S. immigration rates
- C Employment-Based**
 - For workers that have job offers, skills, or investors
- D Family-Sponsored**
 - For close relatives of U.S. citizens or permanent residents

Immigrant Visa Categories



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Recent Major Immigration Policy Changes Since 2025

- This year, there have been three primary policy changes related to immigration, as highlighted in the table below:

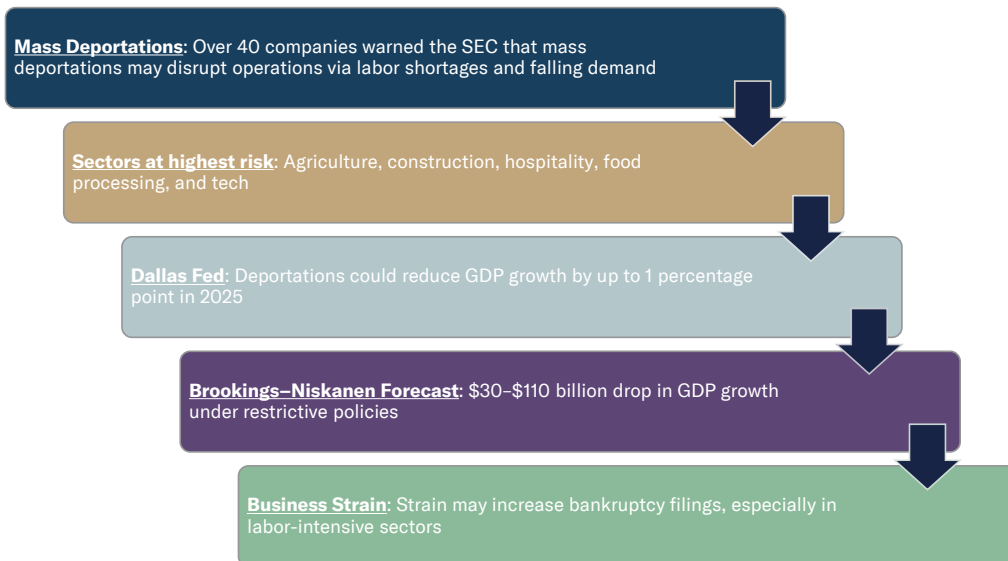
Major Immigration Policy Changes	
Borders & Enforcement	<ul style="list-style-type: none"> ▪ National emergency declared; military & wall expansion ▪ Expedited removals, harsher penalties, expanded ICE/CBP hiring ▪ Sharp drop in border crossings (95% decline by March 2025)
Legal & Humanitarian Immigration	<ul style="list-style-type: none"> ▪ Attempted end to birthright citizenship (blocked by courts). ▪ Refugee program suspended; TPS for Haitians terminated. ▪ H-1B lottery replaced by wage-based system. ▪ Proposed “Gold Card” investor visa (\$5M threshold). ▪ Cutbacks to parole & humanitarian pathways (e.g., Ukrainians).
Interior & Citizenship Oversight	<ul style="list-style-type: none"> ▪ Stricter “good moral character” rules for naturalization ▪ ICE recruitment surge with large bonuses & loan forgiveness ▪ Expanded detention use, including military sites ▪ Moves toward denaturalization of certain naturalized citizens

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Immigration Policy Changes & Bankruptcy Risks



26 Sources: Wired; Context Corner; Brookings

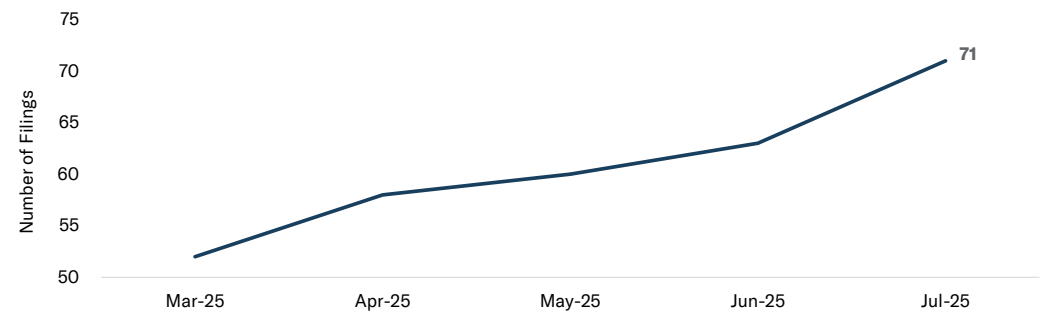


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Broader Bankruptcy Trends & Individual Impact

- 1 Corporate bankruptcies are surging, with 71 filings in July 2025, surpassing pandemic levels
- 2 Immigration policy effects amplify labor and consumer pressures, worsening risk for struggling companies
- 3 Individual bankruptcies largely unaffected: immigration and bankruptcy systems operate separately
- 4 Bankruptcy filings generally do not harm visa or citizenship eligibility unless fraud is involved

Corporate Bankruptcy Trend in 2025



27 Sources: S&P Global



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Faculty

Hon. Hilary L. Barnes is a U.S. Bankruptcy Judge for the District of Nevada in Reno, appointed on March 31, 2023, after 24 years in private practice. Previously, she was a member of Allen Barnes & Jones, PLC, a boutique bankruptcy firm, where her practice focused on bankruptcy and she represented various parties in chapter 7, 11 and 13 bankruptcy cases. From 2009-14, Judge Barnes was a partner at The Cavanagh Law Firm, P.A., where her practice focused on representing creditors in chapter 11 bankruptcy proceedings and bankruptcy-related litigation. From 2005-09, she was an associate and then partner at Quarles & Brady LLP, where she was involved in the representation of institutional lenders, large commercial debtors, the FDIC, buyers of distressed assets, trustees and other constituents in chapter 11 proceedings, receiverships, foreclosures and guaranty litigation. While at Quarles & Brady, she also devoted a significant amount of time to The Arizona Justice Project as a *pro bono* lawyer. Judge Barnes also was an associate at Stoel Rives LLP and Squire Sanders & Dempsey, LLP (now Squire Patton Boggs). She was a master of the bench in the Arizona Bankruptcy American Inn of Court and served as its president from 2018-19. In addition, she chaired the State Bar of Arizona's Bankruptcy Section from 2014-15, and she served as a Ninth Circuit Lawyer Representative from 2015-18. In that role, Judge Barnes had the honor of serving as the co-chair for the District of Arizona from 2016-17, and on the Lawyer Representatives Coordinating Committee for the Ninth Circuit Judicial Conference from 2017-18. Judge Barnes currently serves as a member of the Ninth Circuit Bankruptcy Judges Education Committee, acting as BJEC newsletter editor. She also chairs the Nevada Local Bankruptcy Rules Committee and is a judicial co-chair of ABI's Southwest Bankruptcy Conference. Judge Barnes is a member of ABI and the Federal Bar Association. She received her B.A. in art history with honors from the University of Chicago in 1986 and her J.D. in 1999 from the Arizona State University Sandra Day O'Connor College of Law, where she served as executive editor of the *Jurimetrics Journal of Law, Science & Technology*.

Sunni P. Beville is a partner with Otterbourg P.C. in its Restructuring and Bankruptcy Department in New York and co-leads its Mass Torts Bankruptcy Practice Group. She represents middle-market public and private companies, tort victims, creditors, official and ad hoc committees of creditors and equityholders in complex chapter 11 and 15 bankruptcy cases, as well as out-of-court restructuring matters. Ms. Beville's practice includes all aspects of the insolvency and bankruptcy process, including debtor-side bankruptcy work, mass tort bankruptcies, and other matters involving insolvent companies, such as contested plan confirmation hearings, the § 363 sale process, contested relief from stay and cash-collateral hearings, and fraudulent conveyance and preference litigation. Previously, she was a partner in the Bankruptcy & Corporate Restructuring Practice Group of Brown Rudnick. Ms. Beville was part of the team at her former firm that worked alongside Judge Cyganowski and others at Otterbourg as co-lead counsel representing the Official Committee of Talc Claimants in the chapter 11 cases of LTL Management, resulting in the successful dismissal of two separate attempts at bankruptcy by the Johnson & Johnson talc unit. She received her B.A. from Yale University, where she captained the Women's Basketball team in her senior year, and her J.D. *magna cum laude* from Boston College Law School.

Gregory E. Garman is a founding member of Garman Turner Gordon LLP in Las Vegas and is a bankruptcy and trial lawyer whose practice sits at the intersection of the courtroom and deal-making.

His practice is concentrated in corporate restructurings and the related litigation that is often the precursor to, or accompanies, complex restructuring work. Mr. Garman has been named “Lawyer of the Year” in three of the last seven years (2018, 2015 and 2013) for both his bankruptcy and litigation work. His practice is generally on the company side (borrower/debtor), but he also regularly represents hedge funds and private-equity investors. Mr. Garman is a trial attorney first and an industry specialist second. While he and the GTG team have more casino restructuring experience than anyone in the world, they regularly represent chapter 11 debtors in matters involving real estate, hospitality, lending, technology, logistics, manufacturing, consumer products, airlines and commodities, among others. Mr. Garman is a member of the Clark County Bar Association and the State Bar of Nevada, as well as ABI and the Turnaround Management Association. He received his B.A. in 1994 from Loyola Marymount University and his J.D. in 1997 from Loyola Law School.

Jason Kathman is a partner with Spencer Fane LLP in Plano, Texas, and Dallas and represents clients in bankruptcy proceedings and litigation in a wide variety of industries, with a focus in hospitality, manufacturing, restaurant, and oil and gas industries. His practice centers primarily on business bankruptcies, reorganizations and restructurings. Mr. Kathman handles the full spectrum of bankruptcy litigation matters, including preference, fraudulent transfer, discharge, dischargeability and other state law-based actions. He represents not only financially distressed companies but also creditors and lenders. Prior to entering private practice, Mr. Kathman externed for Hon. Harlin D. Hale, Chief U.S. Bankruptcy Judge, and Hon. Jerry S. Buchmeyer, a Senior U.S. District Judge. He is a former chair of the Bankruptcy Section for the Dallas Bar Association and a Master in the John C. Ford American Inn of Court. Mr. Kathman received his B.B.A. in 2005 from Texas Tech University and his J.D. in 2009 from Texas Wesleyan University School of Law.

Eli Silverman is a managing director with Ducera Partners LLC in Los Angeles and has nearly 20 years of experience advising companies on financial restructuring, liability management, mergers and acquisitions, and debt and equity capital-raising transactions across a wide variety of industries. Prior to joining Ducera, he worked at Baird, Lazard, Z Capital Partners, Blackstone, Colony Capital and UBS. Mr. Silverman received his B.A. in economics from Duke University and his M.B.A. with a concentration in finance from Columbia Business School.