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Chapter 11 of the Bankruptcy Code After BAPCPA: It's More Than Consumer Changes

By enacting the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA"), Congress has fundamentally changed the Bankruptcy Code. Although the press has thus far focused on BAPCPA's sweeping revisions to chapter 7 and 13 consumer bankruptcies, BAPCPA also alters chapter 11 reorganizations. Some of the revisions to chapter 11 will likely lead to more litigation, including (a) the revisions to section 1102, dealing with the appointment of committee members and the duties of committees, and (b) the additional grounds under section 1112 for the conversion or dismissal, as well as the procedures that a bankruptcy court must follow in ruling on section 1112 motions.

Complex changes were made in BAPCPA to the "cure" requirements for the assumption of an executory contract or unexpired lease under section 365, with corollary revisions to the definition of impairment under section 1124. And wholesale additions were made to chapter 11 where the debtor is an individual, ensuring that chapter 11 is not a more friendly to the individual debtor than chapter 13. While many of the chapter 11 revisions are obviously significant, it will be difficult to predict the impact of other changes until many months after the general effective date of October 17, 2005. The chapter 11 BAPCPA revisions are more fully discussed in [this article appearing on www.joneswalker.com](http://www.joneswalker.com) by Bankruptcy, Restructuring & Creditors-Debtors Rights Partner, [Elizabeth J. Futrell](#), and Associate, [Tara Gayle Richard](#).

Remember that these legal principles may change and vary widely in their application to specific factual circumstances. You should consult with counsel about your individual circumstances. For further information regarding these issues, contact our Bankruptcy practice group:

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