

# **The Backstop Party**

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## **ABSTRACT**

Bankruptcy exit financing has become a site of frequent conflict in the intra-class creditor skirmishes that now mark corporate reorganization. As practice has developed, combatants often find themselves grappling over a textually simple doctrinal question—whether a debtor’s selection of some but not all holders of identical claims to underwrite or finance the company’s post-bankruptcy capital needs is, in the Bankruptcy Code’s terms, treatment “for” the relevant claims. Attempts to derive a categorical answer from the text have proved unsatisfying, however, because the most linguistically and economically faithful reading seems to point to a matter of fact that is not readily ascertainable: are the investors selected to anchor a capital raise in fact offered a competitive risk-adjusted return or something more? To shed light on the question as a general matter, this article reports the results of a study analyzing the returns to participants in substantially all the Chapter 11 plans that included equity offerings between 2017-2024.