The Big-Case Bankruptcy Empirical Research Agenda
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The UCLA-LoPucki Bankruptcy Research Database (BRD) is a data-collection, data linking, and data dissemination program of the UCLA School of Law. The program’s mission is to encourage empirical research by supplying high-quality data on large public company bankruptcies to academic researchers worldwide, free of charge. The law school has convened this conference in part to obtain guidance from the leaders of the bankruptcy research community on how the BRD can best support your research.

What the BRD does is to design, collect, and distribute “common” data fields. Fields are common to the extent that numerous researchers are likely to use them over time. To be suitable for inclusion in the BRD a field must be sufficiently objective that it is a non-controversial measure of a simple, intuitive concept. Each field is an important investment because it must be maintained and updated.

What fields researchers will need depends, of course, on the nature of the research they plan to conduct. Accordingly, we’d like to know what areas you think are most promising for future research. What follows is our own nominee for most promising.

Over the past thirty years, the principal goal of bankruptcy legal scholarship has been to evaluate various aspects of bankruptcy procedure. Scholars have considered whether sales are better than reorganizations, 363 sales better than plan sales, prepacks better than free falls, short cases better than long ones, creditor control better than board control, Delaware and New York reorganizations better than reorganizations in the hinterlands, claims trading better than no claims trading, judicial decisions better than market decisions, and many similar questions.

We believe scholars can answer all these questions empirically, using a model composed of three variable sets. The first set consists of several alternative measures of success (Success). They include plan confirmation, business survival, job survival, post-bankruptcy profitability, the recurrence or non-recurrence of financial distress, and creditor and shareholder recoveries. The Success variables are the dependent variables in the model. The second set consists of several measures of case difficulty (the Problem). They include debt, revenue, and income ratios, measures of the nature of the debtor’s business, and measures of the economic climate. The third set consists of measures of the procedures employed (the Procedures). They include such things as examiners, trustees, 363 sales, DIP lending, prenegotiation, claims trading, etc.

Such a model can be used to evaluate any particular Procedure by determining whether it is correlated with success, controlling for the severity of the Problem. It can also be used to determine what firm characteristics make success difficult to achieve, by controlling for the Procedures applied. Lastly if only variables available at the time of filing are included, this model can be used to predict success or to determine what procedures to employ to achieve success.

Because the Success measures are alternatives, this model would not be a single equation, but rather, a pattern for model construction, using standard variables from the BRD along with the particular researcher’s custom variables.