

Insights



Kobre & Kim on Navigating Post COVID-19 Valuation Disputes in Bloomberg Law

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Massive market swings and volatility during the current COVID-19 economic downturn have created an environment ripe for valuation disputes over the coming months and years, as a group of financial services lawyers from Kobre & Kim point out in a recent editorial in *Bloomberg Law*.

Steven Perlstein, Danielle Rose, Zachary Rosenbaum and Farrington Yates urge litigants to revisit lessons from 2008 and look out for certain factors that will likely play a key role in future disputes. For example, when a counterparty exercises rights to collateral, demands additional assets or attempts to close out positions, valuation typically must be based on a market benchmark or a mutually agreed-upon source. However, in the midst of economic disruption, counterparties may distort values in their own favor in violation of the “commercially reasonable” requirement of contracts, such as by selling assets at fire sale prices. These acts may warrant a lawsuit to prevent the sale or seek damages.

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