



News & Types: Client Advisories

# Understanding Critical Vendor and Foreign Vendor Status in Marelli's Chapter 11 Proceedings

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## INTRODUCTION

Marelli filed for Chapter 11 on June 11, 2025, triggering the automatic stay under Section 362 of the U.S. Bankruptcy Code to halt prepetition payments to unsecured creditors. On June 12, the Delaware bankruptcy court issued an Interim Order, authorizing limited payments to four vendor categories—foreign vendors, lien claimants, 503(b)(9) claimants and critical vendors—to preserve operations during restructuring.

Vendor Category	Interim Cap	Final Cap
Foreign Vendors	\$265 million	\$1.26 billion
Lien Claimants[1]	\$115 million	\$210 million
503(b)(9) Claimants[2]	\$145 million	\$490 million
Critical Vendors	\$50 million	\$110 million
<b>Total</b>	<b>\$575 million</b>	<b>\$2.07 billion</b>

Ordinarily, repaying prepetition debt (i.e. claims that arose before the June 11 filing) breaches the automatic stay as it would unfairly prioritize certain creditors over others under a confirmed plan. Exceptions for Critical and Foreign Vendors purport to be narrowly tailored to:

- **Preserve Operations:** Essential suppliers might halt postpetition deliveries if unpaid, risking shutdowns and eroding debtor value.
- **Prevent Value Erosion:** Paying critical invoices costs far less than halting production altogether.
- **Bridge Jurisdictional Gaps:** Foreign suppliers without U.S. assets may ignore the stay, requiring targeted payments to ensure continuity.

## **CRITERIA FOR CRITICAL VENDORS**

Critical vendors supply goods or services so essential that nonpayment would cause immediate, irreparable harm. Marelli applies these tests:

- Sole/limited-source suppliers lacking viable alternatives without significant cost or delay.
- Contractual/regulatory mandates requiring continued supply under customer or legal agreements.
- High replacement costs where transition expenses exceed the prepetition claim.
- Postpetition performance under customary trade terms in exchange for payment.

Marelli may require written trade agreements to document ongoing commitments.

## **CRITERIA FOR FOREIGN VENDORS**

Foreign vendors are non-U.S. suppliers with minimal U.S. nexus, raising enforceability concerns. Key factors include:

- Lack of U.S. presence, impeding enforcement of court orders.
- Risk of disregarding the stay and pursuing remedies in non-U.S. courts.
- Specialized goods/services critical for overseas production.

Authorized interim payments for foreign vendors seek to help avert global supply-chain disruptions.

A “foreign vendor” under the Interim Order is defined by its lack of meaningful U.S. connections, which justify special treatment due to jurisdictional concerns. A foreign parent with one or more U.S. subsidiaries probably will not qualify because:

- **U.S. Presence**  
Its U.S. subsidiary subjects the group to American jurisdiction, enabling enforcement of court orders across the enterprise.
- **Enforceability**  
The primary rationale for foreign-vendor carve-outs is that non-U.S. suppliers beyond U.S. courts’ reach may ignore the stay; a U.S. affiliate can be compelled to comply.
- **Integrated Operations**  
Courts view vendors with U.S. affiliates as part of the domestic supply chain, lowering the risk they will disregard U.S. bankruptcy rules.

Consequently, a vendor affiliated with a U.S. entity typically most likely falls under the domestic vendor category, not the foreign-vendor carve-out, and will need to rely on critical-vendor status or general unsecured claim treatment rather than the protections of the Interim Order.

## **DISCRETION AND CONDITIONS FOR PAYMENTS**

- **Debtor’s Discretion:** Marelli decides which vendors to pay within authorized caps, based on business judgment.

- Conditional Payments: Vendors must continue supplying under customary terms and not terminate contracts during Chapter 11.
- Clawback Rights: Marelli may recover payments and reinstate prepetition claims if vendors fail to honor commitments.

### **COURT HEARING ON JULY 16 AND PENDING UPDATES**

A final hearing was held on June 16 to convert interim approvals into final orders and address pending motions, including DIP financing and executory contract procedures. As of the time of writing, no definitive results or public orders have been entered on the docket concerning that hearing, leaving interim authorizations in effect until further court action.

### **SUGGESTED ACTIONS FOR TRADE CREDITORS**

1. Assess Eligibility
  - Evaluate whether you qualify as a critical or foreign vendor; gather evidence of indispensability or limited U.S. nexus.
2. Engage Marelli
  - Contact procurement or restructuring teams to discuss designation and negotiate supply commitments.
3. Monitor Claims Process
  - File a proof of claim by the forthcoming bar date to preserve rights; track filings via Marelli's claims agent site .

If you have any questions about the contents of this publication, please contact Koichiro Sato or any other member of Masuda Funai's Commercial, Competition and Trade Group.

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[1] Lien Claimants are parties that hold a legal lien or security interest in Marelli's property securing their claims for goods or services provided prior to the bankruptcy filing.

[2] Section 503(b)(9) of the Bankruptcy Code grants administrative expense priority to suppliers for the value of goods received by the debtor within 20 days before the bankruptcy filing date. Goods (not services) must have been delivered to Marelli between May 22 and June 11, 2025, in the ordinary course of business. Suppliers must file a proof of claim and itemize the value of those goods.

*Masuda Funai is a full-service law firm with offices in Chicago, Detroit, Los Angeles, and Schaumburg.*