Consumer Bankruptcy Pathologies

by

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Online Appendix:
Procedure for Imputing Chapter 13 Plan Payoffs to General Unsecured Creditors

A.1 Expected Payoffs in Chapter 7

We calculated expected payoffs in Chapter 7 to general unsecured creditors (GUC) using the Schedules filed with the consumer's bankruptcy petition. We first summed (a) the value of real estate in excess of mortgage debt and (b) the value of personal property in excess of non-mortgage secured debt. From this sum, we subtracted the value of exemptions available under Illinois state law, as reported by the consumer in the Schedules. This yielded an estimate of the value of total non-exempt assets. From this, we subtracted the value of priority unsecured debt. We then divided this number by total unsecured debt, which is equal to (a) total unsecured claims plus (b) secured debt in excess of the value of collateral. If this number was negative, we assumed the payoff to GUC in Chapter 7 is zero.

A.2 Actual Payoffs in Chapter 13

We calculated actual payoffs in Chapter 13 to GUC using the NDC data. We first summed payments made to unsecured creditors and then divided that sum by the total value of general unsecured debt for which claims were filed. When this calculation yielded a payoff less than what was promised under the most recent plan (as recorded in NDC records), we used the promised plan payoff. We assumed that a debtor must pay at least what was promised in order to obtain a discharge. Additionally, we assumed that GUC received 100% payoffs if the consumer obtained a discharge in less than 36 months. This is required by the bankruptcy law.

A.3 Imputed Payoffs in Chapter 13

We imputed each consumer's statutorily-required payoff to GUC as follows. First, we computed monthly income available for payments to creditors through the Chapter 13 plan. We observe monthly income in the Chapter 13 plan ("Plan").

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Next, we estimated the percentage of income absorbed by expenses. We observed that this percentage varied for consumers with and without mortgages. Those with mortgages sometimes paid their mortgages “outside the plan” (i.e., the consumer paid the lender directly instead of paying the trustee first, who then paid the lender). If a mortgage was paid outside the plan, the mortgage payments were treated as expenses in the consumer’s bankruptcy forms. If the mortgage was instead paid “inside the plan” (i.e., the consumer paid the trustee, who then paid the lender), the mortgage payments were not treated as expenses in the consumer’s forms. To account for this heterogeneity, we estimated the percentage of income absorbed by expenses for four groups: non-homeowners, homeowners without mortgages, consumers with mortgages paid through the plan, and consumers with mortgages paid outside the plan.

We used this percentage to compute the amount of monthly income that was “disposable” and therefore distributable to creditors through the Chapter 13 plan. We then multiplied this amount by the proposed length of the plan (the proposed duration, in months, is also reported in the Plan). This gave us total disposable income. From this, we subtracted the value of secured debt that would be paid through the plan and the value of priority debt, as reported in the Plan. The remainder was the total income available for payment to general unsecured creditors, which we divided by the total debt owed to such creditors as reported in the schedules included in the Chapter 13 petition. We compared this payoff (percent payoff through the plan) to the payoff that GUC would receive in Chapter 7 and chose the greater of the two as the “imputed,” statutorily required payoff to GUC.

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