Foreword to the 2017 Edition

Reorganizing Failing Businesses: A Comprehensive Review and Analysis of Financial Restructuring and Business Reorganization, 2017 Edition, is the culmination of more than two decades of work by dozens of experts in bankruptcy, insolvency, and myriad other areas of law that impact the restructuring of a troubled business.

The project began in the mid-1990s, under the leadership of Marvin E. Jacob and a group of Weil, Gotshal & Manges LLP (WGM) attorneys who were active in the American Bar Association Business Law Section. WGM brought together experts from different disciplines to develop a comprehensive treatise on business restructuring. Coverage extended to in-depth treatment of chapter 11 reorganizations; out-of-court restructurings; specialized restructuring situations (such as prepackaged plans, transnational restructurings, mass tort cases, and airline cases); and the implications of related areas of law, including taxation, securities, environmental, intellectual property, labor and employment, lender liability, criminal, financial market, and competition law. The result, the original version of this treatise, was published by the American Bar Association Business Law Section in 1998. It quickly became a widely employed, standard reference guide for restructuring experts.

In 2006, following amendments to the Bankruptcy Code, Bankruptcy Rules and other laws relevant to the restructuring practice, and nearly a decade of important developments in the law and practice of business restructuring, the ABA released a revised edition developed by the original authors and others. Mr. Jacob and Sharon Youdelman served as its editors. In an era of quick database searches, Reorganizing Failing Businesses remained one of the increasingly rare books attorneys and other restructuring practitioners maintained in hard copy on their shelves, alongside deal swag and family photos.

By 2015, however, the treatise itself was in need of substantial restructuring and updating as a result of significant developments in restructuring law and practice. Financial markets had devised and deployed creative new products. The global economy had suffered a devastating crisis, which continues to impact many countries. The United States economy had emerged from the Great Recession, which began in 2008 and became the country’s most significant financial crisis since the Great Depression of the 1930s. Cross-border restructurings were becoming commonplace. Domestic restructurings outside of chapter 11, including receiverships, had garnered