Indenture Restrictions Applicable to "Net Short" Investors and Related Provisions

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Recent litigation involving the telecommunications company Windstream Services, LLC and Aurelius Capital Master, Ltd. has heightened market focus on noteholders that, through derivatives, take an economic interest in the negative performance, or even failure, of a bond issuer and actively pursue that result. In response to the Windstream decision and other recent examples of "net short debt activism," private equity sponsors and corporate bond issuers have sought to introduce a variety of protective contractual provisions in bond indentures with an aim to limit the damage that can be caused by a net short investor.

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