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Rescue's shockwaves rumble on

By Tom Braithwaite in Washington

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Rick Wagoner, ousted chief executive of [General Motors](#), doubted that it would work. Plenty of lawyers thought it would be slow and painful.

But the dual bankruptcies of GM and Chrysler have beaten many of the most negative expectations – even though they have left the Obama administration defending an unprecedented rescue of an American industry and the charge that creditors were trampled in the process.

Chrysler has completed a 41-day stay in bankruptcy and is now being reorganised under the control of [Fiat](#), its new Italian partner. GM, which only entered court on June 1, is on track to beat its August 1 target to re-emerge.

Still, the criticism continues. Brian Deese, a young and prominent member of the taskforce, has been lauded for his part in the reorganisation. But not by Newt Gingrich, the former Republican speaker of the House of Representatives.

“Having a 31-year-old take time off from law school to redesign the auto industry will not work,” Mr Gingrich told a party fundraiser last week. “In fact, he is a symbol of the arrogance and lack of realism of this administration.”

Mr Deese, acclaimed though he is by colleagues, is not redrawing Detroit by himself. The US Treasury assembled a 15-person working group for the taskforce led by Steve Rattner and Ron Bloom, former bankers, and backed by senior officials such as Gene Sperling and a small army of external advisers and lawyers from Rothschild, Cadwalader and Sonnenschein Nath & Rosenthal.

“The US auto taskforce was a terrifically positive force here,” says Martin Bienenstock, a partner at Dewey & LeBoeuf law firm and an adviser to GM and Chrysler. “Without exception they are bright, they are talented, they are particularly talented in making money in distressed situations and instead of doing that they were literally serving their country.”

Was the process quick because of brilliance or because the bankruptcy code was turned upside down by Chrysler, with secured creditors strong-armed into accepting 29 cents on the dollar for their \$6.9bn holding? The last part is still being disputed.

“These two companies are the first debtors in history to go into Chapter 11 [bankruptcy] with the support of the president of the United States, the United States Treasury and the United States auto taskforce,” he says. “I would not bet against that trio.”

GM and the taskforce have taken heart and learnt lessons from Chrysler’s bankruptcy. “[We] can probably anticipate a little bit better how the dissidents – whoever they may be – might come at us,” says a senior administration official.

Tom Lauria, partner at White & Case, has emerged as the leading critic of the strategy. As adviser to a group of Chrysler creditors, he painted the government as upsetting established priorities of bankruptcy; he believes the GM reorganisation is similarly flawed.

But for all the public pressure brought to bear by Mr Obama on the hold-out creditors, the taskforce maintains it acted fairly, with the government acting as buyer of Chrysler’s assets, the first lien holders getting \$2bn and the government then choosing to give equity to Fiat and the unions in order to make the new company work.

Maurice Mitts, a bankruptcy specialist at Mitts Milavec, said: “The speed is rather high . . . it does make it difficult for creditors and particularly different classes of creditors to get their objections and their competing interests before the court.”

But he still sides with the taskforce on the question of whether the government usurped procedure. As Mr Bienenstock puts it: “It didn’t turn anything upside down. It’s not a legal stretch.”

He added: “Maybe putting everything together it looked faster and different but when you dissect it step by step it was all a very logical plain vanilla application of priorities.”

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