Bankruptcy Law: Lehman's Derivative Portfolio

Derivatives themselves were likely at most a secondary cause of the Lehman's collapse, and played a more central role in other firms caught up in the financial crisis, like AIG, writes **Stephen Lubben** of Seton Hall University School of Law. "But the late Harvey Miller suggested that derivatives were responsible for a massive loss in value suffered by Lehman post-bankruptcy. Bryan P. Marsal, the Lehman estate administrator, likewise asserted that as much as $75 billion in value was destroyed, largely as a result of the sudden termination of Lehman's derivatives book," he adds.

He has published a paper that suggests that the continuation of the safe harbors "as is" renders chapter 11 nonviable for larger financial institutions, and recent contractual attempts to work around the safe harbors are insufficient to solve the problem, while the increased role of clearinghouses in financial institution failures will force regulators to confront difficult choices.

Read the article.