

IN-DEPTH

Banking Litigation

EDITOR'S PREFACE



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Banking Litigation

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Contributing Editor

Jonathan Clark

Slaughter and May

In-Depth: Banking Litigation (formerly The Banking Litigation Law Review) provides a practical overview of the litigation landscape and framework for banking disputes in major jurisdictions worldwide. Focusing on recent developments and trends, it examines a wide range of issues – including significant recent cases and legislative changes; procedural considerations; legal privilege; conflicts of law; available remedies; exclusion of liability; and much more.

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Editor's Preface

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This year's edition of *The Banking Litigation Law Review* highlights that litigation involving banks and financial institutions shows little sign of slowing, driven by a number of global macroeconomic factors and social and technological developments.

The long-term economic effects of the covid-19 pandemic, conflicts in parts of the world and other macroeconomic disruptions have led to spiralling global interest rates and a downturn in the global economy. The financial sector has seen an increase in loan arrears and defaults, debt restructurings, bankruptcies and insolvencies affecting banks, their customers and counterparties. Courts in every major financial centre have been compelled to grapple with the scope and effect of increasingly broad and complex national and international sanctions regimes. These conditions have resulted in an increase in banking litigation.

In addition to legislators and regulators, courts have continued to consider the obligations placed on financial institutions to give sufficient protection to consumers, with a particular focus on fraud, which continues to rise as criminals seek to exploit the increasing use of technology by consumers of financial services. This edition of the *Review* shows that the UK Supreme Court's *Quincecare* decision has led to judicial decisions in a number of common law jurisdictions, with courts operating within different legal traditions also giving important judgments defining the limits of the responsibility of banks and other financial institutions to protect their customers from fraud.

Financial institutions have, as in recent years, continued to adapt to the increasing popularity of crypto-assets – and the risks they pose to investors, as demonstrated by the collapse of FTX and the recent conviction of Sam Bankman-Fried. Across the globe, regulators have made efforts to provide clarity on the regulatory framework of digital assets and courts have taken steps to intervene to prevent fraud in relation to crypto-assets. Courts will need to continue to adapt at pace to the unique challenges raised in disputes involving such assets.

This edition of the *Review* shows that in addition to these more thematic issues, the value and complexity of financial products, and the financial sector more generally, continues to give rise to litigation in the courts of every major financial centre. Looking ahead, the prevalence, value and complexity of banking and financial services disputes looks set to rise, fuelled by the current global economic environment.

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