

IN-DEPTH

Banking Litigation

EDITOR'S PREFACE

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Banking Litigation

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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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This year's edition of *In-Depth: Banking Litigation* highlights how recent market volatility and geopolitical pressures, regulatory reform, increased focus on consumer and investor protections and the emergence of new risks from technology and AI, are driving litigation risk globally for banks and financial institutions.

A key backdrop to this year has been market turbulence and tariff risk. The US, UK and EU have faced heightened volatility linked to trade policy uncertainty, arising from US tariff announcements and implementation. For banks and financial institutions, these developments are shaping contractual risk allocation, pricing mechanisms and cross-border enforcement.

Regrettably, the theme of armed conflict in parts of the world covered in previous *Reviews* continues. The global impact of economic sanctions remains a prominent driver of enforcement activity and civil disputes. Financial institutions and banks have turned to the courts to test the limits of their obligations and how such sanctions constraints interact with payment undertakings and contractual duties across jurisdictions.

The past year has also seen an increased focus on consumer and investor protection and the allocation of fraud risk between individual consumers and financial institutions. Policymakers across jurisdictions, in particular in the US, UK, Singapore and continental Europe, have tightened expectations of digital mechanisms and payment channels, reinforced authentication and AML frameworks and implemented new regimes addressing algorithmic transparency, operational resilience and data governance. These regulatory developments are shaping the litigation environment, as financial institutions and banks may be held to a higher standard and exposed to a higher risk of claims that follow on from regulatory findings. In the UK, for example, the *Quincecare* duty continues to evolve in the context of protecting consumers from Authorised Push Payment (APP) fraud and the Swiss courts have implemented a three-stage test to assess whether the bank or the client bears the loss of an unauthorised transaction. Meanwhile, mere non-compliance with regulatory best practices or general irregularity in documentation was not enough to engage the settled *Quincecare* duty in the Hong Kong courts.

These developments reveal an increasingly complex landscape for banks and financial institutions. Trade policy uncertainty, evolving consumer protection frameworks and intensified regulatory oversight of data and AI are likely to reshape litigation risks for financial institutions for years to come.

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