

Banking & Financial Institutions

In the ever-changing legal and regulatory landscape affecting financial institutions, our team of attorneys brings significant depth to the representation of our clients. Our attorneys have experience serving not only as trusted outside legal advisors on specific transactions and disputes, but also in a broad role as inside and outside general counsel. We represent a wide array of national banks, regional and community banks, credit unions and insurance companies, as well as their investors and directors, in all facets of the law.

Transactional and Regulatory

Our attorneys routinely advise financial institutions in all types and sizes of commercial financing transactions, including syndicated and participated loans, acquisition financings, asset-based loans, agricultural loans, project financings, mezzanine financings and equipment leasing. When appropriate for a particular transaction, we are able to call upon the experience of other specialists within Downey Brand to assist on various aspects of a transaction, including tax, employment, environmental, natural resources, ERISA and intellectual property.

We are very experienced in the complex process of creating new financial institutions, licensing, and expansion by merger and acquisition. We regularly work with the Office of the Comptroller of the Currency (OCC), the Federal Reserve, the Federal Deposit Insurance Corporation (FDIC), the Securities and Exchange Commission (SEC), and key state supervisory authorities. As part of the M&A process, we not only draft the applicable documentation for public and private transactions, but also counsel management and boards of directors at each step of the acquisition process.

In addition, many new and proposed regulatory reforms have a significant impact on financial institutions. Our attorneys are able to provide strategic planning and analysis and interpretation of legislation, amendments, and administrative rules to clients as the regulatory landscape changes. Also, staying ahead of the amendments to the complex state and federal consumer regulatory scheme enables us to advise clients on consumer lending regulations as Truth in Lending (Reg Z), CRA, ECOA, RESPA and others, and if litigation results, representing them in each step along the way.

We also represent financial institutions, financial institution holding companies and their subsidiaries in public and private securities offerings and compliance with securities laws.

We take a practical approach to assessing our clients' goals, and use extensive market experience to deliver timely, high-quality results for complex legal matters. Our experience and depth enables us to provide our clients with efficient, value-driven service, to successfully achieve results.

Litigation

Downey Brand's litigators skillfully solve complex problems for a wide variety of financial institutions including national banks, regional banks, community banks, credit unions, consumer finance companies, special servicers,

leasing companies, and agricultural lending cooperatives, in diverse creditors' rights matters, complex commercial litigation (including class actions), and bankruptcy cases. Our litigators focus on solving problems, not on the process. They are tenacious, but also creative. Their experience and efficiency brings value and yields success.

We have particular expertise in matters involving:

- Defense of lender liability claims;
- Defense of regulatory compliance claims;
- Prosecution and defense of claims related to loan enforcement and fraudulent business schemes;
- Prosecution and defense of fraudulent transfer claims under the Uniform Fraudulent Transfer Act;
- Enforcement of personal property liens, including Civil Code and Commercial Code, Article 9 liens;
- Analysis of security first rules and anti-deficiency statutes;
- Assistance with judicial and non-judicial foreclosures;
- Protecting collateral and securing claims through writs of possession and writs of attachment;
- Protecting collateral by obtaining receivers;
- Disputes related to negotiable instruments under Article 2 of the Commercial Code;
- Protecting cash collateral;
- Obtaining relief from bankruptcy stay;
- Opposing and promoting plans of reorganization;
- Defense of preference and fraudulent transfer avoidance actions;
- Creditors' committee representation.

Selected Experience

- Advised \$900 million publicly traded bank holding company on acquisition of \$200 million bank in merger transaction valued at \$24 million consisting of half cash and half publicly traded stock, including active involvement with due diligence, negotiation of Agreement and Plan of Reorganization, advising Board of Directors on fiduciary duties in connection with merger, filing regulatory applications with the FDIC and the California Department of Financial Institutions, registering the stock with the SEC, rendering a tax opinion, and consummating the merger transaction.
- Defended large California financial institution in multi-million-dollar breach of contract suit filed by software vendor after client terminated contract for non-performance; at mediation, vendor dismissed case in its entirety.
- Currently representing large California credit union in defense of putative class action challenging debit card overdraft practices. Litigation is on-going.
- Successfully handled litigation on behalf of bank against former officer who misappropriated bank's technology and trade secrets. Obtained temporary restraining order and preliminary injunction at the outset of case requiring former officer to return bank's intellectual property.
- Representing agents and lenders in connection with the establishment and management of senior secured term loan and revolving credit facilities.
- Representing equity sponsors and subordinated lenders (including SBIC lenders) in structuring, documenting and administering complex financing transactions.
- On-going representation of numerous banks in connection with their participation in the TARP and SBLF investment program.

- On-going representation of one of the nation's largest credit unions in all facets of its business as outside general counsel.

Trade Groups

Trade Groups

- California Bankers Association