

Publications

The Bankers' Statement - Fall 2023

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CFPB Roundup

The Consumer Financial Protection Bureau (CFPB) has been active in recent months, publishing regulatory guidance and other pronouncements on a wide-range of topics. It's been so prolific, in fact, that it is understandable if a few of these initiatives may have slipped under the radar.

Securing Cash in Deposit Accounts: Common Pitfalls and Best Practices

Article 9 of the Uniform Commercial Code (UCC) affords numerous protections to creditors who secure their loans with a debtor's deposit account. Article 9, however, contains numerous pitfalls for the unwary, which hinder a creditor's rights in a debtor's deposit account.

Two New Waves of Privacy Class Actions May Affect Financial Institutions

A number of privacy class actions have been filed in federal courts, and in California state courts, that may have an impact on financial institutions. One wave of these cases challenges the use of Meta's Pixel technology, and the other challenges the use of third-party providers of chat or "session replay" services.

An Overview of the CFPB's Small Business Lending Collection and Reporting Rule

On March 30, 2023, the Consumer Financial Protection Bureau (CFPB) released its long-anticipated final rule implementing the small business lending data collection and reporting requirements of the Dodd-Frank Act.

U.S. Supreme Court's Section 363(m) Holding Provides Negotiating Leverage to Purchasers and Parties in Interest in Bankruptcy Sales

On April 19, 2023, the U.S. Supreme Court held that Section 363(m) is not a jurisdictional provision. Thus, challenges to Section 363 sales that have closed can be heard on appeal notwithstanding a Section 363(m) finding in the sale order, so long as the appellate decision does not affect the validity of the sale to a good faith purchaser.