

## OVERVIEW

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# BANKING



*In response to the increasingly complex, competitive and uncertain business climate within the banking industry, Murtha Cullina has built an interdisciplinary practice group that focuses on the particular needs of multi-bank holding companies and community banks. Our team includes professionals who concentrate in bank regulatory work; commercial and real estate lending; workouts and restructurings; sale of bank assets and loans; creditors' rights and bankruptcy; mergers and acquisitions; product development and expansion; and general corporate and securities law. In addition, we assist banking clients in establishing, capitalizing and restructuring banks and bank holding companies to meet the changing regulations in the industry. Together, our attorneys provide banks, thrifts and other financial institutions with a comprehensive spectrum of specialized legal services.*

### **LOAN WORKOUT/LOAN RESTRUCTURING**

In recent years the number of defaults of both commercial and residential loans has multiplied exponentially. In this current economic climate, lenders and counsel are becoming "creative" in approaching workout situations. The procedure is technically the same as it was "pre-recession", that is, default, demand, then litigation. The difference is ultimate collectability. Default litigation must be handled with care and knowledge of the remedies afforded by the loan documents. Each lender relies upon its own documents.

A seasoned litigator in Murtha Cullina's Banking Group will review the terms contained in the loan documents to assess the value of collateral and the potential for recovery from sources other than the secured collateral. For example, is there a better source of recovery via a guarantor, does a receiver of rents make sense? Can a lender structure a settlement wherein terms are modified and additional security is provided?

Today's workouts involve creative thinking, i.e. modifying loans to extend maturity dates, restructuring interest rates, and "back-ending" past-due interest payments. Utilizing our extensive familiarity with the FDIC's Prudent Commercial Real Estate Loan Workouts Policy, our bank litigation attorneys assist lenders in reviewing all angles and in undertaking strategic business tactics to maximize recovery via workout or eventual litigation. If litigation is unavoidable, we begin by undertaking an analysis of the ultimate collectability of a defaulted loan and then build the strategy from there.

### **SERVICES**

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Loan Workout

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Loan Restructuring

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Lending

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Bank Regulatory Work

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Bankruptcy

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Environmental

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Labor and Employment

## LENDING

We represent national, regional and community banks in structuring, negotiating and closing financial transactions of many kinds and sizes, including secured and unsecured loans, receivable-backed, real estate financings and other asset-based transactions. We assist at every stage, providing advice regarding transaction structures, term sheets and covenants, handling due diligence, participating in negotiations and documenting transactions. Our lawyers regularly assist on transactions relating to housing developments (including both market rate and affordable rental housing utilizing low income housing tax credits and tax exempt financing) that involve state housing finance and other sources of specialized financing such as the Connecticut Development Authority, the Connecticut Housing Finance Authority, the Connecticut Health and Education Facilities Financing Authority, MassHousing and MassDevelopment. In addition, we represent clients in connection with a variety of real estate-based loan transactions, including construction mortgage loans, mortgage loans involving New York Industrial Development Agency (IDA) structures, permanent mortgage loans, credit mortgage loans, New York building loans and the unique issues associated there with and open-end mortgage transactions involving revolving and multiple tranche credit facilities and letter of credit reimbursement agreements for office, regional retail mall and strip center, hotel, resort, warehouse, industrial, golf course, and assisted living and healthcare facilities.

## BANK REGULATORY WORK

The regulatory framework within which banks, thrifts and other financial institutions operate is uniquely complex. Several different state and federal regulatory agencies oversee the enforcement of many overlapping state and federal statutes and regulations. The current "banking crisis" facing our nation has resulted in a steady stream of new legislation, creating other complexities and substantially increasing the burden of regulatory compliance. At the same time, the stakes have risen. The threat of personal liability for the failure of directors and executive officers to ensure complete compliance is a real and ever present danger.

Murtha's Banking Law Group includes several professionals who have experience in this complex area and provide pertinent counseling and advice relating to regulatory compliance. We are familiar with all aspects of state and federal banking legislation, as well as the regulations promulgated thereunder by the various agencies and departments. We are well versed in counseling officers and directors in connection with the establishment of regulatory compliance programs, the negotiation of regulatory orders and agreements, the conduct of special internal investigations, and the preparation of a wide range of regulatory applications and reports.

## ADDITIONAL SERVICES

Our Banking Group also has experience with bankruptcy, environmental issues and labor and employment issues. For more information please contact one of our Banking Attorneys.

*With six offices throughout Connecticut, Massachusetts and New York, Murtha Cullina LLP offers a full range of legal services to meet the local, regional and national needs of our clients. Our practice encompasses litigation, regulatory and transactional representation of businesses, governmental units, non-profit organizations and individuals.*

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