

THE BANKING  
LITIGATION LAW  
REVIEW

SIXTH EDITION

Editor  
Jonathan Clark

THE LAWREVIEWS

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# PREFACE

This year's edition of *The Banking Litigation Law Review* highlights that litigation involving banks and financial institutions shows little sign of slowing. The legal and procedural issues that arise in banking litigation continue to evolve and develop across the globe, in the context of both domestic and cross-border disputes.

The impact of covid-19 continued throughout 2022 with many of the temporary measures enacted becoming permanent features of the litigation landscape. In many jurisdictions, procedural rules have been revised to provide for the use of technology, including in the form of virtual and hybrid hearings. Nevertheless, physical hearings remain an option, especially for complex cases that involve witness evidence and large amounts of oral advocacy.

Financial institutions have also had to adapt to the increasing popularity of crypto-assets. Across the globe, regulators have made efforts to provide clarity on the regulatory framework of digital assets and this will no doubt be an evolving area in the years to come. It remains to be seen how courts will adapt to the unique challenges raised in disputes involving such assets.

Signs of the long-term economic effects of the pandemic, war in Ukraine and inflation are now visible in many parts of the world. From the perspective of the financial sector, these conditions are likely to translate into an increase in loan arrears and defaults, debt restructurings, bankruptcies and insolvencies affecting banks, their customers and counterparties. In a number of financial transactions, there will be winners and losers from the current increase in interest rates following a sustained period of historically low rates. These conditions typically presage an uptick in banking litigation and it seems likely that disputes arising from the current global economic environment will feature in future editions of this *Review*.

A continuing trend this year, as in other recent years, has been the broadening of obligations placed on financial institutions in the name of improving consumer protection. Faced with the challenge of increasing fraud, governments and courts alike have continued to develop the nature and scope of duties imposed on banks to protect their customers, including from their own susceptibility to fraudulent schemes. Claimants, and their funders, are expected to continue testing the limits of these obligations and duties in the courts.

Given the various headwinds and challenges ahead, the high volume and broad nature of litigation in the financial sector looks set to continue.

**Jonathan Clark**  
Slaughter and May  
London  
November 2022

## ABOUT THE AUTHORS

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#### *Slaughter and May*

Jonathan is a partner in Slaughter and May's Disputes and Investigations Group. He has a strong and varied litigation and investigations practice advising a wide range of financial services clients. He has deep experience defending allegations of deliberate wrongdoing, having advised on criminal and regulatory investigations and litigation involving alleged corruption, fraud, cartel activity and tax evasion.

Jonathan's litigation practice includes a focus on banking cases relating to complex derivatives transactions and benchmark manipulation, as well as multi-jurisdictional competition litigation in the financial services and other sectors.

Jonathan is recognised as a 'brilliant lawyer' representing 'high-profile clients in a broad range of contentious banking matters', and as such is a 'leading individual' for Banking Litigation in both *Chambers UK 2023* and *Legal 500 UK 2023*.

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