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#### Latest Posts

#### 03.27.2018 [Chapter 9 – More than just Orange County and Detroit](#)

By Courtney Davis Powell

A Chapter 9 bankruptcy offers protection to a financially-distressed municipality so that it may develop a plan for addressing its debts. A product of the Great Depression, bankruptcy protection for municipalities was first enacted in 1934. However, the Supreme Court held the act unconstitutional as an improper interference with the sovereignty of states. See *Ashton v. Cameron County Water Improvement Dist. No. 1*, 298 U.S. 513 (1936). Congress subsequently passed a revised Municipal Bankruptcy Act in 1937, which was eventually upheld by the Supreme Court. See *United States v. Bekins*, 304 U.S. 27 (1938).

#### 03.16.2018 [Changes to Chapter 12 Bankruptcy May Increase Farmers' Ability to Reorganize in Bankruptcy](#)

By Andrea Chase

Farmers attempting to reorganize under Chapter 12 of the Bankruptcy Code may propose selling land as a means of generating cash to pay creditors. This sale creates a large capital gains tax, as the cost basis for the land is likely low. That capital gains tax has priority over general unsecured creditors, and the farmer needs to pay that capital gains tax in full to get a Chapter 12 plan confirmed.

#### 03.08.2018 [New Chapter 14 Bankruptcy Code Recommended by the United States Treasury Department](#)

By Matthew Wine

##### Would Handle Liquidation of Failing Financial Firms and Limit the Use of Orderly Liquidation Funds as Established in the Dodd-Frank Act

In February 2018, the United States Treasury Department issued the *Orderly Liquidation Authority and Bankruptcy Reform Report* (the "Report") advocating for the enhancement of the Bankruptcy Code, specifically as it applies to financial institutions. This report is in stark opposition to the CHOICE Act proposed by a conservative group of lawmakers in the U.S. House of Representatives that seeks to undo much of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank") and fully repeal the orderly liquidation authority ("OLA") established in Dodd-Frank.

#### 02.28.2018 [Supreme Court Adopts Restrictive Minority View of Section 546\(e\) Safe Harbor Regarding Certain Securities Payments](#)

By Ryan C. Hardy

On February 27, 2018, a unanimous Supreme Court held in *Merit Management Group, LP v. FTI Consulting, Inc.* (link [here](#)) that an otherwise-avoidable transfer is not subject to the safe harbor in Section 546(e) (which provides, in relevant part, a trustee may not avoid a transfer that is a "settlement payment . . . made by or to (or for the benefit of) a . . . financial institution" or that "is a transfer made by or to (or for the benefit of) a . . . financial institution . . . in connection with a securities contract") of the Bankruptcy Code merely because funds flow through covered financial entities. Rather, the availability of the Section 546(e) safe harbor depends on the particular transfer sought to be avoided.

#### 01.30.2018 [The Bankruptcy Venue Reform Act of 2018](#)

By Jacob Sparks

In January 2018, Senators John Cornyn (R-TX) and Elizabeth Warren (D-MA) introduced a bill that would require corporate debtors to file for bankruptcy protection in the district in which their principal assets or principal place of business is located. In other words, the [Bankruptcy Venue Reform Act of 2018](#) would eliminate a corporate debtor's ability to commence a case in its state of incorporation if the state of incorporation is neither the debtor's principal place of business nor the location of its principal assets. Moreover, the bill would do away with the so-called "Affiliate Rule" that allows corporate debtors to file in any district where an affiliate has a pending bankruptcy case. If signed into law, the act would also put an end to protracted, expensive battles over venue: judges would be required to make a decision on a venue transfer request within fourteen days of the objecting party's request.

#### 01.23.2018 [Limited Liability Company Interests as Collateral: Remedies on Default](#)

By Zachary Fairlie

Various business formations and financial transactions utilize alternative entity forms, such as limited liability companies ("LLC"), limited partnerships, master limited partnerships, limited liability partnerships, limited liability limited partnerships—you get the idea. In turn, commercial borrowers may offer—and lenders may request—interests in such entities as collateral. This blog post focuses on LLC membership interests ("LLC Interests") as collateral.

#### 01.16.2018 [Bankruptcy Rule Changes: What You Need to Know](#)

By Andrea Chase

Nearly every year, there are changes to the Federal Rules of Bankruptcy Procedure. 2017 was no exception, and new rules went into effect on December 1, 2017. Creditors should be aware of the new timeframe for filing claims and new relief that can be sought in Chapter 12 and Chapter 13 plans. Below is a summary of some of the new rule changes.

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