

REVIEW  
*of*  
BANKING  
&  
FINANCIAL LAW

---

Volume 33

BOSTON UNIVERSITY SCHOOL OF LAW  
GRADUATE PROGRAM IN BANKING AND FINANCIAL LAW

**2013-2014**



## *Table of Contents*

---

### ***ISSUE I – FALL 2013***

DEVELOPMENTS IN BANKING AND FINANCIAL LAW: 2013 .....1

#### **ARTICLES**

PRIVATE EQUITY FIRMS AS GATEKEEPERS .....115  
Elisabeth de Fontenay

HEY, BUT IT'S MY MONEY! OWNERSHIP AND THE ENFORCEMENT OF  
CONVERSION LIABILITY UNDER U.C.C. § 3-420 .....191  
Wayne K. Lewis & Michael Gentithes

PAYDAY LENDING, BANK OVERDRAFT PROTECTION, AND FAIR  
COMPETITION AT THE CONSUMER FINANCIAL PROTECTION BUREAU .....235  
Robert L. Clarke & Todd J. Zywicki

EU IMPLEMENTATION OF BASEL III IN THE SHADOW OF EURO CRISIS .....283  
Jeffery Atik

#### **NOTES**

THE FED'S DUAL MANDATE: ONE TOO MANY?.....343  
Michelle A. L. Goldberg

CRACKING DOWN ON BRIBERY WITHOUT CRACKING DOWN ON  
COMPETITION: IMPLEMENTING A FOREIGN CORRUPT PRACTICES ACT  
THREE-STRIKE RULE .....381  
Jeremy Clemens

### ***ISSUE II – SPRING 2014***

DEVELOPMENTS IN BANKING AND FINANCIAL LAW: 2014 .....417

#### **DISTRESSED MUNICIPAL FINANCING SYMPOSIUM**

INTRODUCTION.....567

CAN MUNICIPAL POLITICAL STRUCTURE IMPROVE FISCAL  
PERFORMANCE? .....571  
Clayton P. Gillette

WHO DOES BANKRUPTCY? MAPPING PENSION IMPAIRMENT IN CHAPTER 9 .....	585
Vincent S. J. Buccola	
PENSIONS AND PROPERTY RIGHTS IN MUNICIPAL BANKRUPTCY .....	609
Richard M. Hynes & Steven D. Walt	
GOVERNMENT BUDGETS AS THE HUNGER GAMES: THE BRUTAL COMPETITION FOR STATE AND LOCAL GOVERNMENT RESOURCES GIVEN MUNICIPAL SECURITIES DEBT, PENSION AND OBEP OBLIGATIONS, AND TAXPAYER NEEDS .....	663
Christine Sgarlata Chung	
MUNICIPALITIES IN DISTRESS: A PREVENTATIVE VIEW .....	779
Tamar Frankel	
<b>ARTICLES</b>	
THE FEDS ARE ALREADY HERE: THE FEDERAL ROLE IN MUNICIPAL DEBT FINANCE .....	795
Darien Shanske	
HAZARDOUS HEDGING: THE (UNACKNOWLEDGED) RISKS OF HEDGING WITH CREDIT DERIVATIVES.....	813
Gina-Gail S. Fletcher	
<b>NOTES</b>	
SHEATHING RESTITUTION’S DAGGER UNDER THE SECURITIES ACTS: WHY FEDERAL COURTS ARE POWERLESS TO ORDER DISGORGEMENT IN SEC ENFORCEMENT PROCEEDINGS.....	899
Francesco A. DeLuca	
ALAN R. STERN MEMORIAL FELLOWSHIP .....	935
OUR HOUSE: CROWDFUNDING AFFORDABLE HOMES WITH TAX CREDIT INVESTMENT PARTNERSHIPS .....	937
Sarah Pickering	

*Contributors*

---

**JEFFERY ATIK**

*Professor of Law and Sayre Macneil Fellow,  
Loyola Law School—Los Angeles*

**VINCENT S. J. BUCCOLA**

*Bigelow Teaching Fellow and Lecturer in Law,  
University of Chicago Law School*

**CHRISTINE SGARLATA CHUNG**

*Associate Professor of Law, Albany Law School*

**ROBERT L. CLARKE**

*Senior Partner, Bracewell & Giuliani LLP;  
Former Comptroller of the Currency*

**GINA-GAIL S. FLETCHER**

*Visiting Assistant Professor of Law, Cornell Law School*

**ELISABETH DE FONTENAY**

*Associate Professor, Duke University School of Law*

**TAMAR FRANKEL**

*Professor of Law, Boston University School of Law*

**MICHAEL GENTITHES**

*LL.M., New York University School of Law;  
J.D., DePaul University College of Law*

**CLAYTON P. GILLETTE**

*Max E. Greenberg Professor of Contract Law,  
New York University School of Law*

**RICHARD M. HYNES**

*Nicholas E. Chimicles Research Professor in Business Law and  
Regulation, University of Virginia School of Law*

**WAYNE K. LEWIS**

*Professor of Law, DePaul University College of Law*

**DARIEN SHANSKE**

*Professor of Law, University of California Davis School of Law*

**STEVEN D. WALT**

*Percy Brown, Jr. Professor of Law and John V. Ray Research  
Professor of Law, University of Virginia School of Law*

**TODD J. ZYWICKI**

*Senior Scholar, Mercatus Center at George Mason University;  
George Mason University Foundation Professor of Law,  
George Mason University School of Law;  
Former Director, Office of Policy Planning, Federal Trade  
Commission*

---

*Review of Banking & Financial Law*

---

*Editor-in-Chief*  
Laura E. Goldsmith

*Executive Editor for Management*  
David Ginensky

*Executive Editor for Professional Articles*  
Jillian Zvolensky

*Executive Editor for Notes & Comments*  
Daniel Jeng

*Executive Editors for Developments*  
Francesco DeLuca  
Sarah Pickering

*Executive Editor for Symposium*  
Sesi Garimella

*Executive Editor for Marketing*  
Jack Jrada

*Executive Editor for Communications*  
Michelle A. L. Goldberg

*Article Editors*  
Jeremy Clemens  
Kristen Dooley  
Andrea Jennings  
Peter Sumners  
Jessica Ziehler

*Faculty Advisors*

Frederick Tung  
*Professor of Law*  
Howard Zhang  
*Faculty Research Scholar*

James E. Scott  
*Director*  
*Graduate Program in*  
*Banking and Financial Law*

*Staff*

D. Deniz Aktas  
Timothy Bolte  
Lisa Bothwell  
Chloe Brighton  
Joseph Burleson  
Alyce Hui-Chun Chen  
William Constantine  
Emily Finestone  
Sean Foley  
Jennifer Gardner  
Chris Hamilton  
Adriana Henquen  
Kyle Howard  
Michael Kaplan  
Lisa Ann Landry

Joanna Lee  
Lillian Li  
Thomas Markey  
Eva Maryskova  
Christopher Mercurio  
Jacqueline Nutile  
Bridgette Pighin  
Marisa Roman  
Sean Rosenthal  
Jake Saifman  
Adam Santeusanio  
Enrique Santiago  
Blake Schell  
Michael Vandenberg  
Jacob Wimberly

---