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PRINCIPLES OF

# Bank Regulation

THIRD EDITION

MICHAEL P. MALLOY



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**PRINCIPLES  
OF  
BANK REGULATION**  
**Third Edition**

By  
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*This book is dedicated to  
my son  
Michael Emil Malloy*

## Preface to the Third Edition

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Since the publication of the second edition of this book appeared in 2003, dramatic challenges have loomed up out of the haze of fast-moving commercial activities to confront the financial services sector. The pace of change and expansion seemed to tick up from moment to moment, until disaster overtook us in the Fall of 2008, when the residential mortgage market collapsed. Not only did that collapse manage to take with it iconic financial services firms like Lehman Brothers and Washington Mutual, but also—because “securitization” of mortgage-related products had spread mortgage risk directly into the securities markets—the collapse of the mortgage market led to a meltdown of U.S. capital markets. The meltdown itself reverberated through many major non-U.S. capital markets as well.

And so the project for the past three years—and doubtless for many years to come—has been to devise ways and means to recover from this financial disaster, to extract practical lessons from the experience of the collapse, and to establish new safeguards for the financial services markets. As to this last task, Congress only lately responded by enacting the Dodd–Frank Act, which touches on virtually every aspect of the regulation of depository institutions, the subject of this book. By its own terms, many of the most significant changes initiated by the act will take years to implement fully. This is the result of effective dates of key provisions that stretch out over two years following the enactment of Dodd–Frank, as well as a lengthy and complex process of regulatory implementation of the provisions of the act. As a result, in this book we examine the current rules governing the financial services sector, while we also confront together the likely future direction of regulation in this area. I hope to share with the reader the exciting intellectual challenges of this area of legal study and the daunting practical demands that we face in the years to come.

I remain, as always, thankful for the support and encouragement of my wife, Susie A. Malloy, during my work on this new edition. The success of the work owes much to the groundwork provided by my past student research assistants, especially Mr. Michael P. Battin, of the Fordham University Class of 1996, Mr. Edward Miklautsch, of the Fordham University Class of 1997, and Ms. Suzanne Uzelac, of the McGeorge Law School Class of 1998. I thank them for all of their invaluable assistance in bringing the project to first light, and I also thank the many students who have participated in my banking courses over the past fifteen years and have made my interest in financial services law a source of continuing delight.

M.P.M.

## Preface to the Second Edition

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The pace of change and development in depository institutions regulation has continued to be fast and furious in the few years that have intervened since the first edition of this book appeared in 1999. In November of that year, the president signed into law the Gramm–Leach–Bliley Act, which worked remarkable changes in the field. The effects of those changes are still being implemented through regulatory amendment and litigation. In September 2001, the tragedy of terrorist attacks upon the United States of America and its citizens prompted, among other things, regulatory, statutory and multilateral responses that are having a significant impact on the provision of financial services—domestically as well as internationally. These events are dramatic, but they represent only the highlights of a constant stream of developments. Indeed, in the twenty years since I began teaching bank and financial services regulation, the field has transformed itself in so many ways that it almost seems to be a different subject altogether. Now more than ever, we all remain students of the subject, no matter how long our experience. The intellectual and practical challenges that confront us students are fascinating, challenging and, at times, frustrating. This second edition continues to follow the objective of the original book—to help law students satisfy their fascination with the subject without the frustration.

Once again I thank my wife, Susie A. Malloy, for her encouragement, critique and inspiration—to say nothing of her patience. I also thank past student research assistants, particularly Mr. Michael P. Battin, of the Fordham University Class of 1996; Mr. Edward Miklautsch, of the Fordham University Class of 1997; and Ms. Suzanne Uzelac, of the McGeorge Law School Class of 1998 for all of their invaluable assistance in bringing this project to first light.

M.P.M.

## Preface to the First Edition

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Depository institutions regulation is subject to a fast pace of change and development. In the past twenty years alone, for example, federal statutes governing this area have been broadly amended at least seven times. These legislative changes and the increasingly frequent intervention of the Supreme Court have repeatedly rearranged the furniture. In addition, the growing overlap in competition among depository institutions, insurance companies and securities firms has further complicated regulatory policy. As a result, we all remain students of the subject, no matter how long our experience. That may be one of the things that makes the regulation of depository institutions law so fascinating and, at times, so frustrating. This book is intended to help law students satisfy their fascination with the subject without the frustration.

I thank my wife, Susie A. Malloy, for her encouragement, critique and inspiration. I also thank my student research assistants, Mr. Michael P. Battin, of the Fordham University Class of 1996; Mr. Edward Miklautsch, of the Fordham University Class of 1997; and Ms. Suzanne Uzelac, of the McGeorge Law School Class of 1998.

M.P.M.



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