

FDIC's Second Notice of Proposed Rulemaking under the Orderly Liquidation Authority

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On March 23, 2011, the FDIC published its second notice of proposed rulemaking to implement its new Orderly Liquidation Authority (OLA) under Title II of the Dodd-Frank Act. The Second NPR strikes a more balanced tone between how the FDIC will use its new authority to end taxpayer-funded bailouts of creditors and other stakeholders, while avoiding the sort of “disorderly” liquidation or reorganization under the Bankruptcy Code that could trigger a chain reaction of panic and failures that could result in a severe destabilization or collapse of the U.S. financial system. While it is too early to tell whether the Second NPR signals a permanent change in the tone of the FDIC’s rulemakings and other public statements, it is an important first step.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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