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Crisis Revamps Patterns of Bank and S&L Holding Company Approvals

In 2008, the financial institutions industry experienced the most disruptive, exciting and precedential year in the history of the formation and operation of bank holding companies and savings and loan holding companies. The transactions in 2008 altered the face of the banking and investment banking sectors in a matter of months. In doing so, in many cases, the longstanding tradition of avoiding the limitations imposed by federal holding company regulation reversed itself on a dime, in large part because of the need for government support to weather the economic storm.

As a result, in 2008, the Board of Governors of the Federal Reserve System and the Office of Thrift Supervision issued groundbreaking orders and decisions that, along with the current economic turmoil, will irrevocably impact the face of global financial markets.

In their first annual review of these holding company approvals, Tom Vartanian and Colleen Lenaghan discuss a number of important threads that appear in the approvals, including the challenge of creating holding company structures that enable participation in federal aid programs, such as TARP and TLGP, the invocation of "emergency" provisions to eliminate applicable time frames and the opportunity for public comment and protest and the number of orders granting approval to private equity funds on a non-controlling basis. Vartanian, Lenaghan, *Crisis Revamps Patterns of Bank and S&L Holding Company Approvals*, 92 Banking Rep. (BNA) 17 (April 28, 2009).

The authors conclude that this tornado of change fostered by unprecedented economic times is likely to be followed by debate regarding comprehensive restructuring of the financial services business in the US and the regulatory apparatus that oversees it.

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