



## News & Trending

NEWS

### SMITH ANDERSON HELPING CLIENTS FIND OPPORTUNITIES AND AVOID PITFALLS DURING THE FINANCIAL CRISIS

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The global financial crisis presents significant challenges, and in some cases opportunities, to the clients of Smith Anderson.

Smith Anderson is working with its clients to guide them through these challenges and opportunities with the expertise to assist large and small businesses facing issues relating to:

- The new Capital Purchase Program of the Economic Stabilization Act of 2008
- Credit formation, capital formation, insolvency and workouts
- Internal corporate and governmental investigations
- Employment and benefits issues relating to reductions in force
- Litigation related to asset securitizations, illiquid investments and defaulting parties or lenders

Smith Anderson is utilizing options such as the Capital Purchase Program to advise banks and financial institutions concerning all issues associated with the 2008 Capital Purchase Program of the United States Department of the Treasury ("CPP", also known as "TARP"). Work with this program includes:

- Analyzing the advantages and disadvantages of seeking CPP investments
- Applying for CPP investments
- Assisting banks in making organizational changes to satisfy CPP requirements
- Preparing public filings associated with CPP
- Considering executive compensation issues
- Addressing accounting and other reporting issues associated with CPP investments

Clients are also being guided in analyzing and considering credit resources and opportunities in a difficult financial market. The evolving view of these resources includes:

- Identifying and accessing alternative sources of capital
- Restructuring loans and developing hedging strategies
- Negotiating amendments to covenants

- Addressing the impacts of insolvent or non-performing counterparties
- Modifying deal structures to be consistent with available credit sources
- Assisting in the sale or acquisition of distressed assets or entities

With our considerable experience, Smith Anderson is also representing public companies faced with investigations by the SEC and stock exchanges. Investigations are expected to increase in the current financial environment. Public companies face particular disclosure and financing issues, and Smith Anderson is assisting clients on several fronts, including:

- Responding to investigations and informal inquiries from the SEC, stock exchanges and other governmental agencies
- Conducting internal investigations and reviews designed to improve internal controls in financial areas
- Advising regarding public disclosure on the expected impact of the financial crisis as well as the increased focus on executive compensation disclosure
- Evaluating alternative financing sources, including PIPEs and convertible notes

Along with financial issues often come employment issues. Smith Anderson continues to represent companies faced with employment and benefits issues such as:

- Advising clients regarding workforce restructuring, downsizing, plant closings and merger and acquisition integration
- Addressing departing executives and employees, severance programs, trade secret protection and non-competition agreements
- Handling human resources audits and risk management issues
- Representing clients facing Fair Labor Standards Act, equity compensation and state wage issues

Smith Anderson is representing clients in contract and commercial disputes through litigation and alternative dispute resolution processes. Clients are being advised concerning risk identification and evaluation, risk avoidance and pre-litigation strategies, including:

- Representing parties in asset securitization litigation
- Considering risk management strategies relating to payment issues
- Advising corporate and individual clients saddled with illiquid assets
- Pursuing claims against defaulting or insolvent parties (including claims in bankruptcy)
- Addressing employment and environmental issues resulting from declines in business
- Seeking insurance coverage generally under D&O and E&O policies

