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PRACTICE AREAS

Lending Transactions

"The Defaulting Lender in Today's Loan Market" by Nicholas Whitney

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Volatile markets often highlight underlying risk factors and force market participants to re-examine cherished assumptions. The business of lending has historically focused on a borrower's credit risk. Today, in a credit market turned upside down, borrowers must analyze lender credit risk as well. In a credit agreement the risk of a defaulting lender is from a legal perspective a borrower's risk, but the practical effects of a "failure to fund" by a syndicate member affect not only the defaulting lender but the borrower, the administrative agent and the defaulting lender's potential assignees. The attached memorandum addresses the issues that may arise when a lender fails to fund its revolving commitment under a credit agreement.

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