

## Whitley, Harris, Owens in Bloomberg Law: ‘Competitors & Disqualified Institutions – Considerations & Sample Provisions’

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**PRACTICES** Finance, Private Credit Finance, Fund Finance

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Partners Laura Whitley, Charlie Harris and Ben Owens authored an article in Bloomberg Law discussing some of the more common constructs for restrictions on a lender's ability to sell its interest in a credit facility to a competitor of the borrower.

For borrowers under all types of credit facilities, the identity of the institutions providing credit, and those entities' access to the borrower's confidential information, is of paramount importance. Similarly, for the lenders providing credit, the ability to reduce or eliminate their exposure, particularly for troubled credits, is critical and has been increasing in importance due to capital constraints, bank failures and sustained higher interest rates.

An important consideration in these competing concerns is what constitutes a “competitor” of the borrower and in which circumstances—if any—a competitor should be allowed to be a lender—or participant of a lender—in a credit facility. Assignment and participation provisions are standard in credit agreements but have recently been under much greater scrutiny and negotiation, including as it relates to the ability of a lender to sell to a competitor.

To read the full article on Bloomberg Law, [click here](#).

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