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Katten's Real Estate Group Authors Two Articles Appearing in *The Banking Law Journal*

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The Fall/Winter edition of *The Banking Law Journal* published two separate articles authored by Katten's Real Estate attorneys, including "Your Loss, Your Gain: Structuring to Avoid Tax Gains in Commercial Foreclosures" by Partner and Affordable Housing and Community Development Co-Chair Glenn Miller and Associate Bob Baker, along with a piece by Partner and Real Estate Department Chair Timothy Little, Partner and Real Estate Investment and Finance Chair Scott Vetri, Partner Olga Gurtovaya and Senior Counsel Ken Jacobson titled "Basel III Endgame: Will Banks Have to Increase Their Capital Requirements?"

In the article by Glenn and Bob, the authors discuss strategies for property owners to avoid significant tax gains during commercial foreclosures. They highlight a scenario where a joint venture (JV) owned an office building facing foreclosure and the outstanding nonrecourse debt exceeded the building's tax basis, but the JV retained negotiating leverage due to their leasing experience and connections. To avoid a foreclosure triggering taxable gains while still transferring control to the lender, the parties agreed to an organizational restructuring in which the lender acquired managerial control through a minority equity interest in the property owner, utilizing the "De Minimis Exception" to prevent debt reallocation and maintain the JV partners' tax positions. Glenn and Bob emphasize the importance of strategic restructuring to manage tax implications and the potential for collaborative solutions between lenders and property owners in distressed real estate situations.

The article by Tim, Scott, Olga and Ken discusses the Federal Reserve's reproposal of Basel III regulations, initially developed in response to the 2007–2009 financial crisis to ensure banking stability. The 2023 proposal, which increased capital requirements for banks with large trading operations, faced criticism for potentially raising lending costs and affecting the economy negatively. In response, a September 2024 reproposal suggested a more modest 9 percent increase in capital requirements for global systemically important banks (GSIB), while easing requirements for non-GSIB banks and mortgage lending. This reproposal aims to balance bank stability with minimizing the economic impact and has received more positive feedback from industry groups like the Mortgage Banker's Association. The authors noted that the Federal Reserve is moving quickly to finalize these changes, though further industry feedback is anticipated and input from the Trump administration might affect matters."

"Your Loss, Your Gain: Structuring to Avoid Tax Gains in Commercial Foreclosures," *The Banking Law Journal*, January 2025

"Basel lll Endgame: Will Banks Have to Increase Their Capital Requirements?" *The Banking Law Journal*, January 2025

Also see: "Basel III Endgame: Will Banks Have to Increase Their Capital Requirements?"

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