

Joseph D. Simon Briefs New York Bankers Association

March 27, 2014

Cullen and Dykman partner [Joseph D. Simon](#) presented a Telephone Briefing to members of the New York Bankers Association (NYBA) on March 27, 2014, entitled “Processing Restraining Notices and Levies: Compliance Challenges Under New York’s Exempt Income Protection Act.”

New York’s Exempt Income Protection Act (“EIPA”) imposes significant obligations on banks when processing restraining notices and levies in connection with deposit accounts. The EIPA requires banks to exempt certain funds in deposit accounts from the reach of creditors and to send exemption claim forms to certain customers when restraining notices and levies are received. Since the EIPA was enacted in 2008, there have been amendments to the law and changes in exemption amounts, as well as the adoption of federal garnishment rules, that have made compliance with the EIPA especially challenging. This Telephone Briefing:

- Reviewed the requirements of the EIPA
- Discussed the amendments made to the EIPA exempting state and local governmental entities from the law
- Reviewed changes in exemption amounts under the EIPA
- Discussed certain issues that banks have faced in complying with the EIPA in the five years since the law became effective
- Reviewed the federal garnishment rules adopted in 2011 and the interplay between the federal rules and the EIPA
- Discussed case law interpreting the EIPA, including the New York Court of Appeals case addressing whether banks may be held liable for damages suffered by customers.

Further information on the Telephone Briefing may be obtained on the NYBA website.

Mr. Simon advises financial institutions on a wide range of issues, including general banking matters, truth-in-lending, RESPA, truth-in-savings, financial privacy, currency transaction, and IRS reporting obligations. He deals on a regular basis with state and federal regulatory agencies such as the New York State Department of Financial Services, the FDIC, the Consumer Financial Protection Bureau, the Federal Reserve Board, the Comptroller of the Currency, and the National Credit Union Administration. Mr. Simon gave a Telephone Briefing to members of the NYBA on the EIPA when it was enacted in 2008.

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