

Finance and Banking Lawyers

At Giménez-Salinas, we specialize in Banking and Financial Law, providing comprehensive legal services focused on structuring tailored financial solutions for operations such as corporate financing, acquisitions, projects, refinancing, and asset sales. As lawyers in Banking and Financial Law, we cater to companies seeking to optimize their capital structures and finance growth opportunities.

In the financial regulatory field, we stay updated, ensuring compliance with current regulations and policies. We provide guidance on asset management, collective investment, corporate sustainability, and taxonomy, among other regulatory aspects.

We are at the forefront of the Fintech and Web 3 revolution, offering legal services in the field of crypto assets and blockchain for both financial entities and emerging businesses. Our expertise in regulatory compliance and authorization acquisition allows us to guide clients through the complexity of crypto asset and Web3 regulations.

As lawyers, we also handle banking and financial conflicts arising from corporate or personal financing, such as insolvencies, defaults, and contractual disputes. We provide quick and effective solutions, considering recent jurisprudence and regulations with a comprehensive approach that minimizes the impact on our clients.

LEGAL EXPERIENCE

More than 78 years of experience giving legal advice and defending companies, individuals, and groups certifies the legal path of Giménez-Salinas Law Firm. An invaluable experience that we apply to all our cases and clients.

MULTIDISCIPLINARY

Throughout our professional experience, we have handled hundreds of conflicts in many different sectors and areas of law. We have a highly qualified and multidisciplinary team of lawyers and attorneys.

PERSONALIZED

One of the characteristics that define us is offering our clients a personalized service, our clients are informed on every stage of their cases and have a direct relationship with the lawyers or attorneys who handle their affairs.

FINANCING OPERATIONS

Our team of specialized lawyers in banking and finance plays a key role in creating personalized financial solutions. Our global vision and advanced knowledge allow us to advise on various transactions, such as corporate financing, acquisitions, projects, refinancing, and asset sales.

We provide a specialized service in financing operations designed exclusively for companies and entities looking to optimize capital structures, improve liquidity, and finance growth opportunities.

Financial Optimization: Transparent and Committed Advice in Banking and Finance Law

We work closely with our clients to identify the best opportunities, assess risks, and structure agreements that reflect their business and financial needs. Through our team of experienced lawyers in banking and finance with genuine international insight, we offer comprehensive advice in all forms of financing, emphasizing our commitment and transparency.

- Solutions in corporate financing
- Solutions in acquisition financing

- Solutions in project financing
- Solutions in debt refinancing and restructuring
- Solutions in the purchase and sale of NPA and NPL

FINANCIAL REGULATION

In an ever-changing financial regulatory environment, continuous adaptation of entities is crucial. Our team of specialized lawyers in banking and finance provides comprehensive and up-to-date advice on financial regulation. With deep knowledge in the establishment and authorization of entities, European passporting, and corporate governance, we ensure that our clients' policies and procedures not only comply with current regulations but are also prepared to adjust to future changes.

Strategic Advice on Asset Management, Collective Investment, and Corporate Sustainability

Our experienced advice covers asset management and collective investment, ensuring efficient oversight and sanctioning procedures with minimal disruption to the business. Additionally, we provide guidance on corporate sustainability and taxonomy, enabling companies to fulfil their obligations and stand out as leaders in sustainability. Our expertise in solutions related to banking and finance law allows us to offer advice on all relevant regulatory aspects, including but not limited to:

- Creation and authorization of entities and branches, European passport
- Corporate governance: corporate policies, advice on departmental structure and function definition, outsourcing application processes, and matters related to appointments, remuneration, and performance evaluation
- Compliance: Regulatory compliance, standards of conduct, and best practices in service provision and product marketing
- Asset management and collective investment
- Supervision, inspection, and sanctioning procedures for entities of all kinds
- Corporate sustainability and taxonomy
- Training for Boards of Directors
- Fintech and Web3 (crypto, blockchain)

Fintech and Web 3

Our law firm, specialized in banking and financial law, leads the forefront of financial evolution driven by the Fintech and Web 3 revolution. We provide comprehensive services for financial entities, electronic money, crowdfunding, Fintech, and Insurtech companies, with a pioneering focus on legal advice for Web3 businesses, including crypto assets and blockchain.

Aligning Innovations with Legal Practices and Market Expectations

We stand out for our proactive approach to regulatory compliance, authorization acquisition, and guidance through the constantly changing regulatory landscape. With specific expertise in MICA or MICAR, technical standards development by ESMA, and guidelines from the EBA and ESMA, we are committed to ensuring that our clients' innovations align with current legal practices and market expectations.

BANKING AND FINANCE DISPUTES

Financial and banking disputes mainly concern the possibilities and issues that have both companies and particulars to finance themselves. In other words, financial and banking disputes concern the problems given in situations of cash flow stress that lead to imminent insolvency, problems derived from non-payment of loans, problems related to the interpretation of the clauses of a loan or a financing contract, the enforcement of guarantees, the analysis of abusive clauses in consumer contracts, among many others.

In general terms, funding sources are vital for any company, so the conflict that arises may require a quick solution. Sometimes, the company may have to waive certain rights to solve the conflict rapidly.

The different claiming procedures available for financial entities, that hold the creditor's position, are not exempt from risks. Over the last years, the Spanish courts have considerably developed case-law applicable to financial contracts such as loans, swaps, foreign exchange, etc. Likewise, when it comes to financing a company, bankruptcy regulations, refinancing agreements, the constitution of guarantees, the classification of credits, etc. must be considered.

We can say that recently there has been a great regulatory and case-law movement affecting financial conflicts.

Down below, we describe the most common disputes on banking and finance.

DISPUTES BETWEEN A COMPANY AND FINANCIAL ENTITIES

The common problem lies in the company's inability to pay the installments of a loan, which may or may not have guarantees, being those real or personal. In such cases, a negotiation phase begins with the financial entity with the aim of solving the dispute quickly. Time plays against the company given that every day that goes by the company will have more difficulties to pay and its situation will become more deteriorated. A great part of these negotiations' success lies in offering the bank an alternative but still attractive plan that will allow the company to obtain more time or additional funding. Guarantees may as well come into play, such as mortgages on real estate, machinery, pledges of rights, pledges of assets, or personal guarantees like deposits from partners or directors. Moreover, the insolvency scenario and the advantages offered by insolvency legislation in terms of refinancing must be taken into account, as perhaps the most appropriate strategy involves the judicial approval of a refinancing agreement.

CONFLICTS BETWEEN SHAREHOLDERS REGARDING THE FUNDING OF THE COMPANY

On occasions, companies have contributions from shareholders that don't form part of the capital or equity but are considered as long-term loans. Most of the time, these contributions are not documented in a contract and are simply recognized as liabilities (and sometimes not even that). The problem can arise when the shareholders wish to recover the contribution made. Such conflicts require a great knowledge of accountability, in order to prove that such contribution is an enforceable liability. Some other times, the conflict arises from the necessity for shareholders to make contributions, but some are willing and some others are not. In these cases, it is advisable to carry out a capital increase, but taking into account that some shareholders may object.

DISPUTES BETWEEN A COMPANY AND A VENTURE CAPITAL ENTITY

When the fundings have been obtained from venture capital entities or professional funds, remuneration formulas are usually used and connected to the company's results. The conflict often arises on how the results are accounted for, as depending on how certain items are accounted for, the investor's return may be lower.

CONFLICTS DERIVED FROM BANKING AND FINANCIAL PRODUCTS

Contracting complex financial and investment products, such as investment funds, bonuses, preference shares, swaps, securitization, etc. have been extended to a wider public. This has generated significant litigation in this area. We have extensive experience in this type of litigation, particularly defending financial institutions and securities agencies.

LEGAL TOOLS TO MANAGE BANKING AND FINANCIAL DISPUTES

THE CONTRACT

A financial dispute always arises from a contractual relationship between the contracting parties. Therefore, the first tool for good management of disputes is the contract itself. In these cases, the contract is a guideline for the contracting parties, which means that if the contract has foreseen all the possible conflicts between the parties, and offers as well solutions, this can lead to ending the conflict. We always recommend that the financing contract is drafted, or at least revised by a specialist in this matter, given that occasionally it can seem complete, but it is necessary to value if in the future the clauses of the contract will unfold all its effects, or if they will cause interpretative problems.

NEGOTIATION

Mainly in the cases in which time plays against our client, negotiation has to be the most appropriate option, and even the only one to consider to solve the conflict. Even though it may be necessary to waive rights or advantages that would have been obtained in a judicial phase, sometimes it can be more important to obtain a refinancing agreement or additional funding in a short time, rather than to extend the conflict to obtain something more but later.

EXTRAJUDICIAL TOOLS

The contract may contain some tools to solve the disputes, such as turning to a third party to issue a report on the conflict, mediation, or even arbitration. It will be possible as well to consider the legal tools from shareholders disputes, that can help, if the dispute is given within a company.

JUDICIAL TOOLS

The financial conflict can lead to judicial procedures of a very different nature. From an ordinary execution or a foreclosure of some guarantees to the discussion regarding abusive clauses and transparency, or even the start of a procedure to challenge social agreements or to claim responsibility against a director. It is as well possible to solve such conflicts through special procedures such as insolvency proceedings.