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CSC CORPORATION SERVICE COMPANY

THE 2010 UCC ARTICLE 9 AMENDMENTS

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This year, the American Law Institute and Uniform Law Commission approved a limited number of important amendments to the official text of UCC Article 9. Some of the approved changes will impact the UCC filing process. Secured lenders need to ensure that their due diligence and filing practices are compliant with the 2010 Article 9 Amendments.

Debtor Names

Article 9 requires a secured party to strictly comply with financing statement debtor name requirements. Lenders need to be aware that the Amendments will change the standards for sufficiency of most debtor name types:

- *Registered Organization Debtor Names.* The Amendments will expand the scope of entities that fall within the definition of "registered organization" to include entities created by legislation or government charter. Lenders must develop new due diligence policies for these new registered organizations.
- *Individual Debtor Names.* The Amendments include two alternatives for sufficiency of an individual debtor name. The first alternative provides that a financing statement will be sufficient only if it provides the name shown on the individual debtor's driver's license. The second alternative offers a safe harbor if the financing statement provides the debtor's first and last names.
- *Decedent's Estate Debtor Names.* The relevant inquiry will change from whether the debtor is an estate to whether the collateral is being administered as part of an estate. The name requirements, however, will not change. The required check box on the form will change to indicate that the collateral is being administered by a personal representative of the decedent.
- *Trust or Trustee Acting With Respect to Property Held in Trust Debtor Names.* The relevant inquiry will change from whether the debtor is a trust or the trustee to whether the collateral is held in a trust that is not a registered organization. If the collateral is held in a common law trust, the statutory name requirements will not change. However, the required check box on the form will simply indicate that the collateral is held in a trust.

Forms

The Amendments also affect the UCC forms. The new forms eliminate fields designated for the debtor's "TAX ID #: SSN or EIN." This change is to prevent UCC filers from providing an individual debtor's social security number when it is not required. The drafting committee also decided to remove the type, jurisdiction and organizational ID number information for organization debtors. The changes enabled the new forms to use a more user-friendly layout.

Transition

Some provisions of the Amendments will require a transition period. The Amendments include transition rules derived from Part 7 of Revised Article 9. The "In Lieu" financing statement will make a comeback, although it will be rarely needed. It will only be required for a few debtors that are not registered organizations under current law, but will become registered organizations when the Amendments take effect. Filed financing statements with individual debtor names that do not comply can be fixed simply by filing an amendment form.

Conclusion

State legislatures will begin consideration of the 2010 Amendments by the end of this year, and states may enact some or all of the Amendments prior to the suggested uniform effective date of July 1, 2013. Therefore, banks should begin reviewing the Amendments promptly and be prepared to comply with the new rules as early as 2011.

CSC will hold a series of upcoming Web seminars about this topic and is poised to help customers through this transition.

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