

OUR PRACTICE

Consumer Lending

Baker Donelson's Consumer Lending team is comprised of attorneys who have the knowledge and broad range of experience to provide support with all consumer lending, regulatory, compliance, enforcement, and defense matters. We routinely represent large and small depository institutions, non-bank lenders, debt collectors, money transmitters, vendors and third party service providers, auto finance companies and many other consumer finance industry participants.

Regulatory and Compliance

Baker Donelson attorneys regularly counsel clients on all consumer compliance issues emanating from the consumer lending industry. Our team members have experience in resolving a multitude of regulatory issues presented by State Attorneys General, HUD, Consumer Finance Protection Bureau (CFPB), OCC, State Banking Departments and Congressional inquiries, or self-identified by clients themselves. Members of the group have a wide array of experience, having worked in-house at the largest financial institutions in the U.S. and as bank examiners within various regulators. These experiences help us view our clients' issues both from a legal and business perspective. Examples of regulatory work include:

- All matters which are regulated under the Equal Credit Opportunity Act (ECOA), Fair Housing Act (FHA), Fair Debt Collection and Practices Act (FDCPA), Fair Credit Reporting Act (FCRA), Fair and Accurate Credit Transactions Act (FACTA), Truth in Lending Act (TILA), Servicemember's Civil Relief Act (SCRA), Military Lending Act (MLA), unfair deceptive or abusive acts or practices (UDAAP), Real Estate Settlement Procedures Act (RESPA), Dodd-Frank Act, Electronic Funds Transfer Act (EFTA), Home Mortgage Disclosure Act (HMDA), Gramm-Leach-Bliley Act (GLBA) and Telephone Consumer Protection Act (TCPA)
- Reviewing Compliance Management Systems (CMS)
- Responding to supervisory actions taken by the CFPB, FTC, FDIC and Federal Reserve on pre-exam compliance reviews, responses to 15-day letters, PARR letters and exit meetings
- Consumer Fair Lending complaints, HUD investigations and conciliations
- Responding to regulatory inquiries including CFPB complaints, and State Attorneys General and Congressional inquiries
- Remediation and self-reporting
- Due diligence and vendor management
- Implementation of compliant Electronic Signature processes and procedures under E-SIGN, UETA and UCC regulations
- Support to depository institutions as they approach and cross the \$10 billion asset line and come under CFPB supervision
- Proactive compliance through product design, marketing reviews, product roll out and change management process

Litigation and Enforcement

Our lawyers represent financial institutions of all sizes, non-bank lenders, servicers and various other entities when a routine exam turns into an investigation or an administrative enforcement action as well as various cases brought by borrowers. We handle individual and class action matters for all types of consumer lending

institutions, including banks of all sizes, credit unions and consumer finance companies. Examples of our litigation and enforcement work include:

- Review and response to Civil Investigative Demand letters (CID)
- Defending findings of Fair Lending findings violations through the identification of a pattern and practice and resulting referral to the Department of Justice (DOJ)
- Defending alleged violations of the TCPA, FDCPA, FCRA, SCRA, RESPA and various state consumer protection acts through our [Residential Mortgage Lending and Servicing Group](#)
- Collaborating with our [Data Protection, Privacy and Cybersecurity Group](#) to address litigation arising from claims associated with privacy violations, data breaches and related technology failures
- Defending Bank Secrecy Act and Anti-Money Laundering (BSA/AML) matters in collaboration with our [Government Enforcement and Investigations Group](#)

Resources

We regularly provide education and training via in-person presentations and webinars for our consumer lending clients. Training addresses all aspects of compliance with existing and developing regulations, offers best practices and takes into account legal, regulatory and reputational risks associated with possible process breaks and violations. Our team also routinely writes on the latest developments, generating blog posts, client alerts and newsletters aimed at keeping our clients well-informed of the regulatory landscape. This content is routinely published by national industry outlets such as *American Banker*, *Mortgage Banking Magazine*, *National Mortgage News*, *ABA Compliance*, *DS News*, *Westlaw Journal*, *Law360* and many others. Our attorneys are often interviewed and quoted by national publications as thought leaders in the field, including recent coverage in the *New York Times*, *Wall Street Journal*, *Huffington Post*, *American Banker*, *Law 360* and many others. [Register](#) for our client alerts and newsletters to be delivered via email.

Below are some helpful consumer finance links.

- [CFPB Examination Manual](#)
- [FDIC Consumer Compliance Examination Manual](#)
- [Federal Reserve Consumer Compliance Handbook](#)
- [CFPB Consumer Complaint Database \(searchable\)](#)
- [CFPB Enforcement Actions database \(searchable\)](#)
- [CFPB Petitions to modify or set aside CID's database \(searchable\)](#)
- [CFPB HMDA database \(searchable\)](#)
- [The Attorney General's 2015 Annual ECOA Report](#)
- [DOJ housing and civil enforcement section cases](#) (listed by discrimination Issue type, includes all court documents filed in each matter, continually updated)



Representative Matters

- Represented national depository institution with a finding of a pattern and practice in violation of FHA and ECOA.
- Conducted due diligence for a regional bank in its engagement of a sub-servicer for their mortgage servicing rights.
- Consulted on the overhaul of a national bank's online marketing practices and the regulatory impact of their new policies, procedures and controls around their marketing department's data collection under Gramm-Leach-Bliley Act (GLBA), Fair Debt Collections Practices Act (FDCPA), TCPA, the Federal Financial Institutions Examination Council (FFIEC), and FTC guidance.
- Conducted 50 state surveys of state level regulation on debt collection and enforcement of Electronic Signatures.

- Successfully represented a financial institution in a suit brought by the Department of Justice relating to a federal student loan program.
- Represented major financial institution in class action litigation involving claims relating to overdraft fees on debit card transactions.
- Achieved dismissal of nationwide automobile financing class actions in the United States District Court for the Western District of Arkansas involving consumer protection claims, civil RICO and federal antitrust claims.
- Represented a vehicle dealership in a putative class action suit alleging fraud and Tennessee Consumer Protection Act violations.
- Obtained a bench verdict in favor of a national bank in a case involving wrongful repossession and Tennessee Consumer Protection Act claims.
- Defended national bank in private credit card financing class action.