

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

- Conducted 50 state surveys of state level regulation on debt collection and enforcement of Electronic Signatures.
- Represented major financial institution in class action litigation involving claims relating to overdraft fees on debit card transactions.
- Represented a vehicle dealership in a putative class action suit alleging fraud and Tennessee Consumer Protection Act violations.
- Defended national bank in private credit card financing class action.
- Successfully defended automobile finance companies in consumer-related actions arising out of credit and installment agreements and other finance issues.

- Successfully defended a national financial institution against Home Affordable Modification Program (HAMP), Tennessee Consumer Protection Act (TCPA), Truth in Lending Act (TILA) and breach of contract claims. Obtained dismissal of the HAMP, TCPA and breach of contract claims on a motion to dismiss, and negotiated a global settlement with the plaintiff and co-defendant, which resulted in dismissal of the remaining TILA claim with the client having to pay nothing.
- Represented a financial institution in a lawsuit alleging violations of the Telephone Consumer Protection Act based on more than 400 alleged telephone calls to the plaintiff's cellular phone.
- After being retained post-trial, successfully represented a national mortgage servicer by overturning a jury verdict for violation of the Tennessee Consumer Protection Act and obtaining an affirming opinion from the Tennessee Court of Appeals.
- Obtained a decision in the Supreme Court of Tennessee, reversing the trial court, that class actions are not allowed under the Tennessee Consumer Protection Act.
- Won full defense verdict following trial for a nationwide mortgage servicer and lender in a heavily contested TCPA and FCCPA suit, where over 500 calls were at issue and pre-suit demand neared \$1 million.
- Defeated a class action claiming FCRA violations arising out of alleged improper access of credit reports; the federal court granted a motion to dismiss for lack of standing, finding that the alleged injuries (invasion of privacy, related emotional distress, and increased risk of data breach) were insufficiently concrete.
- Defended on appeal a judgment that a borrower who claimed a TILA right to rescind within three years, instead of the automatic statutory three-day limit, had to raise the issue in a first case or be precluded from asserting it in later litigation.