

2017 Consumer Financial Services Highlights

Dear Clients and Friends,

Virtually all major law firms provide legal advice in an array of matters ranging from the adversarial to the transactional and lots of disciplines in between. Mayer Brown, of course, is no exception; however, among other areas, we have a unique ability to provide integrated legal services to the regulated industry of consumer financial services. Providing effective legal services to a regulated industry requires an in-depth knowledge of the underlying business—how it makes money and how it can lose money—and the overlay of law and regulations that inform how that business must operate. In the area of consumer financial services, Mayer Brown brings an unparalleled understanding of how the pieces fit together—how our clients extend, administer, enforce, buy, sell and securitize consumer credit; how they finance their operations; how they protect and defend their assets and business; how they use, provide and receive third-party services; how they maneuver within and around the labyrinth of federal and state laws and regulations and the specter of government enforcement; and how they position themselves within the industry, with their customers and in matters of public policy that drive their very existence and their future. This knowledge of both law and business enables Mayer Brown to serve as a trusted advisor to our clients in the consumer financial services industry, a role that we cherish and constantly strive to improve.

In the pages that follow, we are pleased to offer a snapshot of our consumer financial services work in 2017. Hopefully, these representative engagements will help demonstrate how Mayer Brown can assist clients with navigating the complex world of consumer financial services. We look forward to continuing to work, or working for the first time, with you this year and in the years to come. Thank you for this privilege.

Sincerely,

Mayer Brown



Firm of the Year 2016 & 2017

Law360

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Consumer Credit Compliance

In 2017, compliance with state and federal regulatory requirements, including with respect to issues of federal preemption, was a fundamental component of the work of the Financial Services Regulatory & Enforcement practice.

Our lawyers leveraged their extensive knowledge of the federal and state laws and programs that impacted consumer finance activities, including those laws that prohibited fraud and other unfair, deceptive, or abusive acts and practices. The firm also counseled clients on government-insured or guaranteed loan programs and on the requirements of Fannie Mae, Freddie Mac and Ginnie Mae. The firm regularly analyzed policies and procedures for compliance with applicable federal and state laws, prepared industry comment letters on proposed regulations, conducted in-house training seminars, and designed and evaluated enterprise risk, due diligence and quality control systems. We also helped clients implement the latest federal and state laws and regulations.

2017 REPRESENTATIVE MATTERS

- Advised mortgage lenders and secondary market investors on compliance with the Consumer Finance Protection Bureau (CFPB)'s Ability-to-Repay requirements for qualified mortgage loans (QMs) and non-QMs, including with regard to higher-priced mortgage loans, Federal Housing Administration-insured (FHA) loans, Veterans Affairs-guaranteed (VA) loans and loans made by small creditors.
- Developed a compliance and vendor management program and drafted ancillary compliance policies and procedures for a purchaser of mortgage servicing rights.
- Served as counsel to mortgage originators, title insurance companies, settlement agents, investors and a technology services company regarding compliance with the CFPB's Know Before You Owe (KBYO), or the Truth-in-Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA) Integrated Disclosure (TRID) rule, including compliance with, and associated liability and penalties under, the rule.
- Advised several large prepaid card issuers and program managers, as well as digital wallet providers, on compliance with the CFPB's prepaid account rule.
- Provided regulatory advice to two companies providing private label, online mortgage loan application platforms to mortgage lenders on a wide range of issues, including Fair Credit Reporting Act (FCRA), Equal Credit Opportunity Act (ECOA), RESPA, unfair, deceptive and abusive acts and practices (UDAAPs), and E-Sign.
- Advised a wide range of marketplace lenders and other small business lenders on compliance with a variety of federal and state laws and on structuring relationships with bank partners to minimize "true lender" risks.
- Advised numerous debt buyers, loan investors and lenders on issues related to the *Madden v. Midland Funding* decision.
- Counseled lenders and investors regarding the Military Lending Act restrictions applicable to all types of consumer credit transactions for active duty service members and their families.
- Advised investors regarding the CFPB's proposed requirements and restrictions for payday, auto title and high-rate installment loans to consumers.

- Advised federally chartered depository institutions on the preemption of state laws related to various consumer asset classes, including mortgages, credit cards, health care financing loans and unsecured consumer loans.
- Advised solar panel companies regarding state and federal compliance and licensing requirements for offering consumer loans, leases, installment sales contracts and power purchase agreements.
- Provided compliance counsel to investors in residential properties regarding the application of federal and state consumer protection laws, including RESPA, Telephone Consumer Protection Act (TCPA), UDAP and FHA lending guidelines, fair housing and fair lending and state licensing requirements.
- Performed fair lending compliance reviews and risk assessments and developed and managed fair lending compliance and monitoring programs for banks, mortgage lenders, mortgage servicers, marketplace lenders, student lenders and credit card issuers.

Mayer Brown's "Consumer Financial Services Review" blog serves as a key resource for the consumer financial services industry, providing timely updates on important news and developments related to consumer financial products and services, including legislative enactments, regulatory promulgations, enforcement actions, and court decisions.

TOP 5 MOST-READ POSTS FROM 2017

www.cfsreview.com



1. The CFPB's Acting Director Is...
[Read more >>](#)
2. Controversial Changes to New York's Licensed Lender Law Dropped from Latest Version of Budget Bills
[Read more >>](#)
3. Carpe Per Diem Redux—California Clarifies How to Document Compliance
[Read more >>](#)
4. New York Takes Aim at Title Insurance Marketing Practices
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5. NJ Bankruptcy Case Takes Aim at Small Business Financing — Merchant Cash Advances and Bank Partnerships
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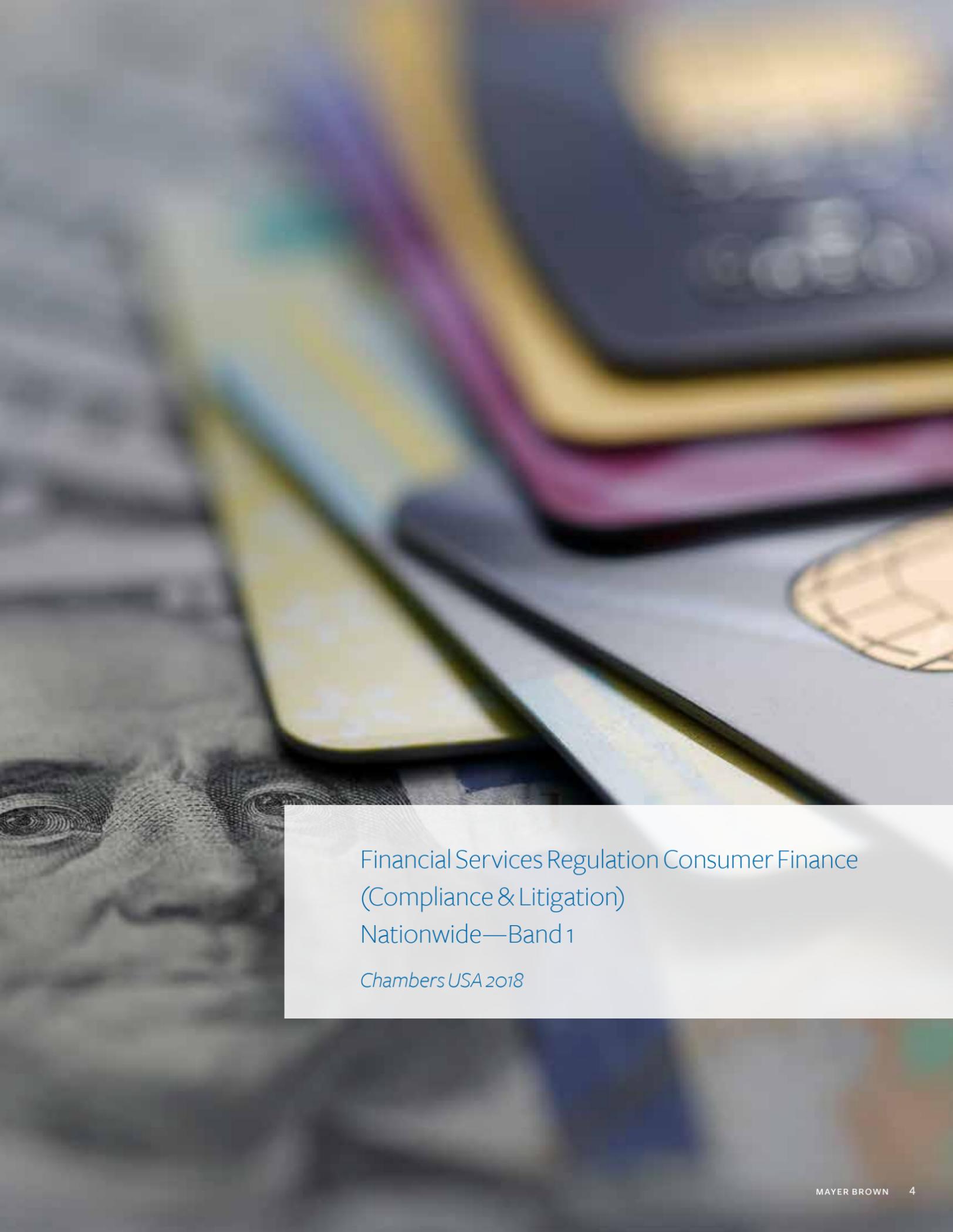
Consumer Credit Diligence

Mayer Brown's Financial Services Regulatory & Enforcement lawyers provided regulatory compliance transactional diligence services to consumer finance companies and their investors across a wide range of asset classes and business structures.

The firm leveraged its deep understanding of consumer financial and consumer protection laws to provide guidance on licensing, transaction structures and the risks of funding or acquiring the assets of a diverse set of investment targets. In 2017, the firm's consumer financial diligence practice involved confident navigation of an uncertain regulatory environment. Federal regulatory changes—generally expected to provide opportunities for growth and innovation, subject to procedural ambiguity—were tempered by potentially industry-altering cases working their way through the judiciary and by aggressive stances from state regulators. Our representative engagements have covered several major classes of financial assets.

2017 REPRESENTATIVE MATTERS

- Residential mortgage origination and servicing, such as a mortgage regulatory and general corporate diligence of a mortgage lender/servicer in connection with a client's potential acquisition of the target company, and licensing and policy development guidance provided to a secondary market mortgage purchaser launching a wholesale origination channel.
- Unsecured consumer credit, such as a consumer financial regulatory diligence of a credit card issuer and its servicer in connection with a client's purchase of receivables from a retail credit program, including on-site assessment of servicing compliance, and guidance provided to an online marketplace lending platform regarding the structure of a bank lending partnership following preemption developments after *Madden v. Midland Funding* and a series of complaints challenging the "true lender" in bank partnerships.
- Secured non-mortgage consumer credit, such as a consumer financial regulatory diligence of a home improvement and solar finance company in connection with a client's purchase of loans and extension of credit to the target company, and a mock CFPB examination conducted of an auto lender/servicer with multiple origination channels for the purpose of providing risk-reducing consumer regulatory compliance guidance on an enterprise-wide basis.
- Commercial and small business credit, such as a regulatory and consumer protection diligence of a business-purpose online lender in connection with a client's extension of a line of credit to the target company, including on-site assessment of compliance controls.
- Financial service providers, such as a regulatory diligence, including provision of licensing and change of control advice, in connection with a client's potential acquisition of a consumer debt collection agency, and a regulatory and consumer protection diligence of a small business loan marketplace and credit monitoring service in connection with a client's equity investment in the target company.

A close-up, shallow depth-of-field photograph of a stack of credit cards. The cards are in various colors: gold, purple, and dark blue. A US dollar bill is visible in the background, slightly out of focus. The lighting is soft, creating a professional and financial atmosphere.

Financial Services Regulation Consumer Finance
(Compliance & Litigation)
Nationwide—Band 1

Chambers USA 2018

Sanctions and Anti-Money Laundering

Mayer Brown has leveraged its extensive experience in sanctions-related matters and anti-money laundering (AML) issues to advise a broad array of clients (global payments companies, large multinational banks, mortgage companies, state housing agencies) on a variety of consumer-facing and related matters.

These matters include sanctions-related advice, investigations and enforcement, as well as handling issues related to post-judgment recovery of blocked assets. In addition, Mayer Brown provided crucial AML insight into transactions in the consumer financial services space and gave strategic advice to mortgage companies on AML compliance. Mayer Brown also provided advice and direction to fintech companies charting new territory in the global payments space and advised non-financial institutions on AML requirements to work with government-sponsored enterprises.

2017 REPRESENTATIVE MATTERS

- Conducted an internal investigation for a multinational bank regarding possible sanctions breaches.
- Advised a multinational bank on actions to recover blocked assets resulting from a judgment against sanctioned persons.
- Advised a global payments company on US AML compliance requirements on a cross-border payments business.
- Advised a state housing authority on US AML requirements for approval as a single-family seller/servicer for government-sponsored enterprises.
- Reviewed and revised AML policies and procedures for mortgage companies.
- Reviewed target AML policies for adequacy during transaction-related due diligence.



TOP 5 MOST-READ LEGAL UPDATES FROM 2017

www.mayerbrown.com



1. ¿Qué Idioma Prefiere? FHFA Considers Requiring Lenders to Ascertain Language Preferences to Identify Limited English Proficiency Borrowers
[Read more >>](#)
2. In Other CFPB News ... A Mixed Ruling on Protecting Information Provided to the CFPB
[Read more >>](#)
3. CFPB: Profit Motive of Loan Purchaser Is Element of Novel “Abusive” Claim
[Read more >>](#)
4. Thank You, Sir, May I Have Another?: Five Fixes to Avoid Unfounded DOJ Claims under the False Claims Act
[Read more >>](#)
5. CFPB Issues Rule Banning Arbitration Agreements with Class Waivers in Financial Services Contracts
[Read more >>](#)

Cybersecurity

From responding to cybersecurity incidents to guiding compliance with new regulatory frameworks, our Cybersecurity & Data Privacy lawyers advised a broad range of consumer financial services companies on these complex issues in 2017.

One of the ways in which we supported our clients' cybersecurity readiness was through the development of appropriate plans, procedures and playbooks and through tabletop exercises where our clients worked through hypothetical cybersecurity scenarios in order to test their responses. Members of our Cybersecurity & Data Privacy practice also helped shape important policy debates on topics that significantly affect consumer financial services companies, from data breach notification to artificial intelligence. Throughout this work, the lawyers in our multidisciplinary and cross-industry Cybersecurity & Data Privacy practice drew on their experiences working in a variety of fields to bring broad perspectives to bear for consumer financial services companies.

2017 REPRESENTATIVE MATTERS

- Advised several large financial services companies in connection with assessments of their compliance with the New York State Department of Financial Services' cybersecurity regulation.
- Advised a national mortgage company in its response to a substantial cybersecurity incident and resulting regulatory scrutiny.
- Advised a global financial services company with respect to the development of its incident response playbook and procedures.
- Advised a leading trade association on cybersecurity and data privacy policy issues for financial services companies.
- Assisted a range of global consumer financial services companies in their preparation for compliance with the EU General Data Protection Regulation.
- Assisted several financial services companies in implementing and testing their incident response plans with tabletop exercises.



STAYING AHEAD OF THE CURVE: CYBERSECURITY AND DATA PRIVACY – HOT TOPICS FOR GLOBAL BUSINESS

This 64-page book highlights key developments and priorities in these critical fields, from the Internet of Things and cloud, to complying with China's new cybersecurity law and Europe's General Data Protection Regulation.

Consumer Class Actions

Mayer Brown's Consumer Class Actions group has extensive experience representing consumer credit and financial service providers in high-stakes consumer class-action lawsuits that span across the country.

We routinely defend against consumer credit-related class actions arising under the TILA, FCRA, ECOA, Fair Debt Collection Practices Act (FDCPA), TCPA and various state and federal unfair and deceptive trade practices statutes. We continue to pioneer ways to attack proposed class claims at the pleading stage, in an attempt to obtain dismissals, lower fees and costs, and reduce overall litigation time. Moreover, we work closely with Mayer Brown's Financial Services Regulatory & Enforcement practice to prevent and/or limit litigation resulting from regulatory scrutiny. We have defended against hundreds of class and mass actions in the past decade and have a strong record of victories.

2017 REPRESENTATIVE MATTERS

- Defeated a putative class action in the Eleventh Circuit related to a New York recording statute concerning the satisfaction of mortgages.
- Represented a mortgage servicer in the Ninth Circuit and in district courts to defend victories concerning reoccurring property inspections.
- Represented a global financial institution to oppose proposed nationwide class action under the TCPA.
- Defeated a purported class action under the TCPA related to junk faxes and defended a judgment in the Sixth Circuit.
- Obtained dismissals of FCRA and TCPA lawsuits for lack of standing under *Spokeo*.
- Defeated a putative Racketeer Influenced and Corrupt Organizations Act (RICO) class action in Illinois alleging that a loan servicer charged inappropriate property-inspection fees and separate action alleging race discrimination under the Fair Housing Act.
- Represented mortgage servicers in FCRA litigation throughout the country.
- Represented major loan servicer in putative class action litigation pending in Bankruptcy Court in SD of Ohio related to fees assessed to borrowers following Chapter 13 discharge.
- Defended summary judgment victory for mortgage servicer at the Ninth Circuit related to a denied loan modification under the Home Affordable Modification Program (HAMP).
- Defended global financial institution in putative class action pending in Minnesota related to HAMP.

Class Action Practice Group
of the Year for second
consecutive year

Law360



Litigation Department of the Year finalist

American Lawyer

Commercial and RMBS Litigation

Mayer Brown continued to be the leading firm for securitization trustees in 2017, winning far-reaching victories in trial and appellate courts.

The firm's representation of trustees related to Residential Mortgage Backed Securities (RMBS) ranged from multi-billion-dollar investor litigation to advice on the distribution of settlement proceeds to the payment of property taxes on foreclosed property. The firm's prior appellate victories in *Commerce Bank v. BNY Mellon* and *Retirement Board v. BNY Mellon* continue to be the linchpins for trustees seeking to limit their duties to those set out in bond indentures, and the firm built on those wins with trial and appellate decisions this year. Mayer Brown also added to its roster of victories in litigation brought by mortgage borrowers and investors.

2017 REPRESENTATIVE MATTERS

- Represented two RMBS trustees in winning dismissal on the pleadings of a *qui tam* False Claims Act (FCA) and Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) complaint alleging that mortgage servicers collected improper incentive fees for HAMP loan modifications.
- Successfully enjoined Financial Industry Regulatory Authority (FINRA) arbitration brought by two investment trusts that claimed to be victims of a Ponzi scheme allegedly facilitated by a Swiss bank.
- Won a complete victory in a four-week bench trial on behalf of an RMBS trustee. Investors had alleged that the trustee failed to prosecute loan-level breaches relating to loan underwriting and servicing.
- Won an appellate dismissal of claims that an RMBS trustee had implied duty to declare a servicer default following public allegations of underwriting and servicing misconduct; this was the first post-crisis decision to reject such claims. Separately, won the first post-crisis summary judgment decision to dismiss claims that the RMBS trustee had discovered underwriting breaches through public information.
- Representing the sponsor of an RMBS transaction, won dismissal of most claims as time-barred, based on a novel application of New York's borrowing statute to an out-of-state trust.
- Won a jury trial for the bank provider of an investment account for a state housing loan agency. Jury resolved contract ambiguities to find that the bank was entitled to terminate the account once the agency redeemed its mortgage-backed bonds and did not have to maintain the account until all underlying mortgage loans were paid off.
- Defeated allegations of collusion in the market for interest rate swaps made by rival trading platforms and investors claiming a group of large banks and other financial institutions kept competitors out of the market (while claims against many of the banks were allowed to proceed, the court found an insufficient connection between our client and the alleged conspiracy).

Supreme Court & Appellate

Mayer Brown's Supreme Court & Appellate lawyers achieved victories in a variety of cutting-edge matters that deliver substantial value to our consumer financial services clients.

Mayer Brown has led the way in developing the law under the Federal Arbitration Act (FAA) surrounding the enforceability of arbitration agreements that waive class actions, which allows businesses and consumers alike to benefit from the lower costs, expediency and informality that arbitration provides as a means for resolving disputes compared to litigation in court. Members of our Supreme Court & Appellate team also spearheaded a lawsuit by banks and leading financial industry associations against the CFPB's anti-arbitration rule before the rule was overturned by Congress. The firm's path-breaking 2016 victory in *Spokeo, Inc. v. Robins* also continues to pay dividends across the consumer finance sector and beyond, ensuring that lawsuits against businesses must be based on actual harms, not technical missteps.

2017 REPRESENTATIVE MATTERS

- Represented a broad coalition of banks and business groups in challenging the CFPB's rule banning mandatory pre-dispute arbitration agreements in consumer financial services contracts.
- Secured a significant Supreme Court victory confirming that the FAA protects arbitration agreements from state-law rules that covertly discriminate against arbitration agreements.
- Defeated in the Ninth Circuit a novel argument that the FAA violates consumers' rights under the First Amendment's Petition Clause.
- Obtained dismissals of FCRA and TCPA lawsuits for lack of standing under *Spokeo*.
- Represented leading business associations as amici curiae in numerous appeals raising significant issues surrounding the Article III standing after *Spokeo* and the requirements for class certification under the Federal Rule of Civil Procedure 23.



“Appellate Hot List” for 10th consecutive year

National Law Journal

Appellate Practice Group of the Year for second consecutive year

Law360



Consumer Protection Practice
Group of the Year

Law360

Government Regulatory & Enforcement

Our Financial Services Regulatory & Enforcement practice regularly represents banks, independent mortgage companies and non-bank financial services companies in a wide variety of government enforcement matters.

In 2017, we represented clients in numerous enforcement investigations conducted by the CFPB, Department of Justice (DOJ), Department of Housing and Urban Development (HUD), Office of the Comptroller of the Currency (OCC), state attorneys general, and state banking regulators, among others. Before these agencies, we represented clients in investigations involving mortgage origination, co-marketing agreements, mortgage servicing, bank deposit activities, debt collection, credit card activities, sales practices and state consumer protection laws. Our deep substantive experience in consumer finance law, coupled with our regular appearance before these agencies, allows us to provide our clients thoughtful advice that accounts for the regulator's expectations and the evolving state of the law. We work with our clients to help narrow the scope of investigations, develop the facts and craft legal arguments that lead to positive results. When necessary, we draw on the knowledge of colleagues in our litigation department to ensure that we are prepared for litigation in the event that we cannot achieve a satisfactory resolution directly with the regulator. Our extensive knowledge of the regulations and regulator expectations uniquely qualifies us to work with clients to implement corrective actions that remedy issues identified in the course of such investigations.

2017 REPRESENTATIVE MATTERS

- Represented large banks, non-bank lenders and various other companies in CFPB investigations concerning deposit, sales practices, mortgage origination, mortgage servicing, and debt collection activities, as well as compliance with a variety of federal consumer financial laws including the Home Mortgage Disclosure Act and FCRA.
- Represented multiple FHA-insured lenders in connection with FCA investigations by the US Attorney's Office and the DOJ involving FHA mortgage insurance, including the origination and servicing of FHA loans and the reverse mortgage, or HECM, program.
- Represented mortgage lenders and loan servicers in connection with investigations by state attorneys general and banking regulators related to state consumer protection laws.
- Represented multiple clients in responding to inquiries from HUD's Mortgagee Review Board, Quality Assurance Division, Office of Inspector General and National Servicing Center in connection with the origination and servicing of FHA-insured loans.
- Advised a national bank in responding to an OCC supervisory letter and represented a non-bank lender in responding to a CFPB Potential Action and Request for Response (PARR) letter.
- Represented a national bank relating to compliance with OCC and CFPB consent orders on sales practices.

Financial Institutions M&A

Lawyers in our Financial Institutions M&A practice handled consumer finance transactions involving the world's largest banks, mortgage companies, lending institutions, investment firms and hedge funds.

In 2017, we handled matters ranging in size and complexity from small and midsize transactions within a single national or regional market to multibillion-dollar transactions. Our team members have a thorough understanding of the underlying financial products and services of financial institutions, including underlying structures, business and legal risks, and regulatory issues and how such matters impact deal terms and transaction risk.

2017 REPRESENTATIVE MATTERS

- Represented Wells Fargo in its purchase from Seneca Mortgage Servicing LLC of mortgage servicing rights related to residential mortgage loans held by Fannie Mae and Freddie Mac with aggregate balances in excess of \$51 billion.
- Represented American Express in the sale of its prepaid reloadable and gift card products business in the United States to InComm, Inc., and in Amex's appointment of InComm as its program manager, issuer processor and exclusive distributor for its reloadable and gift card products.
- Represented Bayview Asset Management in its acquisition of Pingora Holdings, L.P., a specialized asset manager focused on investing in new production of performing mortgage servicing rights and servicing residential mortgage loans, from Annaly Capital Management.
- Represented CIBC and its subsidiary Atlantic Trust in the acquisition of asset management firm Geneva Advisors.
- Represented a leading global financial institution in the stock purchase of Genesis Capital LLC, a specialty commercial lending platform providing financing solutions to professional residential real estate developers.



Securitization and Structured Finance

Mayer Brown's Financial Services Regulatory & Enforcement practice worked closely with our market-leading Securitization group to close more securitizations in 2017 than any other law firm.

In addition, we helped our clients develop and implement a variety of credit facilities, repurchase facilities, derivatives, participations and other structured finance arrangements. Our 2017 securitization and other structured finance transactions included virtually every consumer-related asset class, including forward and reverse residential mortgages, servicing advances, student loans, credit card receivables, auto loans and leases, marketplace consumer loans, single family rental properties, unsecured personal loans, retail installment contracts, and other consumer receivables. Whether we represent issuers, underwriters, servicers, investors or other counterparties, we emphasize close cooperation with our securitization lawyers to ensure compatibility between our client's compliance and financing strategies and to help identify and solve potential issues as early as possible in the transaction process. Together we helped our clients adapt to and implement a wide variety of new and existing laws and regulations that impact the financing of consumer financial assets and navigate, interact with and even challenge a multitude of applicable government agencies and bodies, including the SEC, OCC, CFPB, HUD, GSEs, IRS and various other federal, state and local government agencies and regulators. We also represented our clients in connection with myriad non-financing transactions related to the origination, investment in or the management of consumer financial assets. In helping our clients negotiate asset purchase and sale agreements, servicing agreements, subservicing agreements,

joint-marketing agreements, management agreements, custodial agreements and other agreements that facilitate the financing and ultimate realization of consumer financial assets, we apply the same integrated and team-oriented approach across all of our applicable practice areas to deliver consistent high-quality service through all phases of their business plans, from origination to securitization.

2017 REPRESENTATIVE MATTERS

- Represented various issuers and other counterparties in connection with multiple securitizations, warehouse facilities and other financing of residential mortgage loans, including non-qualified mortgages, prime jumbo, reverse, non-performing and re-performing mortgage loans.
- Represented multiple banks in connection with applications to the OCC and FDIC to establish operating subsidiaries in connection with new securitization programs.
- Advised a variety of banks, funds and other entities in connection with purchasing, servicing and financing portfolios of student loans (including private student loans and Federal Family Education Loan (FFEL) loans). We represented lending syndicates on student loan warehouses, 144A/Reg S term securitizations, flow purchase agreements and financings, standalone trust structures, repurchase facilities for student loan residuals, and working capital facilities for student loan originators.
- Represented multiple issuers, underwriters and initial purchasers in connection with the issuance of over \$10 billion in credit card asset-backed securities during 2017.
- Multistate licensing advice in connection with the origination, holding and servicing activities of numerous funds and financial institutions active in the residential and commercial mortgage loan and single family rental markets.

- Extensive consumer regulatory diligence in connection with the origination and servicing of pools of secured and unsecured consumer loans acquired by funds and finance companies.
- Advised a variety of banks, funds and other entities in connection with purchasing, servicing and financing portfolios of marketplace loans (including whole loans and fractional interests) originated through many fintech lending platforms.
- Represented various clients in connection with the acquisition, sale of and financing of mortgage servicing rights and servicing advances, including advice regarding GSE and Ginnie Mae compliance in connection with the foregoing.
- Represented clients in connection with acquiring and financing residential solar loans originated through multiple origination channels and performed extensive due diligence and compliance reviews of related lending platforms and servicers.

Structured Finance and Securitization Team of the Year

IFLR Americas 2017

2017 *GlobalCapital* Securitization
Awards: Best Overall Securitization Law
Firm and Best Law Firm for ABS



Outsourcing

Mayer Brown's Technology Transactions practice is at the forefront of helping our bank and financial institution clients navigate these challenges.

We work with our clients to strategically capture the most value from their third-party relationships while helping to mitigate third-party risks. Our depth in technology, sourcing, privacy and security, combined with our firm's more than 100 years representing bank clients, makes for an unparalleled sourcing team for banks and financial institution clients. The lawyers in our Technology Transactions practice have assisted clients in more than 400 key technology transactions, with an aggregate total contract value of more than \$200 billion. This volume of deals equips our lawyers with market knowledge that is unmatched.

In 2017, our Technology Transactions practice worked closely with Mayer Brown's Financial Services Regulatory & Enforcement practice, including in relation to FFIEC outsourcing guidelines, OCC third-party vendor guidelines, Know-Your-Customer and Know-Your-Vendor rules, consumer protection and regulation, and FCPA and other anti-bribery laws. Our extensive knowledge of the regulatory and business environment in which our clients operate means that we are highly qualified to represent their interests in matters ranging in size and complexity from small and mid-sized transactions within a single national or regional market to multibillion-dollar cross-border transactions.

2017 REPRESENTATIVE MATTERS

- Represented an international bank in its agreement with FIS for a full suite of client-facing and back-office systems and services.
- Represented a prominent regional bank with the development and implementation of its technology strategy, including a data center co-location agreement for the hosting of critical applications and systems, cloud service agreements and software-as-a-service agreements.
- Represented a consumer lending company in addressing performance issues with its current provider of client-facing and back-office services. Additionally, we counseled the client on its options and alternatives once the current agreement expires.
- Represented a rapidly growing Midwestern bank in the renegotiation of its agreement with Fiserv for various back-office and client-facing systems and services.

Fintech

Our Financial Services, Regulatory & Enforcement lawyers regularly represented banks, lending platforms, financial technology companies, merchants, software developers, hardware suppliers, data and information suppliers and investors with the design, drafting and delivery of consumer financial products and services, such as open- and closed-end credit programs, mobile banking and evolving payment products.

Our deep substantive experience in consumer finance law, coupled with our bank regulatory experience, allowed us to provide our clients with practical advice concerning the products and services being offered, and the alternative vehicles for offering, these products and services, including bank partnerships, bank charters and state licenses. When necessary, we brought to bear the knowledge of our colleagues in the firm's Corporate & Securities, Technology Transactions and Banking & Finance practices to assist with transactions, financings and investments.

2017 REPRESENTATIVE MATTERS

- Advised several consumer financial services and technology companies evaluating the OCC's special purpose charter for fintech companies, including the application requirements, examination and supervision framework, and the activities permitted by the charter.
- Advised several banks and bank holding companies in connection with their investment in fintech companies, including permissible authority for such investment and any reporting obligations arising from the investment.
- Advised financial service and technology companies regarding their collection and subsequent use of "big data" for analytics and marketing.
- Advised several technology and financial services companies evaluating ILC and other non-bank charters in order to offer a wide range of consumer financial products and services on a nationwide basis.
- Advised several banks and consumer financial services companies regarding the CFPB's Principles for Consumer-Authorized Financial Data Sharing and Aggregation.

Payments

Mayer Brown's Payments practice has extensive knowledge and experience advising clients on a wide variety of issues related to traditional payment products, as well as emerging and evolving payment technologies.

We regularly counsel clients on the full range of laws that regulate the payments industry, including the Electronic Fund Transfer Act and Regulation E; the Bank Secrecy Act and FinCEN regulations, as well as the analogous anti-money laundering regimes in countries around the world; TILA (including the CARD Act provisions) and Regulation Z; Financial Conduct Authority regulations; US state laws on money services businesses, credit and consumer protection; and laws prohibiting unfair, deceptive or abusive acts or practices. Throughout 2017, we advised clients with the design, drafting and delivery of private label and co-branded credit card programs, debit cards, prepaid products, ACH payments, wire transfers and bill payment services, and regulatory issues related to these products. In addition, we assisted clients with their mobile banking and evolving payment products, including virtual currency, mobile payments and emerging payment platforms. Our extremely diverse client base included banks, financial technology companies, merchants, telecommunications companies, third-party payment processors, software developers, hardware suppliers, virtual currency developers, data and information suppliers, processors and companies seeking investment opportunities in this area.

2017 REPRESENTATIVE MATTERS

- Provided regulatory, policy and transaction advice to one of the world's largest financial services companies in connection with an initiative to provide electronic payment services to the cannabis industry (including electronic point-of-sale systems for consumers, electronic payroll processing services and business-to-business payment systems) operating in those states that had liberalized their cannabis regulations.
- Advised several of the largest prepaid account providers in the United States on compliance with the CFPB's prepaid account rule.
- Separately advised two prepaid account providers in connection with discussions with the CFPB on amendments to the agency's prepaid account rule. These discussions were integral to the CFPB's subsequent decision to amend the rule to address both clients' concerns.
- Advised several payment gateways and processors for online marketplaces—and one operator of an online marketplace and related online commerce platforms—on various regulatory and contractual issues, including with respect to the integration of various financing products for merchants into the payment systems.
- Represented several companies in connection with initial coin offerings (ICOs). This included providing clients with advice on how to structure the offering to comply with regulatory requirements under securities laws, New York BitLicense regulations and money services business laws, as well as preparing the offering documents.

- Advised a major payment gateway and processor on regulatory and contractual issues in connection with the structuring of a suite of payment solutions for “contextual commerce” transactions, including issues related to the tokenization of payment credentials and the sharing of tokens.
- Performed a comprehensive review of a major telecommunications company’s third-party payment arrangements and contracts and provided advice on the application of various laws to these arrangements, including state and federal money services business laws and various CFPB regulations.
- In two separate but similar engagements, represented clients in connection with the restructuring of their payment services. Both companies are prominent members of their respective industries, and both provide payment processing and gateway services to clients incident to other service relationships. And both were required, as conditions to transactions in which they were being acquired, to restructure these operations to come into compliance with various state and federal laws, including state money services business licensing laws and federal anti-money laundering and sanctions regulations. We performed a comprehensive compliance review of the payment operations of each company, developed a restructuring plan and negotiated outsourcing agreements with licensed third-party payment service providers to address licensing concerns. In both instances, we were able to clear the acquiring party’s objections, and the acquisition of both clients moved forward successfully.
- Represented several banks in connection with their entry into the Zelle P2P payment system and provided a major national bank (already a longtime Zelle member) with advice on regulatory and contractual issues in connection with the implementation of a new offering through the Zelle network.
- Acted as US regulatory counsel for a payment gateway and processor in connection with a global arrangement to provide a suite of integrated payment services to a provider of online travel and hospitality reservations through a variety of platforms, including one of the most prominent online travel reservation websites in the world.



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To discuss how Mayer Brown's Consumer Financial Services lawyers can assist your business, please contact us.



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