

BUCKLEY



Andrea K. Mitchell

Partner

Washington, DC
amitchell@buckleyfirm.com
(202) 349-8028

Andrea Mitchell, a Partner in the Washington, D.C., office of Buckley LLP, advises financial services clients throughout the country on a wide range of administrative enforcement and regulatory compliance matters. She focuses her practice on fair and responsible financial services, including matters that involve disparate impact and disparate treatment, unfair, deceptive, or abusive acts and practices (UDAAP), and other unfair, predatory, or anti-discrimination issues.

Ms. Mitchell has extensive experience in counseling banks, finance companies, and third-party service providers on regulatory compliance and risk management with respect to the Equal Credit Opportunity Act (ECOA), Fair Housing Act (FHA), Truth in Savings Act, Fair Credit Reporting Act (FCRA), Electronic Fund Transfer Act (ETFA), and UDAAP laws. Ms. Mitchell advises clients in preparation for and management of federal and state examinations, assists clients in the development and maintenance of fair and responsible lending programs, including statistical monitoring programs, and conducts risk assessments and compliance reviews. Her work in this area includes advising on pricing and underwriting, steering, redlining, product development, sales and marketing, credit reporting and servicing, collections, and loss mitigation activities. She frequently advises clients on board governance issues and conducts board and executive management training on a variety of regulatory and consumer protection issues.

Ms. Mitchell also conducts internal investigations and represents clients in government investigations and enforcement matters. She has experience in cases involving the Department of Justice (DOJ), Consumer Financial Protection Bureau (CFPB), Federal Reserve Board (FRB), Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), Federal Trade Commission (FTC), Department of Housing and Urban Development (HUD), state attorneys general, and state civil rights commissions.

Noteworthy work includes:

Redlining

- Represented more than a dozen retail banks, private banks, and nonbank mortgage lenders in redlining investigations by prudential banking regulators, HUD, and DOJ
- Represented two St. Louis community banks in DOJ settlements involving redlining claims
- Represented numerous banks in response to protests filed against branch acquisition applications before the FRB, in which redlining and access to credit claims were made
- Assist mortgage lenders develop redlining monitoring programs, minority market penetration and community outreach strategies, and Special Purpose Credit Programs
- Advise mortgage lenders on responding to pre-enforcement letters asserting redlining claims, Matters Requiring Attention, and other supervisory directives pertaining to redlining

Pricing

- Represented National City Bank, and its successor-in-interest, PNC, in a joint CFPB and DOJ settlement resolving allegations that National City's discretionary pricing policies in its mortgage lending business disparately impacted minority borrowers; the settlement was \$35 million, imposed no civil money penalties, and imposed no forward-looking injunctive relief

Underwriting

- Represented a super-regional retail bank in HUD and DOJ investigations of discriminatory underwriting practices against applicants who received disability income; the matter resolved with a DOJ consent order
- Represented a national retail bank in a CFPB investigation of discriminatory home equity loan underwriting practices; the matter resolved without further enforcement action against the bank
- Represented numerous banks in HUD investigations of individual complaints alleging discriminatory underwriting practices, including maternity leave claims

Servicing

- Represented a super-regional retail bank in a CFPB investigation of unfair and deceptive mortgage servicing practices; the matter resolved without a further enforcement action against bank

UDAAP

- Represented a super-regional bank in a CFPB settlement alleging UDAAP

and Regulation DD violations in connection with marketing practices related to a deposit product

- Obtained a settlement for a regional bank in an administrative proceeding brought by the CFPB alleging the use of deceptive information about credit card add-on products

Supervisory Appeals

- Represented multiple clients in appeals to supervisory determinations involving compliance and Community Reinvestment Act (CRA) ratings

Compliance Management System

- Represented a community bank in a consent order issued by a federal banking regulator directing the institution to enhance its compliance management system and fair lending compliance program

Chambers USA named Ms. Mitchell a Recognized Practitioner in the area of Financial Services Regulation: Consumer Finance (Compliance), *Legal 500* recognized her for Financial Services: Regulation, and *Best Lawyers* recognized her for Banking and Finance Law. In 2018, she was named a Fellow of the American College of Consumer Financial Services Lawyers. A frequent speaker at conferences and seminars on fair lending, UDAAP, examination and enforcement hot topics, and CFPB matters, Ms. Mitchell was also a contributor to the American Bankers Association's *Fair Lending Toolbox*.

Prior to joining Buckley, Ms. Mitchell served as Counsel in the Legal Division at the FRB, where she worked on numerous consumer regulations, advised supervised entities on queries related to consumer protection statutes, and participated in several interagency task forces.

Before working at the Federal Reserve, Ms. Mitchell was a litigation Associate at Skadden, Arps, Slate, Meagher & Flom LLP, and served as a law clerk to the Honorable Mary Ellen Barbera in the Maryland Court of Special Appeals. She received her J.D. from American University, summa cum laude, in 2002 and her B.A. from the University of Wisconsin-Madison in 1993.

Education

- J.D., American University, 2002 (summa cum laude)
- B.A., University of Wisconsin-Madison, 1993

Admissions

- District of Columbia
- Maryland
- U.S. District Court, District of Columbia

Government Service

- Counsel in the Legal Division at the Federal Reserve Board

- Law Clerk, Hon. Mary Ellen Barbera, Maryland Court of Special Appeals

Practice Areas

- Auto Finance
- Bank Counseling & Compliance
- Congressional Investigations
- Consumer Finance
- Consumer Financial Protection Bureau
- Credit, Debit & Prepaid Cards
- Enforcement Actions & Investigations
- Examinations
- Fair Lending
- Formation, Charter & Structure
- Mortgages
- Private Banking
- Retail Banking
- State Attorneys General
- Unfair, Deceptive, or Abusive Acts or Practices

In The News

- Andrea K. Mitchell quoted in Inside Mortgage Finance article, “CFPB considers disparate-impact rulemaking that attorneys say could have significant impact” (October 25, 2018) *Inside Mortgage Finance*
- Andrea K. Mitchell quoted in Inside Mortgage Finance article, “ECOA rulemaking likely to limit the use of disparate impact” (October 29, 2018) *Inside Mortgage Finance*
- Andrea K. Mitchell quoted in Inside Mortgage Finance article, “States gear up for fair lending enforcement, with a few limits” (December 10, 2018) *Inside Mortgage Finance*
- Andrea K. Mitchell quoted in American Banker article, “Will Congress move to outlaw ‘live’ checks?” (December 27, 2018) *American Banker*
- Andrea K. Mitchell quoted in Bloomberg BNA article, “Disparate impact questions could limit CFPB enforcement” (July 2, 2018) *Bloomberg BNA*
- Andrea K. Mitchell quoted in American Banker article, “Will HMDA data carve-out for small banks make discrimination easier?” (March 13, 2018) *American Banker*
- Buckley Sandler Recognized by Chambers USA as an “Exceptional” Financial Services Regulation and White Collar Firm (August 28, 2017)
- Andrew L. Sandler and Andrea K. Mitchell Quoted in Banking Exchange Article, "Fair Lending's Next Act" (February 6, 2017) *Banking Exchange*
- Buckley Sandler Hosts Eighth Annual Fair Lending Today Conference (March 14, 2016)
- Andrea Mitchell Quoted in Law360 Article, "CFPB Turns to Bully Pulpit to Expand Bank Access" (February 4, 2016)

Articles

- "Representing Women At The Intersection Of Law And Finance" By Valerie

- L. Hletko and Andrea K. Mitchell (Law360) (October 26, 2017) *Law360*
- Special Alert: Election Results - Preliminary Thoughts and Reactions (November 14, 2016) *Buckley Special Alert*
 - Practical Handbook on Fair Lending for Bank Directors and Executive Officers (June 1, 2016) *American Association of Bank Directors*
 - Redlining Cases in 2015 And A New Discrimination Standard (January 3, 2016) *Law360*
 - Consumer Financial Services Answer Book 2016 (October 27, 2015) *Practising Law Institute*
 - Special Alert Update: OCC Revises Guidance Regarding Consumer Protection Requirements to Overdraft Lines and Protection Services (March 11, 2015) *Buckley Special Alert*
 - Special Alert: OCC Guidance Applies Consumer Protection Requirements to Overdraft Lines and Protection Services (February 16, 2015) *Buckley Special Alert*
 - Special Alert: CFPB States Supervisory Obligations Trump Nondisclosure Agreements (January 29, 2015) *Buckley Special Alert*
 - Consumer Financial Services Answer Book 2015 (October 14, 2014) *Practising Law Institute*
 - Special Alert: Agencies Issue Joint Statement On Fair Lending Compliance And The CFPB's ATR/QM Rule (October 24, 2013) *Buckley Special Alert*