

BUCKLEY

Alternative Finance Practice

Alternative finance companies — payday lenders, auto title lenders, check cashing services, deposit advance services, and many fintech companies, among others — provide businesses and consumers with financial products that are typically not offered within the traditional banking system. Because they operate within a different regulatory environment and often have more focused product offerings, alternative finance companies face strategic and legal considerations that are unique to their business model.

Buckley has long-standing experience with alternative finance products. Our lawyers have advised clients since the inception of retail payday lending — representing first movers in that space in both litigation and regulatory matters even before the enactment of specific laws addressing payday lending. In the years since, we have expanded to cover all forms of alternative finance products, as well as new products being developed through fintech platforms.

We guide alternative finance companies through all stages of their business. During periods of growth, we perform transactional due diligence for investors and other counterparties. As the law evolves, we provide our clients with tailored advice in response to changing regulatory expectations and new federal and state laws.

Our lawyers regularly represent clients in supervisory or enforcement matters before the Consumer Financial Protection Bureau, the Federal Trade Commission, the Department of Justice, state banking departments, state attorneys general, and other government regulators. We also represent clients who have been asked to testify before Congress and other legislative bodies. And, when necessary, we effectively defend alternative finance providers — and their officers and directors — in and out of court during class actions and government litigation.

Examples of our alternative finance representations include:

- **Legal guidance throughout the alternative finance life cycle:** We advised an alternative finance fintech company from its start-up phase, developing and evolving all aspects of its small-business financing products, providing state and federal regulatory and licensing advice, negotiating bank partnership and investor agreements, representing the company in presentations to state and federal regulators, and through discussions about applying to become its own bank
- **Defending clients during first-of-their-kind government investigations:** We represented a small-dollar lender offering alternatives to payday loans in a Military Lending Act investigation, as well as two money transmitters in a

Remittance Transfer Rule investigation; in each instance, Buckley lawyers guided companies as the CFPB took its first actions under new rules with potentially dramatic implications for our clients and the industry

- **Product development:** We played a major role in developing a novel retail credit product for a tax preparer, spanning white-board conception to full implementation, and including the negotiation of cooperative strategic relationships with multiple banking partners
- **Payday lending:** We have represented payday lenders in CFPB and FTC supervisory and enforcement matters relating to a variety of business models (single-state license/choice-of-law, multiple-state license, online, tribal, and offshore), have advised payday lenders on state regulatory inquiries regarding possible violations of state law, have defended payday lenders in class actions alleging unfair or deceptive trade practices and usury violations, and have represented private equity firms considering investments in payday lenders
- **Litigation financing:** We have advised litigation finance companies regarding federal and state lending laws and successfully represented a litigation finance company in a state attorney general enforcement action