

BUCKLEY

Credit, Debit & Prepaid Cards Practice

Buckley represents issuers and servicers of credit, debit, and prepaid cards in a broad range of regulatory, enforcement, and litigation matters involving consumer, small business, and corporate cards. These products range from general purpose to virtual cards designed for single use. Our experience spans the spectrum of federal laws and regulations, including the Truth in Lending Act (TILA), Equal Credit Opportunity Act (ECOA), Fair Credit Reporting Act (FCRA), Electronic Fund Transfer Act (EFTA), as well as state laws covering a host of issues ranging from small business charge cards to the electronic delivery of disclosures. Our clients include long-standing industry leaders and new entrants that seek high-quality, practical, and effective advice to advance their business goals and ensure compliance with the complex laws and regulations governing this area.

We analyze the regulatory environment in which card issuers and servicers operate, and assist in making the changes necessary to stay compliant with applicable laws and regulations, as well as examiner expectations and industry standards. Our lawyers counsel clients with respect to proposed rules, draft comment letters, and work with regulators to ensure that industry concerns are heard. We analyze new laws, rules, guidance, and enforcement actions so that clients can make appropriate adjustments to their systems, procedures, and disclosures. Our team helps clients respond to changes in state law preemption as a result of Dodd-Frank, and aids them in determining the appropriate compliance approach to specific state laws.

We advise our clients on the development of innovative card products and services within a multifaceted regulatory framework. Our attorneys assist in structuring products and assessing the risk of proposed products, terms, models, and marketing strategies. We develop comprehensive and consumer-friendly disclosures to reduce the risk of both regulatory violations and claims of unfair, deceptive, and abusive acts and practices (UDAAP). We also work with clients in preparing for and responding to examinations, consumer complaints, and pre-litigation issues, as well as stand ready to respond to enforcement actions and defend in litigation if necessary. Our team offers legal counsel on a variety of business transactions for which our card clients are regularly involved, including structuring and negotiating private label deals. We also advise on payment system issues and provide general legal guidance on charter powers, rate exportation, and other banking topics.

Representative work in this area includes:

- Advised numerous large and mid-sized card issuers on the implementation of the amendments to the Military Lending Act regulations
- Helped multiple startups launch credit card programs

- Helped established card issuers redesign existing rewards programs, create benchmarks against best in class standards, conduct risk assessments, integrate grandfathered balances, and terminate legacy programs

- Helped established card issuers launch new small business, charge card, corporate card, and prepaid card programs

- Advising card issuers on matters relating to CFPB examinations, including compliance management, deferred interest, and technical compliance with consumer financial laws and regulations

- Assisting card issuers in standing up and maintaining ongoing fair lending statistical analysis programs; conducted a file review of judgmental overrides

- Represented several card issuers in CFPB enforcement actions relating to add-on products