

BUCKLEY

Enforcement Actions & Investigations Practice

Enforcement actions present serious risks and challenges to businesses and individuals. The threat of an investigation can delay or derail important business goals, tarnish reputation, and reduce consumer confidence. One inquiry may trigger parallel investigations or legal action from other government entities and private litigants. Parallel white collar criminal investigations of individuals can arise in tandem with civil enforcement actions against businesses. Enforcement actions may also influence ongoing supervisory relationships with federal and state regulators, resulting in significant remediation and penalties.

Buckley helps clients manage the complications arising from investigations and enforcement actions by developing and implementing practical strategies informed by our extensive experience with how state and federal agencies operate. We are efficient and forward-thinking problem solvers, and excel in helping clients minimize collateral consequences of investigations and navigate parallel actions by multiple agencies. As an investigation unfolds, we rely on our deep regulatory knowledge of consumer financial services and other areas to help clients understand and mitigate risks and engage in effective advocacy with the government.

Our team has successfully litigated and resolved investigations and enforcement actions conducted by state and federal agencies including the Department of Justice and U.S. attorneys' offices, the Consumer Financial Protection Bureau, Federal Trade Commission, Department of Housing and Urban Development, state attorneys general, and other prudential bank and state regulatory agencies. These matters have included a variety of issues, ranging from alleged violations of consumer financial statutes (e.g., Truth in Lending Act, Real Estate Settlement Procedures Act, Equal Credit Opportunity Act, Fair Housing Act) and claims alleging unfair, deceptive, or abusive acts or practices, to allegations of fraud under the False Claims Act and Financial Institutions Reform, Recovery, and Enforcement Act, and matters involving the Foreign Corrupt Practices Act, money laundering, and the Bank Secrecy Act. We also represent corporations and their executives in connection with congressional investigations examining industry business practices, as well as with congressional inquiries and hearings.

Our team has successfully represented clients in victories at trial, appeals courts, and at the Supreme Court. Many of our greatest successes, however, are not public because we convinced an enforcement agency not to take action.

Select representations in this area include:

- A large national bank in a CFPB investigation regarding compliance with the Electronic Fund Transfer Act and Regulation E

- A financial institution in negotiated settlement in *Federal Trade Commission v. Avant, LLC*, in the Northern District of Illinois
- Multiple top mortgage lenders and servicers in FCA and FIRREA investigations by the DOJ and United States Attorney's Offices, including the representation of eight mortgage servicers in *U.S. ex rel. Grubea v. Rosicki, Rosicki & Assoc.*, 318 F. Supp. 2d 680 (S.D.N.Y. 2018), an FCA *qui tam* litigation in the Southern District of New York, which resulted in a dismissal with prejudice that the *American Lawyer* called "a big win for a veritable army of outside counsel led by Buckley"
- Three major banks — BB&T, Regions Bank, and IberiaBank — in successful resolutions of multiyear FCA investigations concerning Federal Housing Administration lending, reaching agreements with the DOJ and HUD that included no admission of liability, no administrative sanction, and no prospective relief
- Verizon Wireless in a settlement with the CFPB, Federal Communications Commission, and 51 attorneys general alleging that Verizon Wireless permitted third parties to place unauthorized charges on consumers' wireless phone bills
- A leading homebuilder, mortgage originator, and mortgage servicer in parallel investigations of various subsidiaries by a large multistate attorney general group, the CFPB, the DOJ, and HUD, among others
- Multiple indirect auto finance companies in DOJ and state AG investigations into subprime auto loan origination and securitization practices
- JPMorgan Chase Bank in a joint CFPB and Maryland AG investigation into allegations that loan officers accepted leads and marketing assistance from a now-defunct title company in exchange for referrals, resulting in a settlement of less than \$1 million with no admission of liability
- Customers Bank in enforcement action before the Federal Reserve Board concerning UDAP allegations related to financial aid disbursement services for students offered in conjunction with a third party

Sub Practices

Topic Spotlight: Assistance in responding to government oversight of pandemic relief

The federal government's financial response to the Covid-19 pandemic is measured in trillions of dollars, and the intensity of oversight related to that response reflects this

unprecedented commitment. All involved in the government's response, particularly financial services providers, should expect increased scrutiny of how those dollars have been and will be spent.

Buckley's white collar, enforcement, congressional investigations, class actions, complex civil litigation, and False Claims Act & FIRREA teams are prepared to assist with government and congressional inquiries, examinations, investigations, and government and private party litigation that arise from the pandemic response. We work closely with our financial services regulatory practices to combine the firm's core substantive experience with our deep knowledge of government investigations and litigation of all kinds.

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Topic Spotlight: Inspector general investigations

More than 70 inspectors general throughout federal agencies and other governmental entities have the power to issue subpoenas, coordinate with civil enforcement agencies, make referrals to and work with criminal prosecutors, issue public reports, and liaise with Congress. These investigations and potential enforcement actions can significantly strain resources, impede normal business activity, and cause reputational damage.

Buckley regularly guides clients through these inquiries and investigations, including those triggered by or involving whistleblowers, as well as handles the civil and criminal enforcement actions and congressional inquiries that arise from IG investigations.

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