

BUCKLEY

Private Banking Practice

Private banking in the U.S. has moved into a new era of regulatory oversight, enforcement risk, and litigation exposure far beyond what the industry has experienced in the past. Regulators are devoting more time and resources to scrutinizing this corner of the financial services market, which is characterized by exclusivity and discretion. At the same time, private banks are trying to keep pace with changing international norms, cross-border legislation, and a boom in global wealth, all the while balancing the restraints of compliance risk management with the need to be globally competitive.

In this new era of heightened regulatory scrutiny, private-banking products must be offered in compliance with a number of federal laws, including the Community Reinvestment Act (CRA); Equal Credit Opportunity Act (ECOA); Truth in Lending Act (TILA); Fair Credit Reporting Act (FCRA); Electronic Funds Transfer Act (EFTA); Electronic Signatures in Global and National Commerce Act (ESIGN); Gramm-Leach Bliley Act (GLBA); Fair Debt Collection Practices Act (FDCPA); provisions related to unfair or deceptive acts or practices (UDAP) and unfair, deceptive, or abusive acts or practices (UDAAP); and the Bank Secrecy Act (BSA) and anti-money laundering (AML) laws. In order to remain competitive, institutions must adhere to their compliance obligations but still remain true to their business model of delivering superior client service to high-net-worth clients and providing customized product and service offerings. Our attorneys understand this paradigm in which private banks are operating and advise private banks on how to navigate these challenges.

Where strategic growth and innovation are keys to success in the financial services industry, Buckley also provides tactical guidance on how to structure the commercial, institutional, and general business processes of private banks to meet the needs of high-net-worth and institutional clients. Whether the objective is to acquire, merge, or develop strategic partnerships, our attorneys have the experience and industry intelligence to help private banks achieve their business goals.

Our work in private banking includes:

- Providing regulatory and compliance training to boards, executives, and legal and compliance professionals
- Structuring CRA loan programs, negotiating origination agreements with other institutions present in target markets, conducting readiness reviews for CRA exams, developing strategic plans, and preparing regulatory responses to potential CRA rating downgrades
- Preparing for and managing exams by the Consumer Financial Protection

Bureau (CFPB), federal prudential banking regulators, and other federal and state regulators, as well as responding to exam findings and requests for corrective action

- Developing, evaluating and overseeing lending compliance programs, including statistical monitoring analysis, qualitative risk assessments, minority-market outreach strategies, and special purpose credit programs
- Defending private banks in pre-enforcement inquiries and enforcement investigations stemming from redlining and other fair-lending claims
- Developing solutions to complex regulatory hurdles that account for the level of client service fundamental to the private-banking model
- Counseling banks on the requirements and restrictions imposed by key safety and soundness regulations that establish rules for tying arrangements (Regulation Y), extending credit to insiders (Regulation O), securities-based lending (Regulation U), and transactions with affiliates (Regulation W)
- Structuring loan products that manage the compliance obligations of TILA and Regulation Z
- Assisting clients in designing, maintaining, reviewing, and monitoring BSA/AML compliance programs and defending clients in related enforcement investigations
- Designing debt collection protocols consistent with state and federal regulatory requirements and with the client's strategic objectives
- Helping clients develop and implement compliance-management systems and vendor-management programs
- Advising on cross-selling, incentive compensation structures, and marketing initiatives for products and services