

Consumer Financial Services Compliance

McGlinchey Stafford is a national leader in the field of consumer financial services law. The firm provides strategic legal counsel to clients in all areas of consumer finance, as well as mortgage loan documentation services. Naturally, we also partner with our litigators on an array of issues within the consumer finance arena.

McGlinchey's seasoned Consumer Financial Services Compliance Group collaborates across practice areas and geographic regions to ensure that the clients' needs are addressed in a professional, efficient and cost-effective manner. Attorneys implement pioneering legal approaches to solve client problems with the goal of enhancing the client's business within the boundaries of the law.

Knowledge of consumer financial services law and a broad understanding of industry practices, allows the Consumer Financial Services Group to understand and quickly respond to client concerns in the regulatory area. The Group supports the firm's litigators in both individual and class action suits involving consumer financial services law issues.

Maintaining a constant two-way communication with appropriate regulatory, governmental and trade organizations is fundamental at McGlinchey Stafford. In addition, the firm's consumer financial services attorneys and staff often work closely with key members of the Governmental Relations Team to stay abreast of developing federal, state and local legislation and regulations.

The Consumer Financial Services Group specializes in national compliance projects and has in-state offices in some of the most problematic jurisdictions for consumer financial services providers: CA, FL, NY, LA, MS, OH and TX.

McGlinchey Stafford's Consumer Financial Services Group has six main areas of concentration:

- Regulatory and Compliance
- Residential Mortgage Banking
- Personal Property Finance
- Manufactured Housing Finance
- Credit Cards
- Litigation Support

To provide the best legal counsel in these areas of practice, McGlinchey Stafford attorneys possess a keen understanding of all pertinent federal and state laws:

- TILA and Regulation Z
- Home Ownership and Equity Protection Act
- ECOA and Regulation B
- RESPA and Regulation X
- Home Mortgage Disclosure Act and Regulation C
- Consumer Leasing Act and Regulation M
- Fair Debt Collection Practices Act (FDCPA)
- Fair Credit Reporting Act (FCRA)
- Truth-in-Savings Act and Regulation DD
- Electronic Funds and Transfer Act and Regulation E
- E-Sign and Uniform Electronic Transactions Act
- Gramm-Leach-Bliley Act
- State Privacy and Telemarketing Laws
- State Predatory Lending Laws
- State usury laws and Federal Preemption
- State Lender Licensing Laws
- State Leasing Laws
- Motor Vehicle and Retail Installment Sales Acts
- Mortgage Lender and Mortgage Broker Statutes
- All Related Consumer Financial Services Statutes, Regulations and Issues

Related Services

[Consumer Financial Services Litigation](#)

[Foreclosure Law Crisis Team](#)

Group members regularly provide due diligence and licensing reviews to clients who are considering a public offering of securities or a loan portfolio acquisition.

Due Diligence

Thorough due diligence is an essential part of McGlinchey Stafford's consumer financial services practice. Our team of Consumer Financial Services attorneys conduct diligence in a manner befitting the world's top financial institutions. When loan portfolios reflect poor organization or servicing practices, we quickly identify the problems, and clearly communicate practical legal solutions. In addition, the team's experience with document drafting and preparation for finance programs in all fifty states allows team members to highlight document deficiencies and areas of exposure for portfolio acquirers and other investors.

Licensing

Consumer Financial Service Group team members manage licensing issues for all types of consumer lenders. To simplify the process and put clients into business more quickly, team members maintain a working relationship with state regulators. The start-to-finish licensing process is efficiently administered by our team so that clients can focus on what is important – growing their business.

Public Offerings

A company going public must be properly licensed and in compliance with applicable laws. McGlinchey Stafford renders regulatory compliance opinions in connection with public of securities by mortgage lending, manufactured housing, and automobile finance clients.

Service Areas

Regulatory and Compliance

McGlinchey Stafford's Regulatory and Compliance Team provides a full range of regulatory and compliance services to consumer lending institutions around the country. Our notable experience working with various financial institutions and regulatory agencies, both state and federal, contributes to the guidance we provide for our clients in the industry.

Our regulatory and compliance practice supports the following lending products:

- Construction to perm lending
- Consumer goods
- Conventional mortgage lending
- Credit card programs
- Education loans
- Electronic contracting
- Home equity lending
- Manufactured housing finance
- Mortgage servicing
- Motor vehicles
- Personal property finance
- Predatory lending compliance
- Privacy compliance
- Real property finance
- Specialized consumer lending
- Watercraft

Financial Technology (FinTech)

McGlinchey Stafford works with a number of Financial Technology (FinTech) companies and marketplace lenders that offer alternative lending and payments solutions. We provide legal compliance advice on all types of issues impacting these companies when developing a national lending program, whether through the use of a bank partnership program, state lender licenses, or both. Common compliance issues range from the creation of bank partnership models, utilization of unconventional underwriting models, licensure on a 50-state basis, and the development and implementation of innovative consumer lending products and payment mechanisms. McGlinchey Stafford also assists FinTech companies and marketplace lenders on compliance matters involving payments to ensure that the use and acceptance of electronic payments complies with federal regulations and other guidance, the rules and guidance issued by the Electronic Payments Association (NACHA), and the operating rules of the major credit and debit card brands.

Real Property Finance

McGlinchey Stafford is a one-stop resource for the residential mortgage lending industry. Representing lenders in today's volatile marketplace requires an ability to develop and implement national cutting-edge legal and business solutions throughout the banking process. McGlinchey Stafford attorneys strategically maneuver this process while advising clients every step of the way.

From the initial stages of licensing to preparing multi-state loan documentation to post-closing servicing and collection activities, McGlinchey Stafford attorneys aim to provide clients with sophisticated guidance. Addressing lending issues often demands inter-practice group coordination and our mortgage lending clients always have access to the firm's vast resources.

Multi-state Document Drafting and Preparation

McGlinchey Stafford prepares documents for a wide range of consumer loan and sales finance programs in all 50 states. Using sophisticated transmission software, the documents are securely and expeditiously delivered to the client.

McGlinchey Stafford provides support in the following areas of law:

- Closing processes
- Education and training
- Loan program implementation
- Loan servicing
- Mortgage lending documentation
- Multi-state licensing
- Predatory lending compliance
- Product development
- Quality control and compliance assurance
- Secondary marketing

Personal Property Finance

McGlinchey Stafford's Personal Property Finance Group covers a number of related areas: automobiles, watercraft, consumer goods and other specialty financing. Consumer lenders throughout the country often select this group to manage their national lending and finance projects. The group develops and reviews multi-state documentation and ensures that lending programs are compliant with applicable state and federal laws. Group members are integrally involved in each aspect of the financing process, from the initial credit application to the documentation of the sale and financing, through the repossession and disposition of the collateral.

McGlinchey Stafford's services comprise the following:

- Consumer leasing documents
- Education and training
- Product development
- Quality control and compliance assurance
- Retail installment sales documents
- Sales finance and direct loan documents
- Sales finance and direct loan licensing
- Sales finance and loan servicing
- Secondary marketing

Specialized Consumer Lending

McGlinchey Stafford has unique experience advising clients who operate in the following specialized areas of consumer finance.

Manufactured Housing Finance

McGlinchey Stafford has built a manufactured housing legal team whose knowledge and practical experience are unmatched. The firm is a pioneer in this industry, creating the legal model that other firms emulate. Whether affixed to real estate or in a manufactured housing community, McGlinchey Stafford attorneys direct the entire legal financing process from origination to servicing.

- Direct loan documents
- Education and training
- Federal interest rate preemption
- Legislative and regulatory monitoring
- Loan product development
- Manufactured housing default servicing
- Quality control and compliance assurance
- State licensing
- Summaries, guides, and forms
- Tiny home financing
- Titling and perfection

Education Loans

McGlinchey Stafford works with lenders and loan program administrators to develop documentation and compliance systems for private student loan programs.

Credit Card Programs

The Consumer Financial Services Group has years of experience in designing credit card programs for banks and merchants and providing continuing advice for those lenders on state and federal law issues.

Privacy Compliance

The Consumer Financial Services Group closely follows the latest developments in the law regulating consumer privacy and the sharing of consumer financial information to guide clients who are developing and implementing a compliant privacy policy.

Electronic Contracting

The Consumer Financial Services Group can assist clients in converting their paper contracts and other documents into online electronic contracts that can be signed electronically. We help the client design websites and screens in a way that complies with the new laws that regulate these practices.

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Experience

National Consumer Credit Compliance Project

For a national mortgage lender, McGlinchey Stafford handled a national consumer credit compliance project, including the creation of forms of retail installment contracts, promissory notes and security agreements and forms for residential real estate lending. For this client, our team monitors applicable laws for eleven different lending products offered in 40 states.

Consumer Finance Team Builds Online Database for Mortgage Lender

For a national mortgage lender, our consumer financial services team supports compliance with the SAFE Act and the Dodd-Frank

Consumer Protection Act throughout the country. By building an online database, our team is able to manage legal research and operational implementation.

Consumer Finance Team Represents Manufactured Housing Clients Before Uniform Law Commission

McGlinchey Stafford's Consumer Financial Services team serves multiple manufactured housing clients' interests as an observer to the Uniform Law Commission Manufactured Housing Titling Act Drafting Committee.

Advise multiple national mortgage servicers and originators on foreclosure affidavit/robo-signing issues

Compliance Counsel for Buy Here/Pay Here Used Car Dealer

Manages, develops, and updates 35-state forms program for used motor vehicle sales and financing. Provides ongoing compliance advice related to all consumer finance aspects of the business and counsels the company with respect to various federal and state regulatory matters. Specific projects include CFPB examination preparedness guidance, negotiation with state licensing agencies regarding examination issues, Fair Credit Reporting Act and Gramm Leach Bliley compliance advice and program structuring, electronic contracting program design, collateral protection insurance program design and compliance advice, and structured finance compliance analysis and related opinions.

Licensing and Compliance Counsel for a Start-Up Marketplace Lender

Provides counsel regarding nationwide licensing and compliance matters, assists internal resources with the submission of licensing filings to regulators, and handles more complex licensing issues when they arise. Developed online loan documentation, negotiated with lending channel partner, and provided compliance advice with respect to website content development. Provides ongoing compliance advice related to all consumer finance aspects of the business and counsels the company with respect to various regulatory matters.

Licensing and Compliance Counsel for Funding Group

Provides comprehensive licensing support, including analysis of state licensing requirements, submission of licensing filings to state regulators, communicating with state regulators to obtain required license approvals, renewals and all change of control requirements. Provides compliance advice and represents company in connection with state examinations.

Licensing and Compliance Counsel for National Auto Finance Company

Assisted with multistate licensing, consumer finance compliance, and various loan product documentation issues relating to acquisition of bank and its affiliates. Also assisted with strategic planning, documentation preparation, and compliance and licensing advice related to the expansion of third-party refinancing channels. Provides ongoing compliance advice related to all consumer finance aspects of the business and counsels the company with respect to various regulatory matters. Specific projects include business expansion advice; repossession and loss recovery forms and processes review; portfolio acquisitions compliance review; GAP/warranty product compliance review; sales finance, direct lending, loan broker and collection advice and related state licensing; TCPA compliance; and state and federal law compliance analyses for motor vehicle retail installment financing and leasing.

Regulatory and Compliance Counsel for Used Car Retailer and Finance Company

Revised retail and lease repossession notices and related loss recovery processes on a nationwide basis. Also worked with internal client resources on a nationwide licensing project as a result of a corporate restructuring and rebranding. Provides ongoing federal and state compliance advice related to all consumer finance aspects of the business and counsels with respect to various regulatory matters. Specific projects include: electronic contracting program design and related compliance advice; state regulatory examination advice; sales and financing documentation drafting; and state law compliance analyses for motor vehicle sales, financing, and leasing issues.

Regulatory Counsel for Vehicle Finance Company

Handles complex regulatory matters, CFPB supervisory examination representation, representation regarding various regulatory investigations, and ongoing nationwide licensing analysis and support, including changes of control and strategic counsel related to a private-label agreement. Provides ongoing consumer finance compliance advice on all aspects of the company's business.

Represented financial institutions in internal compliance reviews.

Represented publicly-traded banks in internal compliance reviews and remediation calculation efforts. Led team of lawyers and consultants.

Represented FinFit Holding Co LLC and subsidiary in connection with capital investment transaction

Represented FinFit Holding Co LLC and its wholly-owned subsidiary, FinFit Ops LLC, in a capital investment transaction with

BCPFF, LLC, an affiliate of Bison Capital Partners IV, L.P.

Recent Publications

December 6, 2019	<p>New York Mortgage Industry Facing Detrimental Industry-wide Impact in Dieudonne</p> <p>Recently, the Supreme Court of the State of New York Appellate Division, Second Department issued a decision in the case of <i>Bank of New York Mellon v. Dieudonne</i>, which significantly narrowed the statute of limitations clock to foreclosure on mortgage loans.</p> <p>McGlinchey Consumer Financial Services Alert</p>
December 6, 2019	<p>Reducing risk in the vendor due diligence process</p> <p>Auto Finance Excellence</p>
December 4, 2019	<p>4 Applications for Titling Trusts</p> <p>Auto Finance Excellence</p>
November 6, 2019	<p>Top Questions Lenders Should Ask Fintech Partners</p> <p>Auto Finance Excellence</p>
November 5, 2019	<p>Taking advantage of telematics responsibility</p> <p>Auto Finance Excellence</p>
November 4, 2019	<p>New York's new "Shield Act" applies to those using "private information" of a NY resident</p> <p>New York has enacted legislation to expand its cybersecurity and data breach law with the Stop Hacks and Improve Electronic Data Security Act. The "Shield Act", which becomes effective on March 21, 2020, amends, and more importantly broadens, the scope of the general business and state technology laws in New York, so that they are no longer limited to persons or entities that conduct business in New York State.</p> <p>McGlinchey Cybersecurity & Data Privacy and Consumer Financial Services Alert</p>
October 25, 2019	<p>A lender's guide to refund fees and charges of ancillary products</p> <p>Auto Finance Excellence</p>
September 4, 2019	<p>3 strategies for lenders to mitigate internal threats to consumer data security</p> <p>Auto Finance Excellence</p>
August 28, 2019	<p>What a new Nevada spousal credit law means for lenders</p> <p>Auto Finance Excellence</p>
August 16, 2019	<p>IRS Issues Proposed Regulations on the Classification of Cloud-based Transactions: Lease of Property or Provision of Services?</p> <p>As cloud computing continues to grow in popularity as a business model for the deployment of software services, understanding the tax treatment of revenues generated from cloud-based transactions becomes critical. The IRS has issued proposed regulations that provide guidance on whether a cloud-based transaction should be treated as a lease of property or the provision of services.</p> <p>McGlinchey Corporate & Tax Update</p>

Recent News

December 4, 2019	<p>McGlinchey Stafford Welcomes Experienced Regulatory Attorney to Cleveland Office</p> <p>McGlinchey News Release</p>
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December 3, 2019	NYMBA pens first Amicus Brief addressing mortgage foreclosures, taps McGlinchey Stafford McGlinchey News Release
December 2, 2019	California's great data-privacy rush National Mortgage News
November 13, 2019	Nevada regulators signal enforcement delay of spousal credit rule, lawyer says Auto Finance Excellence
November 4, 2019	McGlinchey Stafford's Financial Services Team Hosts "Emerging Issues in Banking Law" CLE event McGlinchey News Release
November 4, 2019	McGlinchey Stafford Lawyers Co-author the 2020 Edition of PLI's Consumer Financial Services Answer Book McGlinchey News Release
October 29, 2019	McGlinchey Stafford grows Financial Services capabilities with Birmingham new hires McGlinchey News Release
September 11, 2019	CFPB innovation network success hinges on broader AG acceptance, lawyer says Auto Finance News
June 7, 2019	McGlinchey Stafford Welcomes Three New Associates in Cleveland Office McGlinchey News Release
November 4, 2019	McGlinchey Stafford announces 50 Practice Areas Ranked in 2020 Best Law Firms® McGlinchey News Release