



## **Consumer Financial Protection Bureau Symposium**

September 28th, 2010  
9:00 a.m. – 2:00 p.m.

Venable LLP  
575 7<sup>th</sup> Street, N.W.  
Washington, DC 20004



## Agenda:

9:00 – 9:30 Registration

9:30 – 9:45 Opening Remarks

9:45 – 10:45 Hill Perspective

### Speakers:

Jonathan Miller, Professional Staff Member, Senate Banking Committee

Jim Clinger, Chief Republican Counsel, House Financial Services Committee

Jim Johnson, Minority Counsel, Senate Banking Committee

William Donovan, Partner, Venable (Moderator)

10:45 – 11:00 Break

11:00 – 11:45 An Overview of the CFPB

### Speakers:

Joseph T. Lynyak III, Partner, Venable

Suzanne Garwood, Associate, Venable

11:45 – 12:15 Lunch



12:15 – 1:00 Regulator Perspective

Speakers:

Laura Johnson, Attorney, Federal Trade Commission

John J. McKechnie, III, Director of Public & Congressional Affairs, NCUA

Calvin R. Hagins, Director for Compliance Policy, OCC

Joseph T. Lynyak III, Partner, Venable (Moderator)

1:00 – 2:00 Focused Issues

Speakers:

Ed Wilson, Partner, Venable

*Administrative and Agency Negotiations*

Ed Glynn, Partner, Venable

*Enforcement*

Emilio Cividanes, Partner, Venable

*Data/Privacy*

Alex Stricker, Charles River Associates

*HMDA/Fair Lending*

Ron Glancz, Partner, Venable

*Preemption*

Stu Ingis, Partner, Venable (Moderator)

2:00 – 2:15 Questions and Answers and Closing Remarks

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# Presentation



# Consumer Financial Protection Bureau Symposium

September 28, 2010  
Washington, D.C.  
Hosted by Venable LLP



## Hill Perspective

Speakers

- Jonathan Miller – Professional Staff Member, Senate Banking Committee
- Jim Johnson – Minority Counsel, Senate Banking Committee
- Jim Clinger – Chief Republican Counsel, House Financial Services Committee

Moderator

- William Donovan - Venable LLP



# An Overview of the CFPB

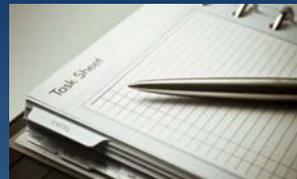
## Speakers

- Joseph T. Lynyak III - Venable LLP
- Suzanne Garwood - Venable LLP

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## Agenda

- Review structure and authority of the CFPB
- Discuss mortgage lending reform included in the Dodd-Frank Act, including—
  - Qualified mortgage underwriting criteria
  - Qualified residential mortgage exemption
  - Loan officer compensation
  - Other anti-steering changes
- The interaction between the Dodd-Frank Act and current FRB initiatives



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## Consumer Financial Protection Bureau

- Consumer Financial Protection Bureau
  - Not “agency”
- Primary policy argument is the failure of existing federal agencies to protect consumers
  - Particularly the FRB and HUD
  - Strips rulemaking authority for a host of federal consumer statutes from other agencies and authorizes CFPB to prescribe uniform rules
- Strips federally-chartered institutions of a significant degree of charter preemption authority



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## CFPB Structure

- An independent bureau of the FRB
- A director with a 5-year term
  - Nominated by the President and approved by the Senate
  - Significant speculation on nominees being considered
- Statutory language that makes clear the FRB itself cannot interfere with the functions of the CFPB
  - Interference by the FRB bureaucracy remains an issue
  - An independent agency within an independent agency
  - FRB may delegate their bank consumer examination and supervision functions to the CFPB



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## The Transfer Date - July 21, 2011

- Announced by the Treasury last week
- 75 *Fed. Reg.* 57253
  - September 20, 2010
- Numerous functions and authorities described throughout the Dodd-Frank Act effective as of the transfer date
- In the meantime...
  - Treasury is in charge



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## And the “Almost” Director is...

### Professor Elizabeth Warren

- Playing a dual role of White House and Treasury advisor
- Currently little accountability
- Is a recess appointment in the future???



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# Functional Units Must Be Established

## Potential For a Very Large Bureaucracy



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# Funding Provided - \$500 Million Worth!



FRB revenues to fund operations of CFPB



"Victims Relief Fund" Established



VRF funded with civil money penalties



May be an incentive to bring CMP actions

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## Coverage

- Broad authority to examine and supervise a “covered person” engaged in a “financial activity” in connection with a consumer financial product or service
  - Banks below \$10 billion exempted from direct CFPB jurisdiction to examine and supervise
  - Other significant exemptions provided by statute
- Unlike other federal statutes that focus on charter form, jurisdiction for the CFPB is based upon product or activity



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## Coverage

- Covered persons include the following:
  - Banks, thrifts, and credit unions
  - Mortgage loan originators, servicers and brokers
  - Real estate settlement companies, appraisers, appraisal companies, and appraisal management companies
  - Consumer credit reporting agencies, in some cases
  - Debt collectors
  - Debt settlement and management services
  - Credit counselors
  - Some alleged scallywags as well
- A covered person also includes “related persons”—
  - Officers and directors
  - Management employees
  - Joint venture partners
  - Independent contractors—who knowingly or recklessly participate in violations or breaches of duty, and includes—
    - Attorneys
    - Appraisers
    - Accountants
- A covered person also includes “service providers”



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## Coverage/Examination Exemptions

### Full or Partial Exemptions For...



Banks, thrifts and credit unions below \$10 Billion  
Investment advisors



CFTC-regulated parties  
SEC-regulated parties  
Farm credit-regulated parties



Real estate brokers  
Insurance companies



Income tax preparers  
Merchants or retailers



Mobile home sales  
Auto retailers  
Employee benefit plans

**Exceptions Likely to Apply  
Only to Core Businesses**

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## What Authority is Provided?

### Primary Authority To Issue Regulations & Interpretations

- Alternative Mortgage Transaction Act
- Equal Credit Opportunity Act
- Fair Credit Billing Act
- Fair Credit Reporting Act (with exceptions)
  - Except Sections 615(e) and 628
- Fair Debt Collections Practices Act
- Gramm-Leach-Bliley Act,
  - Privacy Sections 502 through 509
- Home Mortgage Disclosure Act
- Home Ownership and Equity Protection Act
- Real Estate Settlement Procedures Act
- S.A.F.E. Mortgage Licensing Act
- Truth-in-Lending Act



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## What Authority is Provided?

- Many transferred consumer laws modified to provide enhanced consumer protection
- Monitoring and data-gathering authority
- “Super” disclosure authority to prescribe rules to ensure that a consumer financial product is fully and completely described to a consumer
- Examination, supervision and enforcement authority over non-exempted covered persons
- Provides the CFPB with authority to declare an act or practice by a provider of a consumer financial product or service to be an unfair, deceptive or abusive act or practice



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## What Authority is Modified?

- Limitations imposed on CFPB's preemption authority under transferred federal consumer laws
- AG authority to force CFPB to engage in rulemaking
- Limits imposed on national bank and federal thrift preemption—
  - Charter preemption
  - Transactional preemption
  - Operating subsidiaries
  - AG civil enforcement authority expanded



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## Dodd-Frank Act: Mortgage Lending Reform

- Mortgage reform contained in Titles IX, XIV and elsewhere
  - Adopts many provisions currently included in high-rate or higher rate Regulation Z amendments or proposals
  - Takes clear aim at deceptive broker practices
  - Virtually eliminates payment of yield spread premiums and steering
    - The FRB has already implemented this YSP prohibition



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## Dodd-Frank Act: Mortgage Lending Reform

- The focus is on loan brokers
- Provisions include—
  - Duty of care
  - Enhanced UDAP authority for mortgages
  - Expansion of HOEPA limits to purchase money loans
  - Underwriting and additional mortgage disclosures
  - The “skin-in-game” requirement
  - Creates the category of a “qualified mortgage”
    - Underwriting
    - Terms
    - Penalties for violations
  - Expands State AGs’ ability to enforce provisions of TILA



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## Dodd-Frank Act: Mortgage Provisions

- Amendments to consumer protection statutes transferred to the CFPB
  - HMDA data
  - AMPTA
- The CFPB ordered to combine TILA and RESPA disclosures within one year
- Office of Fair Lending and ECOA
  - May eventually dominate the fair lending enforcement landscape
- Authority to issue regulations to enable a mortgage customer to obtain information from a covered person
- CFPB-operated complaint process with obligatory response imposed on lenders



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## Regulatory Proposal Morass

- A continuing stream of regulatory proposals and final regulations from the FRB
- The FRB's August 2009 Proposal
- The Prohibition on YSPs
- The Implementation of several MDIA closed-end disclosures
- Disclosure of sale or transfer of a consumer's mortgage



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## August 29, 2009 FRB Proposal

### Five Areas Covered By the Proposal

1. Disclosures Required at Application
2. Disclosures Required within Three Days of Application
3. Disclosures Required within Three Days Prior to Loan Closing
4. Payment Disclosures Post Closing (Required to be Made by Loan Servicers)
5. Substantive Limitations on Lending Compensation for Mortgage Loans that may be Made to Brokers and Employees

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## FRB's Modification to 08.29.09 Proposal

- All 900 pages worth
- Requires interrelating the two outstanding proposals
- Primary elements include—
  - Dramatic changes to rescission rules
  - Creation of a requirement to provide new TILA disclosures for many loan modifications
  - Modification of calculation of HOEPA coverage
  - Rule requiring that most fees be returned within 3 days of receipt of early TILA disclosures
  - Complete revision and expansion of reverse mortgage disclosures
  - Raises the threshold for requiring escrows for certain jumbo loans



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## And If That Weren't Enough...

### FRB's Interim and Final Rules

- Prohibiting Yield Spread Premiums ("YSPs")
- Implementing of MDIA closed-end disclosures
- Implementing disclosure of sale or transfer of a consumer's mortgage



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## Prohibiting Yield Spread Premiums

- Originally proposed as a UDAP measure in August of 2009
- Adopted as Section 1403 of the Dodd-Frank Act
  - Adopts a new Section 129(B)(c) of TILA
- Focuses on "mortgage originators"
  - Mortgage loan brokers
  - Employees of mortgage lenders engaged directly in mortgage loan origination activities
- Prohibits payments of compensation based upon terms or conditions of a loan
- Includes a finding that YSPs are unfair and deceptive
- Effective date April 1, 2011



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## Prohibiting Yield Spread Premiums

- Rule includes limited exceptions
- Rule micromanages payment scenarios to prevent circumvention of rule
  - Any efforts to pay higher fees to a loan originator should be carefully analyzed
- Loan originators prohibited from engaging in steering of a consumer into a higher interest rate loan
  - A safe harbor provided that is a complicated disclosure scheme



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## Final Mortgage Loan Transfer Notice

- Implements Section 404(a) of the Helping families Save Their Homes Act of 2009
- Applies to “covered persons” for open-end and closed-end mortgage loans on a principal dwelling that are sold, transferred or assigned
- Within 30 days of a transfer, a notice that must be provided that includes—
  - Name, address and telephone number of the new owner
  - The transfer date
  - Contact information of an agent to receive a rescission notice and issues involving servicing
  - The recording office where the transfer is located
- Mandatory compliance required by January 1, 2011



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## FRB Interim Rule For MDIA Disclosures

- Implements program and transaction specific disclosures as part of MDIA in 2009
- Compliance mandatory on January 30, 2011
- Substantially enhanced MDIA-mandated disclosures provided in a tabular format
  - Contract interest rate
  - Corresponding monthly payment
  - Monthly escrow amount
  - Many additional disclosures
    - Variable-rate loans and step-rate loans
    - Negative-amortization loans
    - Teaser rates
    - Interest only
  - Statement disclaiming any guaranty of refinance
  - New forms promulgated and more to come
- Requires significant model form changes that overlap both August 2009 proposal and Title XIV of Dodd-Frank Act



**Disclosures will likely change when TILA and RESPA combine!**

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## Issues For the Immediate Future

- Numerous existing regulatory initiatives will have to be homogenized with Dodd-Frank requirements
- A continuing (never-ending) series of origination and servicing changes
- The CFPB's policy determinations regarding the focus of its efforts—enforcement or regulation



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## Regulator Perspective

### Speakers

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## Focused Issues

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### Moderator

- Stuart Ingis - Venable LLP

CRA Charles River  
Associates

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## Focused Issues

Negotiations

Data/Privacy

Preemption



Enforcement

HMDA/Fair Lending

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# QUESTIONS?

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## Additional Materials



**Please contact our attorneys in our CFPB Task Force if you have any questions regarding this update.**

#### Editors:

**Stuart P. Ingis**

[singis@Venable.com](mailto:singis@Venable.com)

202.344.4613

**Joseph T. Linyak, III**

[jtlinyak@Venable.com](mailto:jtlinyak@Venable.com)

202.344.4597

#### Contributors:

John B. Beaty

Emilio W. Cividanes

John F. Cooney

William J. Donovan

Lisa J. Fales

Ron R. Glancz

Edward F. Glynn

Gary D. Hailey

Jeffrey D. Knowles

David W. Rutstein

Ralph E. Sharpe

Jeffrey S. Tenenbaum

Ian D. Volner

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This week, President Obama is expected to usher in a new era of financial regulation by signing landmark reform legislation into law. Among other significant items, the law creates the Consumer Financial Protection Bureau, or "CFPB," and transfers to the CFPB responsibility for virtually all federal financial consumer protection laws. In fact, this authority will be so broad that many industry commentators believe that the CFPB will largely determine the near-term winners and losers in the consumer financial marketplace.

Among its responsibilities, the CFPB will take over direct or indirect supervision of most providers of consumer financial products and services, and will be empowered to declare individual acts or practices to be "unfair, deceptive or abusive" ("UDAP"). Thus, any organization operating in the consumer finance sphere—a broad group ranging from banks and thrifts to credit reporting agencies, payday lenders, debt settlement entities and many others—is likely to be impacted by the operations and decisions of the Bureau.

To assist our clients and friends in navigating this new regulatory landscape, Venable LLP is pleased to announce the formation of a Task Force to focus on the organization and operation of the CFPB. Bringing together attorneys with exceptional depth of experience in relevant industries and regulatory agencies, the Task Force will provide insight into the CFPB's operations and policy decisions, and will represent clients in the rulemaking, investigation, and enforcement proceedings that will shape this area of law.

Accordingly, Venable's CFPB Task Force is pleased to present this initial overview of the CFPB, including a discussion of its structure and organization, primary authorities, jurisdiction, and probable implementation process, as well as significant legal issues for the consumer financial services industry.

#### The Structure and Organization of the CFPB

The CFPB will be an independent bureau housed within the Federal Reserve Board ("FRB") and funded out of FRB revenues. As an independent bureau within a federal agency that exists outside of the Executive Branch, the CFPB may be insulated from many of the usual political influences associated with federal administrative functions.

The CFPB will be led by a Director, who will be appointed by the President and confirmed by the Senate for a set term of five years. In contrast to other agencies with voting boards that hold mandates to oversee important components of our economy, the Director will be solely responsible for the CFPB's issuance of regulations, enforcement and policy development.

The Director will be responsible for organizing several functional units and offices within the CFPB, including the following:

- Research
- Community Affairs
- Consumer Complaint Function
- Office of Fair Lending and Equal Opportunity
- Office of Financial Education
- Office of Service Member Affairs
- Office of Financial Protection for Older Americans
- Consumer Advisory Board

In addition, because the CFPB will have direct examination and supervision authority over all non-exempted (or partially exempted) providers of consumer financial products and services—termed "covered persons"—the Director will be responsible for recruiting and organizing an examination, supervision and enforcement staff that ultimately may dwarf the size of comparable staffs at the federal banking agencies.

#### The CFPB's Primary Authorities

In an effort to centralize and coordinate federal financial consumer protection efforts, the CFPB has been given extraordinary authority in the following primary areas:

- Federal Financial Consumer Protection Laws—The CFPB will receive interpretative and rule-making authority over 17 federal consumer protection laws, including the Truth-in-Lending Act and the Real Estate Settlement Procedures Act. Even in instances in which other state or federal agencies will continue to exercise primary examination authority, the responsibility for issuing regulations and interpretations for virtually all federal financial consumer laws will now reside with the CFPB.
- Enhanced Consumer Disclosure Authority—In addition to the above-mentioned individual consumer protection laws, the CFPB has been given separate authority to require new disclosures for all consumer products and services. This authority would permit, for example, expanding upon loan program disclosures beyond what is required by Regulation Z for categories of loans that have been subject to criticism by many consumer groups, such as payday loans and certain mortgage products.
- Expansive UDAP Authority—In order to address concerns about unfair treatment of consumers by providers of consumer financial products and services, the CFPB has been given broad authority to declare acts or practices related to the delivery of a consumer financial product or service to be "unfair, deceptive or abusive."
- Examination, Supervision and Enforcement—Except for exempted financial service providers, the CFPB has been given authority to examine and enforce consumer laws against large depository institutions and their holding companies and affiliates, as well as literally thousands of companies not previously directly regulated by the federal government.

#### Coverage and Exemptions

## Upcoming CFPB Events

### Legislative Taskforce Brown Bag Lunch: Wall Street Reform Act: Creation of a New Consumer Protection Agency

Monday, July 26th  
12:00 - 2:00 pm EST

[Venable DC Office](#)

**Program Description:** The new Consumer Financial Protection Bureau will have sweeping authority to regulate financial products and services. The speakers will discuss the implications of this new regulatory body and how it will change the regulatory landscape.

[Click here](#) to register.

### New Financial Reform Package: An Analysis of Dodd-Frank for Lawyers and Related Professionals

Monday, July 26th  
2:00 - 3:30 pm EST  
Telephone and Audio Webcast

**Program Description:** This program will focus exclusively on the Dodd-Frank Wall Street Reform and Consumer Protection Bill, the most significant and comprehensive financial services legislation that Congress has enacted since the Great Depression. Almost every type of depository or financial institution will be affected, either in the manner in which it is regulated or the manner in which it will be permitted to operate. You'll need to understand and absorb this brave new world of financial regulation.

[Click here](#) to register.

It may come as a surprise to many participants in the consumer financial services market that some or all of their activities will now be subject to direct or indirect supervision by the CFPB. In addition, many non-core business initiatives that include consumer financial components will have to be analyzed to determine whether the CFPB might be capable of asserting jurisdiction.

While a full analysis of the CFPB's reach is beyond the scope of this Alert, as a general matter, the CFPB will have jurisdiction over all non-exempted persons and entities that provide a consumer financial product or service to a consumer. It is noteworthy that, unlike most federal regulatory schemes that focus on charter form (such as banking), the CFPB's jurisdiction will cut across all individuals and corporate forms and focuses on the fact that a consumer financial product or service is being delivered.

Covered persons include the following:

- Banks, thrifts, and credit unions
- Consumer finance lenders
- Mortgage loan originators, loan servicers and brokers
- Currency exchanges
- Real estate settlement companies, appraisers, appraisal companies, and appraisal management companies
- Consumer credit reporting agencies
- Debt collectors
- Debt settlement and management services
- Check cashing, collection, or guaranty services
- Lenders and brokers in certain lease-to-own arrangements
- Financial and investment advisors (not registered with the Securities and Exchange Commission)
- Payday lenders
- Credit counselors
- Broker-dealers, non-depository trust companies, and deposit intermediation services
- Service providers and related persons of covered persons
- Some sellers or issuers of stored value cards and instruments
- Money services businesses, money transmitters, and wire transmitters
- In limited cases, tax preparers, accountants, merchants or retailers, and attorneys
- Financial data processors, including data storage providers, transmission services, and software and hardware providers

In a compromise heavily fought for by depository institutions, banks, thrifts and credit unions (including affiliates) with assets less than \$10 billion will continue to be examined by their respective prudential regulators. Large depository institutions with assets over \$10 billion, however, will be directly examined by the CFPB.

While the definition of "covered persons" is very broad, it remains to be seen whether the CFPB will be capable of asserting direct supervision over every category of covered person—particularly during the initial stages of the CFPB's organizational efforts. For example, it is possible that the CFPB may delegate to other regulatory authorities the task of examining and supervising entities not exempted from direct CFPB supervision, such as state-licensed lenders.

While the majority of consumer financial service providers were not able to obtain exemptions from CFPB jurisdiction, several industry groups were successful (or partially successful) in their efforts to be exempted. These include:

- Investment advisors and other Securities and Exchange Commission-regulated parties
- Commodity Futures Trading Commission-regulated parties
- State securities commission-regulated parties
- Farm Credit Administration-regulated parties
- Real estate brokers
- Insurance companies
- Certified public accountants and income tax preparers
- Merchants or retailers of nonfinancial products and services
- Mobile home retailers
- Auto dealers
- Employee benefit plans
- Charitable organizations

It is important to note that the exemptions identified above generally relate to core business activities and arguably may not extend to ancillary businesses that involve consumer financial services and products. The CFPB will likely issue regulations that will circumscribe the scope of any exemptions that are enjoyed by these entities. It is also probable that, as part of the rulemaking process, many covered persons will attempt to obtain exemptions for specific products and business activities.

Accordingly, exempted businesses should closely monitor regulatory developments as the CFPB interprets the scope of exemptions from its direct or indirect regulatory jurisdiction.

## The Implementation Process

Although the CFPB may eventually grow into a sizable government agency, there are several necessary organizational hurdles that it must address.

The first is staffing. Other than staff from the Office of the Comptroller of the Currency, there is no mandated transfer of personnel from federal agencies to the CFPB. Thus, the Director will be required to negotiate with other federal agencies in order to recruit a staff. Because of the required number of functional offices that must be created, this task may take a considerable period of time to accomplish.

The second is the organizational challenge of assembling an examination and supervision staff. Because the CFPB's jurisdiction is based upon function and not charter form, any effective examination processes must be capable of accommodating the various industry segments and their respective approaches to consumer compliance. Moreover, with the exception of banking organizations and their examination policies and procedures, the CFPB will be faced with the task of drafting new examination procedures that must accommodate different approaches to effective compliance.

Finally, and most importantly, virtually every aspect of the creation and functions of the CFPB will depend upon the administrative rulemaking process, including the transfer of federal consumer protection statutes to the CFPB, the issuance of guidance regarding the CFPB's interpretation of key statutory terms and provisions, and the negotiation of relationships with other federal agencies and

state licensing authorities. Even assuming the successful assembly of a core operating staff for the CFPB, it is difficult to imagine how these initial administrative tasks can be completed within twelve to eighteen months.

Within sixty days of enactment, the Secretary of the Treasury is required to designate a "transfer date" in six to twelve months, on which the CFPB will become operational (with the flexibility to extend the transfer date by an additional year). Until the appointment of the Director, the Secretary of the Treasury is authorized to exercise the powers granted to the CFPB.

#### Significant Legal Issues for the Consumer Financial Industry

While space does not permit a complete analysis of all of the legal concerns that consumer financial product and service providers must consider, several of the more significant questions for industry are as follows:

- Use of UDAP Authority
- Federal Preemption
- Coverage Determinations
- Examination and Supervision
- Interaction with the Federal Trade Commission, the Federal Banking Agencies and State Regulators

In the weeks and months ahead, Venable will be addressing such evolving legal issues in separate alerts and materials. To sign up to receive future alerts on this and other pertinent legal topics, please visit [www.Venable.com/subscriptioncenter](http://www.Venable.com/subscriptioncenter).

#### About Venable's CFPB Task Force

We are dedicated to providing our thoughts and observations on the CFPB and the impact that its policy determinations will have on the current and long-term businesses of consumer financial product and service providers. Task Force updates and materials can be found at [www.Venable.com/cfpb-task-force](http://www.Venable.com/cfpb-task-force).

Please note that many of the topics discussed in this Alert are summary in nature, and will continue to evolve as the CFPB commences its operations.

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Please contact our attorneys in our [CFPB Task Force](#) if you have any questions regarding this update.

#### Editor:

**Joseph T. Linyak, III**  
[jtlynyak@Venable.com](mailto:jtlynyak@Venable.com)  
 202.344.4597

#### Contributors:

[John B. Beaty](#)  
[Emilio W. Cividanes](#)  
[John F. Cooney](#)  
[William J. Donovan](#)  
[Lisa J. Fales](#)  
[Suzanne F. Garwood](#)  
[Ron R. Glancz](#)  
[Edward F. Glynn](#)  
[Gary D. Hailey](#)  
[Jeffrey D. Knowles](#)  
[David W. Rutstein](#)  
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[Jeffrey S. Tenenbaum](#)  
[Ian D. Volner](#)

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## Suggested Approaches to Preemption Following the Dodd-Frank Act

With the adoption of the Dodd-Frank Act (Act), many industry commentators have expressed the concern that federal preemption may have suffered a serious (or fatal) setback. In numerous instances, the Act prohibits or reduces the ability of agencies responsible for interpreting federal laws and regulations to preempt conflicting state laws. Moreover, the Act authorizes state attorneys general to directly enforce federal consumer protection laws against national banks and federal savings associations, as well as eliminates the value of operating subsidiaries by specifically making those entities subject to state laws.

This alert provides several observations and suggestions regarding the new preemption landscape—including steps that national banks, federal thrifts and other interstate lenders should consider on a go-forward basis.

### Limits on CFPB Preemption Authority

Title X of the Act creates the Consumer Financial Protection Bureau (CFPB), and transfers to it primary regulatory and interpretative authority for virtually all federal consumer protection statutes.

In regard to the consumer laws transferred to the CFPB, in most cases they contain provisions that address the preemptive nature of the laws, and range in nature from providing strong preemption language to a state-favored approach whereby local state laws that provide greater consumer protections are not affected by a federal consumer override. (See, for example, Section 173 of the Truth-in-Lending Act and Section 919 of the Electronic Fund Transfer Act.)

Section 1041 of the Act provides that in its administration of the federal laws transferred to it, the CFPB may not preempt state laws that are *more protective* than a federal consumer law counterpart. Specifically, Section 1041 states that a state's law may only be preempted if it is inconsistent with a federal consumer protection law—but an inconsistency does not include providing greater protection to a consumer.

While this limitation is unfortunate, we do not believe that it will unduly interfere with current federal preemption practice under the federal consumer statutes transferred to the CFPB. We arrive at this conclusion for several reasons. First, from an historical perspective with respect to federal consumer statutes, the federal agencies responsible for enforcement of the specific statutes, such as the Federal Reserve Board's Office of Community and Consumer Affairs, have been reluctant to exercise interpretative authority in a manner that has resulted in specific preemption of state laws. Rather, federal agencies have instead relied upon court proceedings and litigation among private litigants to determine the preemptive effect of federal consumer laws and regulations. (Even in those instances in which protracted and vexatious litigation could have been avoided, the general experience has been that federal agencies have been reluctant to intervene in order to resolve a consumer preemption controversy.)

Second, we note that the preemption limitation imposed on the CFPB described above does not affect the preemptive provisions of the several federal consumer protection laws under its jurisdiction. Rather, the preemption limitation is jurisdictional in nature and merely limits the CFPB from issuing interpretations that would arguably be given *Chevron* deference by the courts. Stated another way, the limitation on the CFPB's preemptive authority will prevent it from directly involving itself in preemption disputes between private parties—which can be viewed as the current status quo. Further, any regulatory actions taken by the CFPB relating to the federal consumer protection statutes under its jurisdiction will still be preemptive vis-à-vis contrary state laws—in accordance with the particular preemption provision of the federal consumer statute.

### National Bank and Federal Association Preemption

While the impact of the limits placed on the CFPB's preemption authority may ultimately be found to be minimal, the preemption limitations placed on the OCC regarding national bank preemption are far more complicated and could be very detrimental to an institution's interstate lending and deposit operations. Among other things, this is because, unlike the limited preemptive impact of many federal consumer protection statutes, both the National Bank Act and the Home Owners' Loan Act have been employed with great success by the OCC and the OTS in crafting a lending and deposit structure that has facilitated interstate bank operations by preempting numerous categories of state laws.

The preemption scheme contemplated by Section 1044 *et seq.* of the Act requires the OCC to distinguish between state consumer protection laws and other laws of general applicability. Assuming that such a distinction is possible, the OCC's preemptive authority in the consumer sphere is limited to preempting state laws that: (a) directly discriminate against national banks (which in today's national market is exceedingly rare); (b) are preempted by a federal law that is not part of the National Bank Act; or (c) "prevents or significantly interferes with the exercise by the national bank of its powers." In order to further limit the scope of the OCC's preemptive authority, preemption determinations must be made on a case-by-case basis (although similar state laws would arguably also be preempted), and when considering a preemption determination the OCC will likely consult with state authorities whose law may be preempted. When reviewing any OCC preemption determination, the OCC's views are not afforded *Chevron* deference, and the OCC's determination must be based upon a record that supports the preemption finding.

We offer the following observations: first, although the new preemption consumer preemption scheme appears to be prospective and not retroactive, it is unclear whether existing OCC preemption determinations will remain in effect or whether as of July 21, 2011 (the effective date of the new preemption scheme, termed the "transfer date") the slate is wiped clean. (Note that assets or liabilities originated prior to the effective date of the new preemption requirements may continue to rely upon the current strong federal preemption of the National Bank Act and the HOLA.) We have discussed this issue with representatives of the OCC and OTS, and those agencies have to date declined to indicate how they will address these critical issues.

Second, although the Act states that the new consumer preemption test is the test articulated in the Supreme Court case of *Barnett*

*Bank of Marion County, N.A. v. Nelson*, 517 US 25 (1996), the judicial precedent and regulatory guidance based upon that decision is not extensive—due in no small part to the promulgation by the OCC of its expansive preemption regulations at 12 C.F.R §§ 7.4006 and 7.4007. Those regulations—which address both the lending and deposit operations of national banks—are based upon a preemption framework in which certain categories of state regulations are specifically preempted.

In regard to consumer laws, it now appears that the current approach of the OCC—a robust form of conflict preemption—will no longer be applicable. In its place the Act has substituted the rule, based on a narrow reading of the *Barnett* case, that a mere conflict is not sufficient to preempt, and that in order to preempt in the consumer context a higher standard is required that finds that the particular state law significantly interferes with a national bank's operations. Stated another way, this new consumer preemption rule may be viewed as having substantially diminished conflict preemption as a tool to be relied upon by national banks and thrifts in the future.

Third, whether or not the OCC elects to clarify the continuing applicability of its existing preemption determinations, the new preemption scheme may significantly diminish the role of the OCC in future litigation involving preemption. This is because the preemption process for consumer issues as contemplated by the Act is protracted and convoluted, and efforts by the OCC to preempt may easily be subject to attack by state consumer advocates. (In addition, the absence of *Chevron* deference afforded to the OCC may result in fewer judicial preemption disputes being resolved at an early stage of the process based upon an OCC preemption determination.)

Finally, even though a national bank or federal thrift retains its ability to adopt a legal position that a state law is preempted, under this new statutory scheme, there may be some reluctance on the part of courts to defer to either OCC or OTS preemption determinations. When coupled with a growing sophistication on the part of state legislatures (through the influence of consumer advocates) to imbed consumer protections into laws of general applicability, national banks and federal thrifts should exercise care in analyzing preemption issues in the near future until answers to these and related concerns emerge.

In the minimum, national banks and federal thrifts may conclude that they will now be required to engage in more extensive state law reviews when developing new loan and deposit products. Procedural and substantive state law requirements heretofore clearly preempted under the National Bank Act and the HOLA must be reconsidered in light of this new consumer preemption scheme. (Whether this ultimately means abandoning a unified interstate lending approach in favor of a more balkanized state-by-state approach remains to be seen.)

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We trust that this alert is useful. Please note that this analysis—which is provided for educational and informational purposes—is a summary of legal issues regarding a new and complicated federal approach to preemption as adopted by the Dodd-Frank Act. Careful review of the topics covered in this alert, including on-going developments, is recommended.

#### About Venable's CFPB Task Force

We are dedicated to providing our thoughts and observations on the CFPB and the impact that its policy determinations will have on the current and long-term businesses of consumer financial product and service providers. Task Force updates and materials can be found at [www.Venable.com/cfpb-task-force](http://www.Venable.com/cfpb-task-force).

Please note that many of the topics discussed in this alert are summary in nature, and will continue to evolve as the CFPB commences its operations.

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If you have friends or colleagues who would find this alert useful, please invite them to subscribe at [www.Venable.com/subscriptionscenter](http://www.Venable.com/subscriptionscenter).

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### VENABLE SNAPSHOT

Nearly 600 lawyers nationally

.....  
Top 100 nationally  
*American Lawyer*, 2009

.....  
Top 10 in Washington, DC  
*Washington Business Journal*, 2009

.....  
Counsel to 40 of the Fortune 100

### CONSUMER RETAIL QUICK FACTS

More than two dozen attorneys focused on financial services and regulatory issues

Former senior officials and legal counsel at federal and state regulatory agencies responsible for supervision of the consumer marketplace, including the:

Office of the Comptroller of the Currency

Federal Reserve Board

Federal Deposit Insurance Corporation

Office of Thrift Supervision

Federal Trade Commission

Food and Drug Administration

Department of Commerce

Department of Justice

Department of Treasury

Office of Management and Budget

Office of the Pennsylvania Attorney General

Securities and Exchange Commission

### HONORS AND AWARDS

Attorneys with top rankings by

*Best Lawyers in America*

*Chambers USA*

## CONSUMER FINANCE

Marketers of retail products—and the lenders that finance their purchase—face a broad and evolving set of laws and regulations. Venable's consumer financial services attorneys know that there can be many potential impediments to the success of your business, from compliance with federal or state consumer finance regulation, to organizational or operational concerns, to the resolution of legal disputes. And we have firsthand experience with solving them.

We represent a broad array of clients across the consumer finance industry, including:

- banks, thrifts and financial holding companies;
- consumer lenders;
- credit unions;
- mortgage bankers;
- debt collection agencies;
- credit reporting agencies;
- government-sponsored enterprises;
- insurance companies;
- payments businesses; and
- money transmitters.

Our team includes attorneys who have held senior positions at state and federal agencies, and who have been selected as among the best in their field. When you work with Venable, you work with a team who live in your world and understand the challenges that consumer product retailers and financial service companies deal with every day.

### ADVICE FOR EVERY ASPECT OF YOUR BUSINESS



## PRACTICE FOCUS

### Strategic planning

#### Corporate compliance and licensing

Municipal and state corporate licensing requirements

50-state licensing and regulatory compliance surveys

Applications, reporting and renewals

Consumer and mortgage lender licensing

Debt collection licensing

Use of federal preemption

UCCC licensing

Product-specific state statutes

### Advertising and marketing

#### Consumer credit regulation

Equal Credit Opportunity Act and Regulation B

Truth-in-Lending Act and Regulation Z

Fair Housing Act

Electronic Fund Transfer Act and Regulation E

Fair Credit Reporting Act

Federal Trade Commission Act

Fair Debt Collection Practices Act

State consumer protection laws and regulations.

### Mortgage lending

Real Estate Settlement Procedures Act and Regulation X

ECOA, Regulation B and the Fair Housing Act

FHA and VA lending

Home Mortgage Disclosure Act and Regulation C

State mortgage lending, fair lending and loan servicing statutes

50-state mortgage lending surveys and compliance

Mortgage lending loan documentation and consumer disclosures;

State mortgage foreclosure statutes

GSE, FHFA and FHLB rules and regulations.

## Experienced business advice—from strategic planning to operations and beyond.

Our team has counseled numerous organizations in the consumer financial products industry in all phases of business operations, including planning, product design, licensing and more.

We work with clients to develop and implement business plans through an approach that considers the numerous factors critical to success, which includes entity formation and incorporation, federal and state regulation, tax planning, business operations, product development, disclosure and compliance, and intellectual property and trademark protection.

### Corporate compliance and licensing.

In addition to providing focused legal advice that addresses the needs of retail marketers and consumer financial services companies, Venable's team includes attorneys who assist in the critical process of licensing consumer financial service entities and retail product providers. We provide counsel on all manner of licensing requirements, reporting requirements and compliance with state and federal statutes, among others.

### Advertising and marketing.

Whether you are a retail marketing entrepreneur or a consumer lender, all retail entities face a complex range of marketing laws and regulations that require specific legal advice. We advise our financial services clients on the full suite of marketing laws and regulations, ranging from FTC regulations and Postal Service requirements, to sales tax compliance, Internet marketing and telemarketing, and privacy and data security issues.

### Regulatory advice—from attorneys who know the agencies.

Retail marketers are examined and supervised by multiple state and federal agencies – most of which are enforcement-focused when dealing with retailers. Further, laws and regulations governing retail product sales and marketing are complex and are interspersed throughout numerous state and federal laws. Venable attorneys understand how these laws and regulations interact, and advise their clients on how enforcement agencies prioritize and exercise their enforcement authorities.

### Mortgage lending.

Venable is a recognized leader in providing legal advice to the residential mortgage lending industry, and advises clients in the broad range of federal and state laws that govern real estate transactions, including lending and disclosure statutes as well as all relevant federal and state laws and regulations.

### Payment system and card operations.

A critical element to the success of a retail business plan is understanding the complexities involved in the retail payment system. We regularly advise on issues related to this system, including bank payment systems, ACH and clearing house functions, Visa and MasterCard rules and regulations, debit and credit agreements, merchant accounts and compliance with federal regulations such as the Patriot Act and the Bank Secrecy Act.

### Lobbying and legislation.

The Obama Administration may radically alter numerous paradigms of acceptable retail behavior. Venable's Government and Legislative Affairs Group actively monitors these developments and provides our financial services clients with up-to-the-minute information on all manner of legislative and administrative developments.

The scope of our work in this area includes Congressional and administrative policy monitoring and lobbying, federal agency regulatory review and APA commenting, drafting legislation, serving as a liaison for trade associations and PAC compliance and reporting.

### Litigation and dispute resolution.

Disputes are a reality in the consumer finance and retail marketing arenas that must be dealt with effectively. Venable's deep and experienced litigation team represents clients in multiple jurisdictions and venues in all manner of disputes, ranging from government investigations, to bankruptcy, and arbitration and mediation. We advise

Payment systems and card operations

Lobbying and legislation

Litigation and dispute resolution

on DOJ, AG and FTC investigations, state foreclosure and collection statutes, and employment, class action and appellate litigation matters.

In short, we bring together the two most important elements needed for consumer financial services and product retailers to succeed: firsthand experience with the business issues and challenges that drive your industry and a thorough knowledge of the ins-and-outs of the regulatory environment.

**How can we help you?** To find out, please contact us at [1.888.VENABLE](tel:1888VENABLE) or [www.Venable.com](http://www.Venable.com).



#### VENABLE SNAPSHOT

Nearly 600 lawyers nationally

Top 100 nationally  
*American Lawyer*, 2009

Top 10 in Washington, DC  
*Washington Business Journal*, 2009

Counsel to 40 of the Fortune 100

#### TASK FORCE QUICK FACTS

A team of over 20 attorneys with experience in all of the key areas impacted by the Consumer Financial Protection Act

Practice groups named as winners of the *Chambers USA* Award for Excellence in 2009 and 2010

Attorneys with top rankings by

*Chambers USA*

*Legal 500*

*Best Lawyers in America*

*Martindale-Hubbell*

*SuperLawyers*

#### GOVERNMENT EXPERIENCE

Attorneys who have held senior positions at key government agencies, including

Federal Trade Commission

U.S. Department of Justice

Federal Deposit Insurance Corporation

Office of the Comptroller of the Currency

State attorney general offices, including the Consumer Protection Division of the Maryland Attorney General

## CONSUMER FINANCIAL PROTECTION BUREAU TASK FORCE

an integrated team guiding you through uncharted waters

In uncharted waters, experience is your best guide. The Dodd-Frank Wall Street Reform and Consumer Protection Act maps out a new course in financial regulation. As noted recently by president Obama, the new regulations "represent the strongest consumer financial protections in history." Included in the reforms is the creation of the Consumer Financial Protection Bureau, a consumer watchdog whose roll will be, in the words of president Obama, "looking out for people – not big banks, not lenders, not investment houses – in the financial system."

In short, these regulations will indelibly alter the consumer financial landscape, and businesses who ignore them do so at their own peril. But while the route is new, the skills needed to navigate it are not. Venable has the experience to guide businesses through what lies ahead in financial and consumer regulation.

#### Sweeping changes to banking and financial regulation.

The Dodd-Frank Act is the most sweeping financial legislation in decades, signaling a new era of tighter regulation and heightened enforcement. The legislation includes 300 new rules and regulations and more than 50 studies.

A central element of the Act is the creation of a new Bureau of Consumer Financial Protection, an independent watchdog housed within the Federal Reserve System. Taking on powers formerly exercised by various regulatory agencies, the bureau is authorized to write and enforce consumer protection regulations targeting a broad range of financial services and products.

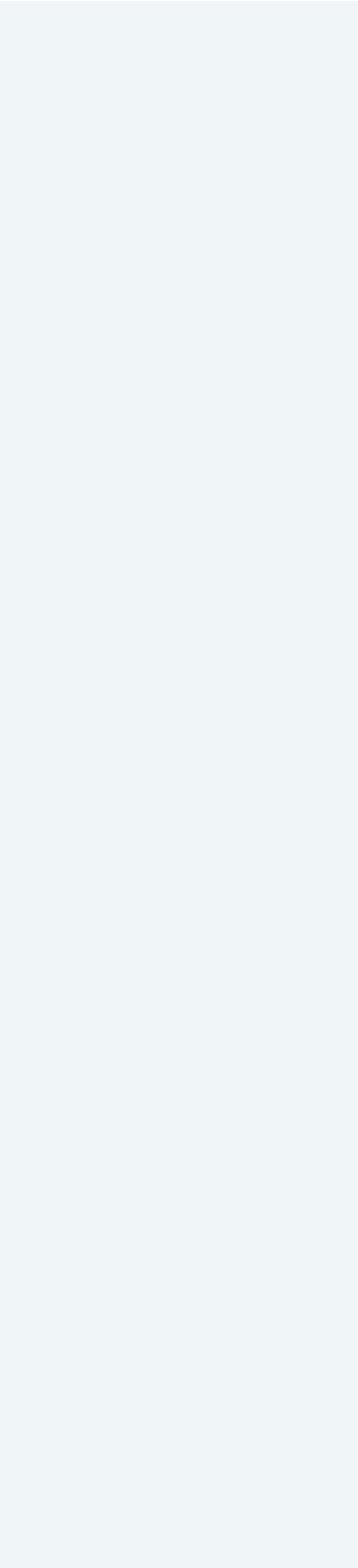
Other provisions of the act set new requirements for banks, mortgage lenders, insurers, investment advisors, hedge funds, private-equity funds, ratings agencies, and companies that trade or sell derivatives.

#### A spectrum of new regulations seen through the prism of our experience.

For businesses that fall under this consumer protection legislation, uncertainty lies ahead in the form of new regulations and enforcement powers.

Venable is uniquely prepared to guide companies through this uncertain environment. We have multiple, long-established practices focused on the intersection of consumer protection and government regulation in finance and commerce. Our decades of experience span advertising and marketing, banking and financial services regulation, corporate and consumer finance, nonprofit and trade association law, and legislative and government affairs.

We are skilled practitioners of consumer protection law. While the Bureau of Consumer Financial Protection is new, it takes over responsibilities from agencies we know intimately – such as the Federal Trade Commission, the Treasury Department, the Department of Housing and Urban Development, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation and the Federal Reserve System – and in areas of law that we know inside and out.



With uncertainty ahead, businesses need a trusted guide.

The Dodd-Frank Act is unprecedented in its scope. But the issues it addresses and the businesses it affects are ones we know well. For decades, Venable has helped companies navigate regulatory and legislative initiatives and the laws governing commerce, finance and trade. Our experience is your best guide.

**How can we help you?** To find out, please contact us at 1.888.VENABLE or [www.Venable.com](http://www.Venable.com).



## Speaker Biographies



## William J. Donovan

Partner

Washington, DC Office

T 202.344.4939 F 202.344.8300

wjdonovan@Venable.com

### AREAS OF PRACTICE

Legislative and Government Affairs  
 Political Law  
 Congressional Investigations  
 Investment Management  
 Privacy and Data Security  
 Consumer Finance  
 Banking and Financial Services  
 Regulation  
 Regulatory

### INDUSTRIES

Financial Services  
 Credit Counseling and Debt  
 Services  
 Consumer Financial Protection  
 Bureau Task Force

### BAR ADMISSIONS

District of Columbia

### COURT ADMISSIONS

U.S. Supreme Court  
 U.S. Court of Appeals for the  
 District of Columbia  
 U.S. District Court for the District  
 of Columbia

Bill Donovan has extensive experience in serving as an effective advocate before all three branches of government. He has assisted clients in forming coalitions to successfully influence public policy both on Capitol Hill and within government agencies.

Mr. Donovan has been a leading proponent for the legislative interests of financial institutions and a variety of other clients on Capitol Hill since 1976. He has played a key role in shaping federal laws and regulations impacting a broad spectrum of interests. Mr. Donovan has also managed federal litigation involving the proper interpretation and application of various federal laws and regulations.

He has worked extensively with the Senate Banking Committee, the Senate Finance Committee, the House Financial Services Committee (and its predecessor House Banking Committee) and the House Ways & Means Committee, as well as with individual Members of Congress, to help guide the formulation of public policy.

Mr. Donovan has experience in dealing with a variety of banking issues, and has worked with Congress in crafting provisions contained in virtually every major piece of legislation impacting the delivery of consumer financial services enacted into law over the course of the past 35 years.

The *American Banker* newspaper has described Mr. Donovan as "sharp and ... well-connected" with "tremendous access" on Capitol Hill. Another publication ranked him as one of the "top guns in Washington," noting that he "is quick to share credit for ... victories as long as the goal is achieved." *The Hill* newspaper has reported that "even his legislative opponents respect Donovan as a formidable force."

### REPRESENTATIVE CLIENTS

Mr. Donovan represents a broad range of clients with interests in matters pending before Congress and federal financial regulatory agencies such as:

- Treasury Department;
- Federal Reserve Board;
- Comptroller of the Currency;
- Office of Thrift Supervision;
- Federal Housing Finance Administration;
- Federal Deposit Insurance Corporation;
- National Credit Union Administration Board; and
- National Credit Union Share Insurance Fund.

### SIGNIFICANT MATTERS

## EDUCATION

J.C.L., Catholic University of America, 2001

M.B.A., George Mason University, 1994

J.D., Catholic University of America Columbus School of Law, 1978

M.A., Catholic University of America, 1975

B.A., College of the Holy Cross, 1972

## MEMBERSHIPS

American Bar Association

District of Columbia Bar Association

Exchequer Club of Washington, D.C.

Women in Housing & Finance

Mr. Donovan has worked with Congress in crafting key provisions contained in the:

- Emergency Economic Stabilization Act of 2008;
- Housing and Economic Recovery Act of 2008;
- Bankruptcy Abuse Prevention & Consumer Protection Act of 2005;
- Fair and Accurate Credit Transaction (“FACT”) Act of 2003;
- USA PATRIOT Act of 2001;
- Federal Deposit Insurance Corporation Act of 1991;
- Financial Institutions Reform, Recovery, and Enhancement Act of 1989; and
- Competitive Equality Banking Act of 1987.

## PUBLICATIONS

- September 2010, Suggested Approaches to Preemption Following the Dodd-Frank Act, CFPB Watch
- July 2010, Venable CFPB Watch: Introducing the New Sheriff in Town, CFPB Watch
- May 2010, Financial Services Reform: Next Step - Resolving the Differences, Financial Services Alert
- July 20, 2009, Consumer Financial Protection Agency: A Jack of All Trades but Master of None, Financial Services Alert
- June 2009, National Banks Are Subject to Enforcement of State Laws, Financial Services Alert
- June 11, 2009, Historic Credit Card Crackdown Law Affects Creditors, Credit Card Issuers, Gift Card Sellers, Colleges and More, Financial Services Alert
- March 31, 2009, Treasury and the SEC Intend to Require Managers of Hedge Funds to Register
- March 24, 2009, Treasury's Public / Private Investment Program: What You Need to Know and Do Today, Economic Crisis Team Alert
- February 20, 2009, White House Looks to Mortgage Modifications to Stabilize Housing Market, Economic Crisis Team Alert
- February 18, 2009, Executive Compensation Limitations & Corporate Governance Standards in Stimulus Bill, Financial Services Alert
- February 2, 2009, Financial Services Alert: What the Cram-Down Legislation Means to Mortgage Lenders, Servicers and Investors, Financial Services Alert
- October 15, 2008, Federal Government Takes Historic Actions in Support of U.S. Financial Institutions, Economic Crisis Team Alert
- October 8, 2008, Economic Crisis Team Alert: "Overview of the Emergency Economic Stabilization Act of 2008", Economic Crisis Team Alert
- September 2008, Legislative and Financial Services Alert, Capitol View

## SPEAKING ENGAGEMENTS

Mr. Donovan frequently speaks at conferences, seminars and workshops, providing an insider's view on matters pending before Congress.

He has also participated in a number of planning retreats to assist boards of directors and senior management of financial services providers in assessing strategic opportunities including expanded/alternative chartering options.

- September 28, 2010, Consumer Financial Protection Bureau Symposium, hosted by Venable LLP
- May 14, 2009, Northern Virginia Chapter of the Virginia Credit Union League
- April 15, 2009, New York Yacht Club panel discussion on the status and prognosis for Financial Regulatory Reform
- November 11, 2008, Harvard Club: 2008 Post-Election Recap and Analysis
- February 8, 2006, How Washington Will Impact Credit Unions in 2006 (Webinar)



## Joseph T. Lynyak, III

Partner

Los Angeles, CA Office  
Washington, DC Office

T 310.229.9660 F 310.229.9901  
202.344.4597 202.344.8300

[jtlynyak@Venable.com](mailto:jtlynyak@Venable.com)

### AREAS OF PRACTICE

Banking and Financial Services  
Regulation  
Recovery Act Task Force  
Consumer Finance  
Regulatory

### INDUSTRIES

Financial Services  
Consumer Financial Protection  
Bureau Task Force

### BAR ADMISSIONS

California  
District of Columbia

### EDUCATION

J.D., Georgetown University Law  
Center, 1976  
B.A., Classical Languages, Saint  
Peter's College, 1973

### JUDICIAL CLERKSHIPS

Honorable James J. Petrella, , 1976  
- 1978

Joe Lynyak focuses his practice on the regulation and operation of financial service intermediaries. Mr. Lynyak's practice includes the representation of foreign and domestic banks, savings associations, holding companies, mortgage banking companies and their subsidiaries and affiliates. He provides financial intermediaries advice in the areas of strategic planning, application and licensing, legislative strategy, commercial and consumer lending, examination, supervision and enforcement and general corporate matters.

Mr. Lynyak's regulatory practice experience includes the sophisticated interrelating of numerous federal and state statutes and regulations, including the National Bank Act, the Home Owners' Loan Act, the Gramm-Leach-Bliley Act, the Sarbanes-Oxley Act, the Federal Bank and Savings and Loan Holding Company Acts and similar laws and regulations. He also offers comprehensive understanding of all aspects of the mortgage industry and has represented both of the mortgage government sponsored enterprises, as well as several of the Federal Home Loan Banks for over a decade.

Mr. Lynyak is a nationally recognized leader in the area of fair lending, and also participates on a regular basis in defending class action lawsuits filed against financial intermediaries.

Mr. Lynyak is resident in both the Los Angeles and Washington, D.C. offices of the Firm and represents clients before federal and state regulatory agencies such as the Federal Reserve Board, the OCC, the FDIC, the OTS, the SEC, the FTC and the California and New York Banking Departments on a complete range of issues related to the operation and regulation of financial services.

Clients benefit from Mr. Lynyak's extensive knowledge of the special state and federal statutory and regulatory requirements that apply to regulated financial intermediaries. This includes retail lending, privacy, identity theft, consumer compliance, application and underwriting, payments systems, Internet, electronic commerce, examination, supervision and enforcement, operational and strategic planning matters.

### HONORS

Selected for inclusion in *Southern California Super Lawyers* 2009  
FDIC Honors Program in Banking Law, Washington, DC, 1978-1980

### ACTIVITIES

Mr. Lynyak is a member of the American Bar Association's Banking Law Committee, and has served as Chair of its Retail Subcommittee, the Subcommittee on FDIC Receiverships and Conservatorships and the Task Force on Derivatives. He also serves as a member of the ABA's Consumer Financial Services Committee, and

actively participates in the Mortgage Bankers Association, the California Mortgage Bankers Association and similar trade associations.

For the past twenty years, Mr. Lynyak has served in various positions for the national and local chapters of United Cerebral Palsy, and is currently a director for the United Cerebral Palsy Research Foundation.

## PUBLICATIONS

Mr. Lynyak has authored numerous mortgage lending "best practices" approaches to resolve operational disputes, including a loan servicing order with the federal government that has become a standard for the mortgage industry.

- September 2010, Suggested Approaches to Preemption Following the Dodd-Frank Act, CFPB Watch
- July 2010, Venable CFPB Watch: Introducing the New Sheriff in Town, CFPB Watch
- May 2010, Financial Services Reform: Next Step - Resolving the Differences, Financial Services Alert
- May 2010, Liability Considerations for Officers and Directors of Failed FDIC-Insured Institutions, Financial Services Alert
- May 2010, Responding to Proposed Enforcement Actions by the Federal Banking Agencies, Financial Services Alert
- May 2010, The Failing Bank Scenario - A Suggested Analysis, Financial Services Alert
- May 2010, Risk Management in the Financial Services Industry, *Financier Worldwide*
- September 2009, Federal Reserve Board Proposes Systemic Changes to Mortgage Lending, Financial Services Alert
- August 2009, Liability Considerations for Officers and Directors of Failed FDIC-Insured Institutions, Financial Services Alert
- June 2009, National Banks Are Subject to Enforcement of State Laws, Financial Services Alert
- June 11, 2009, Historic Credit Card Crackdown Law Affects Creditors, Credit Card Issuers, Gift Card Sellers, Colleges and More, Financial Services Alert
- May 13, 2009, The "Making Home Affordable" Loan Modification Program: The Applicability of the ECOA and Adverse Action Notices, Financial Services Alert
- April 24, 2009, Appropriations Act Authorizes More Than Millions, Financial Services Alert
- March 24, 2009, Treasury's Public / Private Investment Program: What You Need to Know and Do Today, Economic Crisis Team Alert
- February 18, 2009, Executive Compensation Limitations & Corporate Governance Standards in Stimulus Bill, Financial Services Alert
- February 2, 2009, Financial Services Alert: What the Cram-Down Legislation Means to Mortgage Lenders, Servicers and Investors, Financial Services Alert
- December 22, 2008, Developments in Fair Lending Affecting the Residential Mortgage Industry
- December 1, 2008, RESPA Reform Comes in Under the Wire and Under Fire
- November 5, 2008, Mobile Banking
- October 15, 2008, Federal Government Takes Historic Actions in Support of U.S Financial Institutions, Economic Crisis Team Alert
- October 8, 2008, Economic Crisis Team Alert: "Overview of the Emergency Economic Stabilization Act of 2008", Economic Crisis Team Alert

## SPEAKING ENGAGEMENTS

Mr. Lynyak is a frequent lecturer on legal topics involving the operation and regulation of financial service companies.

- September 28, 2010, Consumer Financial Protection Bureau Symposium, hosted by Venable LLP
- August 19, 2010 - August 20, 2010, "Future Compliance Realities: Reading the

Regulatory Tea Leaves, The Dodd-Frank Act and Other Worries" at Harland Financial Solutions' Annual User Conference

- August 18, 2010, "Regulatory Update" for the Credit Risk Consortium, Harland Financial Solutions' Annual User Conference
- August 4, 2010, "What Financial Reform Means for Community Banks" webinar for BankLawStuff
- July 26, 2010, "Wall Street Reform Act: Creation of a New Consumer Protection Agency," Legislative Taskforce Brown Bag Lunch for Women in Housing & Financing, Inc.
- July 20, 2010, "New Consumer Financial Protection Agency: Meet the New Sheriff in Town" for ALI-ABA
- July 9, 2010, Regulatory Reform Legislation webinar for the Western Independent Bankers Association
- April 13, 2010, "Representing Troubled Banks in 2010: Failures, Acquisitions, and Resolutions" ALI-ABA Video Webcast
- March 29, 2010, "Bank Compensation and Emerging Trends" at the Western Independent Bankers Annual Meeting
- March 26, 2010, "New Product Development" at a Harland Financial Solution Executives Seminar
- March 9, 2010, "Status of Federal Financial Reform Legislation" at a Harland Financial Solutions Users Conference
- January 28, 2010, Financial Services Reform & Interest Rate Restrictions Webinar
- January 7, 2010, Bank Enforcement Actions—Considerations for Officers and Directors in Troubled Times Webinar
- November 6, 2009, Panelist on "Update on Mortgage Law and Developments" at Consumer Credit 2009
- October 27, 2009, Moderator at the American Conference Institute's National Forum on Residential Mortgage – Litigation & Regulatory Enforcement
- October 15, 2009, "Federal Preemption Following the Cuomo Decision" at the Harland Financial Service's 50 State Counsel Meeting
- October 15-17, 2009, FDIC Panelist at the REOMAC Conference
- October 11, 2009, "Federal Reserve Board's Proposed Revisions to Closed-End TILA Requirements for Residential Mortgage Lending" at the MBA Legal Affairs Committee Annual Meeting
- September 29, 2009, "The Federal Reserve Board's Proposal to Revise Closed-end Lending Requirements Pursuant to Regulation Z" at the California Mortgage Bankers Association
- June 15, 2009, National Business Institute "Legal Issues in Real Estate" seminar
- May 3, 2009, Mortgage Bankers Association's Legal Affairs and Regulatory Conference
- April 16, 2009, American Bar Association's Spring Meeting
- April 7, 2009, American Bankers Association's Real Estate Lending Conference
- April 1, 2009, American Conference Institute's Seminar on Financial Institutions Insurance
- November 12, 2008, Teleconference on the financial bailout
- November 3, 2008, "The New Treasury Plan – What Does it Mean for Community Banking?" at the Western Independent Bankers webinar
- September 25, 2008, Commercial Real Estate Loan Risk Management and Regulatory Enforcement Issues
- September 17, 2008, Harland Financial Services National Users Update
- September 16, 2008, Risk Management Consortium
- July 31, 2008, Overview of the Coming Crisis in Commercial Real Estate Lending Webinar



## Suzanne Fay Garwood

Associate

Washington, DC Office

T 202.344.8046 F 202.344.8300

sgarwood@Venable.com

### AREAS OF PRACTICE

Financial Services Wage  
Compliance  
Banking and Financial Services  
Regulation  
Consumer Finance  
Regulatory  
Advertising and Marketing  
Litigation

### INDUSTRIES

Financial Services  
Credit Counseling and Debt  
Services  
Consumer Financial Protection  
Bureau Task Force

### BAR ADMISSIONS

Virginia  
District of Columbia

### EDUCATION

J.D., *with distinction*, Ohio Northern  
University Claude W. Pettit College  
of Law, 1997

Dean's List

Member, *Law Review*

Moot Court

Suzanne Garwood focuses her practice on state and federal law relating to consumer credit and financial services. She has assisted mortgage lenders, banks and thrifts with issues arising under federal and states laws, including the Truth in Lending Act, Real Estate Settlement Procedures Act, Equal Credit Opportunity Act and state anti-predatory lending and fair lending laws.

Ms. Garwood represents clients from all aspects of the financial services industry – from credit counselors to mortgage lenders and credit card issuers. She represents the interests of those clients before Congress, the Department of Housing and Urban Development, the Federal Reserve Board and other federal banking agencies.

In addition to her consumer credit background, Ms. Garwood is experienced in issues related to credit unions. Prior to entering private practice, Ms. Garwood worked for the National Association of Federal Credit Unions as the primary liaison to the National Credit Union Administration. Ms Garwood continues to represent credit unions in matters relating to field of membership, mergers and other significant regulatory matters.

### ACTIVITIES

Ms. Garwood is the President-elect of the Women in Housing and Finance.

### PUBLICATIONS

- September 2010, Suggested Approaches to Preemption Following the Dodd-Frank Act, CFPB Watch
- May 2010, Financial Services Reform: Next Step - Resolving the Differences, Financial Services Alert
- September 2009, Federal Reserve Board Proposes Systemic Changes to Mortgage Lending, Financial Services Alert
- August 3, 2009, Highlights of the Philadelphia Federal Reserve Bank's "Future of Consumer Credit Counseling" Conference, Credit Counseling Alert
- July 20, 2009, Consumer Financial Protection Agency: A Jack of All Trades but Master of None, Financial Services Alert
- June 11, 2009, Historic Credit Card Crackdown Law Affects Creditors, Credit Card Issuers, Gift Card Sellers, Colleges and More, Financial Services Alert
- May 18, 2009, Subcommittee on Housing and Community Opportunity Hearing: The Role of NeighborWorks and Housing Counseling Intermediaries Preventing Foreclosure, Credit Counseling Alert
- May 13, 2009, The "Making Home Affordable" Loan Modification Program: The Applicability of the ECOA and Adverse Action Notices, Financial Services Alert

ONU Judicial Scholarship  
Book Awards (Securities,  
Criminal Law, Torts,  
Employment Discrimination,  
Workplace Law)  
B.S., Bryant University, 1993

- April 24, 2009, Appropriations Act Authorizes More Than Millions, Financial Services Alert
- April 20, 2009, "Red Flags" Identify Theft Prevention Compliance Date Fast Approaching, Consumer Products and Services Alert
- March 24, 2009, Treasury's Public / Private Investment Program: What You Need to Know and Do Today, Economic Crisis Team Alert
- March 12, 2009, Contributor, "What the New Rules on Mortgage Lending and HOEPA Mean to Your Bank", *ABAWorks on Regulation Z*
- February 20, 2009, White House Looks to Mortgage Modifications to Stabilize Housing Market, Economic Crisis Team Alert
- February 18, 2009, Executive Compensation Limitations & Corporate Governance Standards in Stimulus Bill, Financial Services Alert
- December 1, 2008, RESPA Reform Comes in Under the Wire and Under Fire
- October 8, 2008, Economic Crisis Team Alert: "Overview of the Emergency Economic Stabilization Act of 2008", Economic Crisis Team Alert

### SPEAKING ENGAGEMENTS

- September 28, 2010, Consumer Financial Protection Bureau Symposium, hosted by Venable LLP
- May 2, 2010, Truth in Lending Act (TILA) presentation at Mortgage Banker's Association's Legal Issues and Regulatory Compliance Conference 2010
- January 28, 2010, RESPA Ready 2010 - What You Need to Know to Comply at the Mortgage Bankers Association Workshop
- May 3, 2009, Mortgage Bankers Association's Legal Affairs and Regulatory Conference
- March 24, 2009, National Housing Counseling Association's Annual Conference
- October 21, 2008, Regulatory Update: OLA's Fall Meeting
- October 20, 2008 - October 22, 2008, Suzanne Garwood to speak at the Fall Conference of the American Association of Debt Management Organizations
- February 6, 2008, Suzanne Garwood to moderate at 2008 WHF Symposium: A New Landscape for Housing Finance
- December 4, 2007, THE CREDIT CRUNCH: How to Not Only Survive, But Prosper
- August 24, 2007, Developments in Mortgage Fraud - Housing Taskforce Brown Bag Lunch
- April 24, 2007, The State of the Subprime Mortgage Lending Market - Joint Housing and Regulatory Taskforce Brown Bag Briefing
- 2007, "Billing in Your Slippers: Alternative Work Spaces and Schedules for Business Lawyers" at the ABA Business Section, Spring Meeting



## D. E. Wilson, Jr.

Partner

*Washington, DC Office*

T 202.344.4819 F 202.344.8300

dewilson@Venable.com

### AREAS OF PRACTICE

International Trade and Customs  
Political Law

Government Contracts

Foreign Corrupt Practices Act and  
Anti-Corruption

Banking and Financial Services  
Regulation

Recovery Act Task Force

Consumer Finance

Regulatory

### INDUSTRIES

Financial Services

Government Contractors

### GOVERNMENT EXPERIENCE

Special Assistant to the President  
for Management, Executive Office  
of the President

General Counsel, Executive Office  
of the President, Office of  
Administration

Associate Counsel to the  
President, Executive Office of the  
President, Office of White House  
Counsel

Principal Deputy Assistant  
Secretary for Management, U.S.

Mr. Wilson's practice focuses on assisting private and governmental parties in negotiating laws and policies regulating money, business, investment, and political activity.

Issues include cross-border business and financial transactions; anti-money laundering (AML) rules for traditional and non-traditional financial institutions; anti-corruption standards applicable in home, host and residence countries; nomination and confirmation issues in the U.S.; political activities – by U.S. and non-U.S. persons – in the U.S.; and policy and regulatory matters related to the U.S. Treasury, State and Commerce Departments, multilateral development banks, and international organizations.

### SIGNIFICANT MATTERS

Mr. Wilson represents public officials, private individuals, and public and private entities in a variety of situations requiring not only the resolution of an immediate legal issue, but also a longer-term, strategic solution. A number of these issues involve matters of considerable public sensitivity, both in the U.S. and in other countries.

These representations frequently involve investigations concerning, or compliance with, the Foreign Corrupt Practices Act (and its international counterparts), the Bank Secrecy Act, the Foreign Agents Registration Act, the International Trafficking in Arms Regulations, the Committee on Foreign Investment in the United States, and the Ethics in Government Act.

In addition to these regulatory matters, Mr. Wilson is active in project finance in the former Soviet Union and renewable energy projects in Latin America as well as homeland security, fiscal issues and government contracts.

### HONORS

Mr. Wilson was awarded the Treasury's Distinguished Service Award by Secretary James A. Baker, III, as well as both the General Counsel's Award (United States Treasury) and the Chief Counsel's Award (Internal Revenue Service).

AV<sup>®</sup> Peer-Review Rated by Martindale-Hubbell

### ACTIVITIES

Mr. Wilson is a past Chairman of the Goodwin House, Inc. Board of Trustees, a leading continuous-care retirement community, as well as a past Chairman of the Goodwin House Foundation Board of Directors. He served on the Vestry of St. Peter's Episcopal Church, Arlington, Virginia, and is the Business Manager for St. Peter's Productions. He is active in a number of other charitable matters. He is a founding member of the Office of Foreign Assets Control Working Group.

## Treasury

Deputy and Acting General Counsel, U.S. Treasury

## BAR ADMISSIONS

District of Columbia

Louisiana

## COURT ADMISSIONS

U.S. Supreme Court

## EDUCATION

B.A., *with distinction*, University of Virginia, 1973

J.D., Georgetown University Law Center, 1976

Editor, *Law & Policy in International Business*

## JUDICIAL CLERKSHIPS

Honorable Robert L. Kunzig, U.S. Court of Appeals for the Federal Circuit

## MEMBERSHIPS

Washington Institute of Foreign Affairs

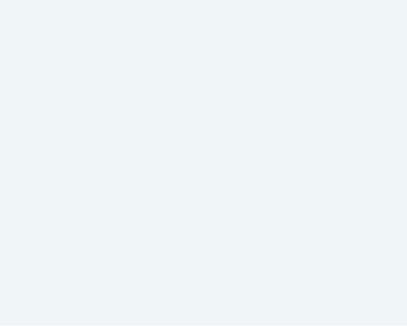
## PUBLICATIONS

Mr. Wilson is a frequent author and speaker on Treasury, anti-corruption, anti-money laundering, and economic sanctions issues.

- August 2010, New Financial Sanctions Regulations Target Iranian Business Activities of Non-U.S. Financial Institutions, International Trade Alert
- August 2010, A Lesson in Successor Liability: GE Settles Oil for Food FCPA Allegations, FCPA and Anti-Corruption News E-Alert
- August 18, 2010, Who Pays Your Bills? What Foreign-Supported Nonprofits Need to Know about the Foreign Agents Registration Act
- August 2010, Section 1502 of the Dodd-Frank Act: New SEC Reporting Requirements for Issuers Using Conflict Minerals, SEC Update
- July 2010, Implementation of U.K. Bribery Act Postponed for Six Months, FCPA and Anti-Corruption News E-Alert
- July 2010, FCPA News and Trends, FCPA and Anti-Corruption News E-Alert
- June 2010, Frequently Asked Questions & Answers about the Foreign Corrupt Practices Act (FCPA)
- June 22, 2010, FinCEN Enforcement, *BNA's Banking Report*
- April 27, 2010, OFAC & FCPA: Too Important to Leave to the Lawyers
- January 25, 2010, DOJ Uses Undercover Sting Operation to Bring Foreign Bribery Case, FCPA and Anti-Corruption News E-Alert
- January 2010, Supreme Court Strikes Down Laws Banning Corporate Expenditures, Political Law Alert
- October 8, 2009, May U.S. Associations Accept Members from Countries against which the U.S. Has Imposed Economic Sanctions?
- May 14, 2009, The Present and Future of U.S. / Cuba Relations, Client Alerts
- April 16, 2009, Stimulus Bill for Ports, Client Alerts
- February 18, 2009, Executive Compensation Limitations & Corporate Governance Standards in Stimulus Bill, Financial Services Alert
- January 2009, Legislative and Executive Branch Lobbying Changes and Increased Contribution Limits, Political Law Alert
- December 15, 2008, Four Venable attorneys published "Mobile Banking: Challenges, Opportunities, Need for Best Practices" in *BNA's Banking Report*
- November 5, 2008, Mobile Banking
- October 15, 2008, Federal Government Takes Historic Actions in Support of U.S. Financial Institutions, Economic Crisis Team Alert
- October 8, 2008, Economic Crisis Team Alert: "Overview of the Emergency Economic Stabilization Act of 2008", Economic Crisis Team Alert
- May 30, 2006, SEC Finds the USA Patriot Act
- June 25, 2004, Positive Trends in the Fight Against Money Laundering

## SPEAKING ENGAGEMENTS

- November 9, 2010, Legal Quick Hit: "Charities, Colleges and Other Nonprofits: The Foreign Corrupt Practices Act Really Does Apply to You" for Association of Corporate Counsel's Nonprofit Organizations Committee
- September 28, 2010, Consumer Financial Protection Bureau Symposium, hosted by Venable LLP
- July 15, 2010, "FCPA, OFAC & IATs," National Retail Federation General Counsel's Forum
- July 9, 2010, Regulatory Reform Legislation webinar for the Western Independent Bankers Association
- June 7, 2010, "LDA, HLOGA and FARA: Filings, Regulatory Changes and What the Laws Require" for American League of Lobbyists (ALL)

- 
- January 28, 2010, Financial Services Reform & Interest Rate Restrictions Webinar
  - May 11, 2009, LDA, HLOGA and FARA: Filings, Regulatory Changes and What the Laws Require
  - November 12, 2008, Teleconference on the financial bailout
  - November 3, 2008, "The New Treasury Plan – What Does it Mean for Community Banking?" at the Western Independent Bankers webinar
  - January 26, 2006, National War College: Presidential Power and the Protection of Individual Rights and Civil Liberties
  - July 14, 2005, South Florida Banking Institute



## Edward F. Glynn, Jr.

Partner

*Washington, DC Office*

T 202.344.4805 F 202.344.8300

[efglynn@Venable.com](mailto:efglynn@Venable.com)

### AREAS OF PRACTICE

Advertising and Marketing  
 Advertising and Marketing  
 Litigation  
 Antitrust  
 Antitrust Investigations  
 Regulatory

### INDUSTRIES

Dietary Supplements, Cosmetics  
 and Functional Foods  
 Consumer Products and Services  
 Consumer Financial Protection  
 Bureau Task Force

### GOVERNMENT EXPERIENCE

Associate Director (International),  
 Federal Trade Commission, Bureau  
 of Competition

### BAR ADMISSIONS

District of Columbia  
 Maryland  
 New York

### EDUCATION

J.D., Cornell Law School, 1971

Advertising, antitrust and trade regulation issues are the focus of Edward Glynn's practice.

He represents clients in connection with mergers, acquisitions and joint ventures reviewed by the Federal Trade Commission and the Antitrust Division of the Department of Justice. A particular focus is the review of advertising by the FTC's Bureau of Consumer Protection.

Mr. Glynn reviews his clients' advertising for compliance with federal and state regulatory requirements and represents clients in proceedings at the National Advertising Division of the Council of Better Business Bureaus.

To matters involving direct-response marketing, Mr. Glynn brings significant insight from experience in government and private industry.

His long experience with federal and state regulatory investigations includes familiarity with the issues that are most likely to trouble the direct marketing industry.

As a senior official of the FTC's Bureau of Competition, Mr. Glynn was a central player in the Commission's merger-review process. He was in charge of the FTC's regulatory oversight of transnational mergers and transnational acquisitions for almost 10 years.

At the FTC for over 14 years, he served as assistant director (international antitrust), as associate director (international) and deputy assistant director of the Bureau of Competition, and as senior trial attorney and assistant to the general counsel in the Office of General Counsel.

Mr. Glynn represented the United States on the Committee of Competition Law and Policy of the Organization for Economic Co-operation and Development (OECD), and was chair of the committee's working group on competition policy and intellectual property.

His experience also includes advising the Canadian government on drafting merger legislation and advising the Japanese government with respect to new guidelines on intellectual property licensing. He also served as a member of the U.S. Government Interagency Task Force on Europe 1992 Investment Policy.

Mr. Glynn has represented FORTUNE 500 companies in obtaining favorable action on mergers and acquisitions. He regularly advises firms in the defense, lodging and pharmaceutical industries on antitrust issues.

### SIGNIFICANT MATTERS

Mr. Glynn's practice ranges from the international to the local. He has represented:

- a major contractor in the aeronautics industry in an FTC investigation of a merger of aircraft manufacturers who were customers of the contractor
- a major hotel chain in a merger of firms in the timeshare-exchange market

B.A., McGill University, 1968

## MEMBERSHIPS

American Bar Association

## LANGUAGES

French

- a company in the paving-materials industry in the acquisition of a direct competitor
- one of the last full-service dairies in Baltimore in the acquisition of its competitor
- advertisers in federal court and administrative cases before the FTC.

## HONORS

Mr. Glynn is included in *An International Who's Who of Competition Lawyers* (Law Business Research, 1997).

He is listed in *Who's Who in American Law*.

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## ACTIVITIES

Mr. Glynn serves as Vice Chair of the Consumer Protection Coordination Committee of the Section of Antitrust Law of the American Bar Association.

## PUBLICATIONS

- September 2010, Suggested Approaches to Preemption Following the Dodd-Frank Act, CFPB Watch
- July 2010, Venable CFPB Watch: Introducing the New Sheriff in Town, CFPB Watch
- October 5, 2009, FTC Guides Concerning the Use of Endorsements and Testimonials in Advertising, Client Alerts
- September 2009, Compare But Beware, *Electronic Retailer Magazine*
- July 20, 2009, Consumer Financial Protection Agency: A Jack of All Trades but Master of None, Financial Services Alert
- April 24, 2009, Appropriations Act Authorizes More Than Millions, Financial Services Alert
- June 20, 2004, Top-10 Legal Considerations for Short-Form Advertisers - *Response TV Magazine*, *Response Magazine*
- January 1, 1999, The FTC Diet Supplement Guide: A Prescription for Advertisers, *DRTV News*
- December 1, 1998, Caption Regulations May Raise Barrier to Success, *DRTV News*
- November, 1, 1998, New Trends Bring Shift in Government Scrutiny, *DRTV News*

## SPEAKING ENGAGEMENTS

Mr. Glynn frequently speaks and writes on legal topics. The following are representative presentations of the past several years.

- September 28, 2010, Consumer Financial Protection Bureau Symposium, hosted by Venable LLP
- September 14, 2010, "What UK Companies Need to Know About Advertising in the US" webinar hosted by Venable LLP and Field Fisher Waterhouse
- August 5, 2010, "Has the FTC Strengthened its Claim Substantiation Standard?" webinar for Electronic Retailing Association
- July 20, 2010, "New Consumer Financial Protection Agency: Meet the New Sheriff in Town" for ALI-ABA
- June 16, 2010, Effectively Navigating the Interplay between Government Regulatory Activity and Private Advertising Litigation
- April 30, 2010, Marketing Your Products Across the Pond: What U.S. Companies Need to Know About Advertising in the U.K.
- April 29, 2010, FDA Cosmetic Regulations Workshop
- September 17, 2009, "Social Media Town Hall/Webinar: Blogger Regulation Threats & Self-Regulation Opportunities" for the Interactive Advertising Bureau
- September 16, 2009, ERA Premier Session at the 2009 ERA D2C Convention and

#### Annual Conference

- April 16, 2009, Changing the FTC Rules on Endorsements & Testimonials: Why You Should Care
- January 31, 2008, "Substantiation of Advertising Claims," ALL-American Bar Association
- September 24, 2007, NAD Annual Conference of the National Advertising Review Council
- January 30, 2007, ABA Section on Antitrust Law - Consumer Protection Conference
- April 2, 2003, "Federal Injunctions and Consumer Redress As A Tool of National Advertising Policy," ABA Section of Antitrust Law
- 2003, "FTC Advertising Regulation in Federal Court"- Antitrust Law Section, American Bar Association
- 1999, "E-Commerce and Advertising Liability," at the TIX Seminar
- 1999, "E-Commerce and Consumer Protection," at the 4th Annual Telecommunications Law Conference
- 1999/2000, "Advertising on the Internet: Application of FTC Rules," Law Seminars International
- 1997, "Legal, Practical and Tactical Advertising: Advertising Law in the Electronic Age Advertising in the '90s Print Age Law in the World of 500 Channels," at the American Conference Institute
- 1997, "Advertising on the New Media: Who is Liable for Online Advertising Content?" at the American Conference Institute
- 1997, "Legal, Practical and Tactical Advertising: Taking Your Product to the United States - U.S. Advertising and Marketing Laws" at the Canadian Institute
- 1996, "Advertising Law in the Electronic Age: Defending Federal Trade Commission Investigations of Alleged False or Deceptive Advertising," American Conference Institute
- 1996, "Aggressive Advertising & the Law: Protecting Against Government Investigations and Competitor Suits," Business Development Associates, Inc.
- 1996, "Effective (and Cost Effective) Ways to Protect Yourself from Government Advertising Investigations and Lanham Act Suits," Business Development Associates, Inc.
- 1995, "How to Launch or Defend Against Competitive Challenges to Advertising Claims," Antitrust Law Section, American Bar Association
- 1994, "Market Access and Protection in the 1990s: The Role of Antitrust," International Law Section, American Bar Association
- 1994, "Infomercials and Home Shopping," at the University of Southern California Entertainment Law Institute
- 1994, "Advertising by Professionals," Antitrust Law Section, American Bar Association
- 1993, "Section 5: Beyond the Sherman Act," Antitrust Law Section, American Bar Association
- Spring 1990, "An American Enforcer Looks at the EEC Merger Proposal," Antitrust Law Journal
- 1990, "The OECD Committee on Competition Law and Policy Study of Franchising," 7th Annual International Franchise Association/International Bar Association Joint Seminar
- 1990, "EC Competition Law – The Road to 1992: Distribution Issues," Antitrust Law Section, American Bar Association
- 1990, "The Sherman Act Centenary," at Free University, Berlin, Germany
- 1990, "The Next Generation of Trade Barriers," International Law Section, American Bar Association
- 1990, "International Agreements to Allocate Jurisdiction Over Mergers" at the Fordham Corporate Law Institute



## Emilio W. Cividanes

Partner

*Washington, DC Office*

T 202.344.4414 F 202.344.8300

[ecividanes@Venable.com](mailto:ecividanes@Venable.com)

Emilio Cividanes concentrates his practice on helping companies meet their privacy obligations in a competitive and global marketplace, and shape the data protection laws and regulations that govern their activities. His practice centers on counseling clients in various industries, including marketing, entertainment, electronic publishing, telecommunications, retail, health care, pharmaceutical, financial services, and hospitality, on how to address privacy challenges to their product development, sales, and other business operations.

### AREAS OF PRACTICE

Communications  
 Legislative and Government Affairs  
 Advertising and Marketing  
 Advertising and Marketing Litigation  
 Homeland Security  
 Appellate Litigation  
 Technology Transactions and Outsourcing  
 Privacy and Data Security  
 Congressional Investigations  
 Healthcare  
 Class Action Litigation  
 Litigation  
 Consumer Finance  
 Regulatory

### INDUSTRIES

Financial Services  
 Consumer Products and Services  
 Consumer Financial Protection Bureau Task Force

### GOVERNMENT EXPERIENCE

United States Senate, Judiciary Committee, Subcommittee on Technology and the Law

### SIGNIFICANT MATTERS

In servicing his clients, which range from Fortune 100 companies to start-ups, Mr. Cividanes has:

- Counseled clients on how to minimize the risk of personal data security breaches and mitigate the risks when they occur;
- Lobbied Congress and federal agencies, and participated in the drafting of virtually every federal privacy regulation implemented during the past ten years;
- Advised companies on how to structure their business models, employment practices, and corporate acquisitions to reduce the burden of complying with privacy regulations;
- Performed audits of companies' practices to help management or potential acquirers assess the companies' compliance with relevant laws, regulations, and self-regulatory programs;
- Counseled Internet and telecommunications service providers, and cable TV operators, on compliance with federal and state wiretap laws;
- Advised domestic companies with operations abroad on compliance with requirements for the transfer of personal data from Europe to the United States;
- Drafted privacy policies that meet regulatory or self-regulatory requirements;
- Assisted trade associations and other business groups to develop self-regulatory standards, including compliance questionnaires, and privacy policy generators or wizards;
- Advised private companies involved in government contracts on compliance with the Privacy Act; and
- Counseled clients on privacy issues arising from contracts and transactional negotiations.

Mr. Cividanes has also:

- Defended clients that are the targets of class action suits alleging violations of privacy laws;
- Represented clients in "crisis mode" because of unwanted scrutiny from the

## BAR ADMISSIONS

District of Columbia

## EDUCATION

J.D., University of Pennsylvania, 1983

Comment Editor, *Pennsylvania Law Review*

B.A., Haverford College, 1979

Federal Trade Commission, the Congress, or the National Advertising Division of the Council of Better Business Bureaus; and

- Challenged privacy regulations in court and filed "friend of the court" briefs in landmark cases.

## HONORS

Recognized in the 2010 edition of *Chambers USA*, (Band 2), Privacy and Data Security, National

Recognized in the 2009 edition of *Chambers USA*, (Band 2), Privacy and Data Security, National

Recognized in the 2008 edition of *Chambers USA*, (Band 2), Privacy and Data Security, National

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## ACTIVITIES

Mr. Cividanes has taught information privacy law as an adjunct professor at Georgetown University Law Center, and served as counsel to the Technology and the Law Subcommittee of the U.S. Senate Judiciary Committee. Mr. Cividanes is a Fellow of the American Bar Foundation and has served as a member of the Board of Trustees of the Public Defender Service for the District of Columbia and a member of the Board of Directors of the Hispanic Bar Association of the District of Columbia.

## PUBLICATIONS

- 1996, Contributor, Internet and Online Law, *Law Journal Seminars Press*
- September 2010, Suggested Approaches to Preemption Following the Dodd-Frank Act, CFPB Watch
- July 2010, Venable CFPB Watch: Introducing the New Sheriff in Town, CFPB Watch
- April 2010, The Download - April 2010, The Download
- February 2010, The Download - February 2010 - Developments in E-Commerce, Privacy, Marketing, and Information Services Law and Policy, The Download
- November 2009, The Download - November 2009 - Developments in E-Commerce, Privacy, Marketing, and Information Services Law and Policy, The Download
- September 17, 2009, Legal Review: Industry Releases New Self-Regulatory Principles for Online Behavioral Advertising, *Response Magazine*
- September 2009, The Download - September 2009 - Developments in E-Commerce, Privacy, Marketing, and Information Services Law and Policy, The Download
- July 2009, Electronic Health Records: "Meaningful Use" in a Land Rush, Healthcare Alert
- July 2009, Self-Regulatory Principles for Online Behavioral Advertising, Banner Ad
- June 11, 2009, Historic Credit Card Crackdown Law Affects Creditors, Credit Card Issuers, Gift Card Sellers, Colleges and More, Financial Services Alert
- May 2009, The Download - May 2009 - Developments in E-Commerce, Privacy, Marketing, and Information Services Law and Policy, The Download
- April 21, 2009, Law Enforcement Risks for Advertisers, Affiliates & Networks; FTC Declares Identity Theft Red Flags Rule Applies to Health Care Professionals; FTC Asserts Jurisdiction to Investigate Security of Personal Health Data; Federal Stimulus Package Includes Dramatic Changes to Health Privacy and Security Law; NCTA v. FCC: The Use of Consumer Information for Marketing Purposes; Massachusetts Revises and Further Delays Implementation of New Data Security Regulations, The Download
- February 17, 2009, FTC Staff Issues Report on Self-Regulatory Principles for Online Behavioral Advertising; FTC Announces Conference on Global Data Security Concerns; Cybersecurity is a Top Priority for President Obama and Congress, The Download
- December 2008, FTC Report on Social Security Numbers and Identity Theft; FTC

Proposes Revisions to Guides on Use of Endorsements and Testimonials in Advertising; Massachusetts Delays Implementation Date of New Data Security Regulations; Child Safe Viewing Act, The Download

- October 2008, Senate Commerce Committee Investigates ISP-Based Advertising; PROTECT Our Children Act; KIDS Act; Protecting Children in the 21st Century Act; Identity Theft Enforcement Act/Cybercrime Act; Ryan Haight Online Pharmacy Act; Proposed Labeling Requirements for Advertisements Depicting Toys and Games; FTC v. Patten; Nevada's Encryption Law Becomes Effective; Massachusetts Passes New Data Security Regulations, The Download
- September 2008, House Committee Examines Internet Advertising Practices; Two New Internet Browsers Introduced; FTC Amends Telemarketing Sales Rule to Prohibit Prerecorded Messages; International Roundup – Busy Fall for Cross-Border Data Flow Programs, The Download
- June 2007, Spyware Update: House Passes Two Bills; Senate Bill Introduced; FTC to Hold Workshop on Spam; FTC Issues Report on Broadband Internet Access and Network Neutrality; ChoicePoint Settles Security Beach Charges with 44 States; Court Holds that a Person has a Reasonable Expectation of Privacy in E-mail; EU Looking Closely at Search Engines' Activities, Notably Data Retention; EU Adopts Document Analyzing Definition of Personal Data, The Download
- April 2007, Utah Child Protection Registry; Child Online Protection Act; proposed new GLB model privacy form; new FCC CPNI privacy rules; effect of federal spyware legislation on online advertising; effect of federal pretexting legislation on legitimate marketing, The Download
- February 2007, Advertisers Held Responsible for Display of Ads through Adware Companies; Sony BMG Settles Charges re: Anti-Piracy CDs, The Download
- January 2007, I.D. Theft Task Force comments; word-of-mouth marketing; negative option marketing, The Download
- December 2006, Passage of U.S. SAFE WEB Act, security breach legislation, and pretexting legislation, The Download
- November 2006, FTC Holds Hearings on Next 10 Years of Consumer Protection, The Download
- September 22, 2006, Petition for Certiorari with the United States Supreme Court – FreeEats.com, Inc. v. State of North Dakota
- September 12, 2006, U.S. Update: Federal Data Security Legislation, *Data Protection Law and Policy*
- October 2005, US Data Security Developments, *Data Protection Law & Policy*
- March 2002, Co-Author, USA PATRIOT Act for Internet and Communications Companies, *The Computer & Internet Lawyer*
- November/December 2001, Co-Author, Franchisors and Franchisees Face the Reality: The Gramm-Leach-Bliley Act Applies, *Franchising World*
- November 2001, co-Author, Summary and Analysis of Key Sections of the USA PATRIOT Act of 2001, *Cyberspace Lawyer*
- Fourth Quarter 2001, Co-Author, FAQs for Franchisors – Gramm-Leach-Bliley Act and the FTC Rule on Privacy of Consumer Financial Information, *Franchise Update*
- June 2001, Co-Author, FTC Settles Cases with Three Companies for Violations of COPPA, *Privacy and Information Law Report*
- February 2001, Co-Author, The HHS Health Care Privacy Rule, *Privacy and Information Law Report*
- 2001, Contributor, Protect Your Digital Privacy, *Que*
- 1996, Contributor, Business Guide to Privacy and Data Protection Legislation, *Kluwer Law International*

## SPEAKING ENGAGEMENTS

- September 28, 2010, Consumer Financial Protection Bureau Symposium, hosted by Venable LLP
- October 1, 2009, The Changing HIPAA Landscape: Seminar on October 1, 2009 in

Baltimore, MD

- April 21, 2009, Top 10 Tips To Avoid/Handle a Government Investigation–For Advertisers, Affiliates & Networks
- October 23, 2008, Financial Markets Go Up and Down, but Government Regulation Marches On...
- March 6, 2008, Fifth Annual IP Law Seminar at Howard University School of Law
- December 6, 2007, Law & Policy: Year in Review and What's New for 2008
- April 20, 2007, Redistricting and Elections Committee NCSL Spring Forum 2007
- March 27, 2007, Direct Marketing Law in the 21st Century Seminar
- November 10, 2006, ITAA Tech Law Event
- October 26, 2006, Key Legal Areas for Corporate Counsel Conference
- October 19, 2006, 2006 IAPP Privacy Academy Event
- October 16, 2006, DMA06 Conference and Exhibition
- October 14, 2006 - October 19, 2006, Direct Marketing Association's 2006 Conference & Exhibition
- August 30, 2006 - September 2, 2006, HNBA Thirty-First Annual Convention
- May 21, 2006 - May 23, 2006, Food Marketing Institute's 25th Annual Legal Conference
- March 10, 2006, Privacy Panel at 2006 Mid-Year Conference
- January 26, 2006, National War College: Presidential Power and the Protection of Individual Rights and Civil Liberties
- October 25, 2005, "California Legislation" at the IAPP Privacy Academy



## Ronald R. Glancz

Partner

Washington, DC Office

T 202.344.4947 F 202.344.8300

[rglancz@Venable.com](mailto:rglancz@Venable.com)

### AREAS OF PRACTICE

Banking and Financial Services  
Regulation  
Regulatory

### INDUSTRIES

Financial Services  
Consumer Financial Protection  
Bureau Task Force

### GOVERNMENT EXPERIENCE

Assistant General Counsel, Federal  
Deposit Insurance Corporation  
Director, Litigation Division, Office  
of the Comptroller of the Currency  
Assistant Director, United States  
Department of Justice, Civil  
Division

### BAR ADMISSIONS

District of Columbia

### COURT ADMISSIONS

U.S. Supreme Court  
U.S. District Court for the District  
of Columbia  
U.S. Court of Appeals for the D.C.  
Circuit

Ron Glancz is the Chair of Venable's Financial Services Group.

Mr. Glancz represents financial institutions of virtually every type – banks, savings associations, bank and thrift holding companies, insurance companies, securities firms, and credit unions - and represents companies and investors seeking to become or acquire a bank. He also represents directors and officers of financial institutions. Mr. Glancz represented the U.S. Department of the Treasury in connection with the Capital Purchase Program.

He focuses on bank and thrift regulation, supervision and enforcement, mergers and acquisitions, new financial products and services, corporate governance, FDIC issues, and Bank Secrecy Act compliance.

Mr. Glancz is recognized for leadership in banking law by both The Best Lawyers in America and Chambers USA: America's Leading Lawyers for Business.

He served as assistant general counsel and acting deputy general counsel of the Federal Deposit Insurance Corporation, where he also served on the U.S. Attorney General's Bank Fraud Enforcement Working Group.

Mr. Glancz was director of the Litigation Division, Office of the Comptroller of the Currency.

He was an assistant director, Civil Division, Department of Justice, where he represented the Federal Reserve, OCC, and FDIC in many of the leading banking cases.

### HONORS

- Recognized in the 2010 edition of *Chambers USA*, (Band 1), Financial Services Regulation: Banking (Regulatory Enforcement & Investigations), National
- Recognized in the 2009 edition of *Chambers USA*, (Band 1), Financial Services Regulation: Banking (Regulatory Enforcement & Investigations), National
- Recognized in the 2008 edition of *Chambers USA*, (Band 2), Financial Services Regulation: Banking (Regulatory Enforcement & Investigations), National
- Recognized in the 2007 edition of *Chambers USA*, (Band 2), Financial Services Regulation: Banking (Regulatory Enforcement & Investigations), National
- Recognized in the 2006 edition of *Chambers USA*, (Band 2), Financial Services Regulation: Banking (Regulatory Enforcement & Investigations), National
- Listed in *The Best Lawyers in America*, Banking Law, (Woodward/White, Inc)
- Recognized in 2009 by *Washingtonian* magazine as one of "Washington's Top Lawyers"
- Selected for inclusion in *District of Columbia Super Lawyers* 2008 - 2010
- Listed in *Who's Who in America*

U.S. Court of Federal Claims

U.S. Courts of Appeals for the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, and Eleventh Circuits

## EDUCATION

J.D., *cum laude*, University of Michigan Law School, 1968

Editor, *Michigan Law Review*

Order of the Coif

B.A., University of Michigan, 1964

## MEMBERSHIPS

American Bar Association

Women in Housing and Finance

Exchequer Club of Washington, D.C.

- AV® Peer-Review Rated by Martindale-Hubbell
- Frank Simpson II Award from American Bar Association's Banking Law Committee

## ACTIVITIES

Mr. Glancz was vice-chair of the American Bar Association's Banking Law Committee and chair of the Subcommittee on Insurance Services and vice-chair of the Audit and Examination Subcommittee.

He was chancellor of The Exchequer Club of Washington.

Mr. Glancz served on the Commission on the Prevention of Fraud of the National Association of Corporate Directors (NACD).

He is co-chair of the Annual ALI-ABA Financial Services Institute.

Mr. Glancz is past president and a current director of JFGH, a nonprofit community organization providing residential services to persons with disabilities. He also serves on the boards of several other community non-profit organizations.

## PUBLICATIONS

Mr. Glancz is a prolific writer, having written or co-written some 50 articles on banking and finance topics.

Mr. Glancz has been quoted in the *New York Times*, the *Wall Street Journal*, the *Washington Post* and the *American Banker*.

- September 2010, Suggested Approaches to Preemption Following the Dodd-Frank Act, CFPB Watch
- July 2010, Venable CFPB Watch: Introducing the New Sheriff in Town, CFPB Watch
- June 2009, National Banks Are Subject to Enforcement of State Laws, Financial Services Alert
- February 18, 2009, Executive Compensation Limitations & Corporate Governance Standards in Stimulus Bill, Financial Services Alert
- February 12, 2009, Treasury Outlines Financial Stability Plan - TARP II, Financial Services Alert
- October 15, 2008, Federal Government Takes Historic Actions in Support of U.S Financial Institutions, Economic Crisis Team Alert
- October 8, 2008, Economic Crisis Team Alert: "Overview of the Emergency Economic Stabilization Act of 2008", Economic Crisis Team Alert
- September 2008, Legislative and Financial Services Alert, Capitol View
- September 14, 2007, Viewpoint: How Regulators Will Respond to Credit Pain
- January 2006, When Things Go Wrong: The Multi-Agency Proceeding, *Financier Worldwide: Corporate Governance Review 2005*
- October 3, 2005, The Multi-Agency Proceeding
- October 22, 2004, Sept. 11 Fallout: Banks on Alert to Anti-Money-Laundering Programs, *Baltimore Business Journal*
- June 25, 2004, Positive Trends in the Fight Against Money Laundering
- June 24, 2004, Positive Trends in the Fight Against Money Laundering, *American Banker*
- July 2003, How the Sarbanes-Oxley Act Affects Non-Public Institutions, *Community Banker*
- January 1, 2002, USA PATRIOT Act
- March 2000, Financial Institutions Options
- January 1, 2000, Jump Ball – Litigation Between Insurance And Banking Under the Financial Modernization Act
- January 2000, Financial Institutions Options
- January 1, 2000, Financial Activities Permitted by the Gramm-Leach-Bliley Financial Modernization Act
- 1999, Insurance: It's in the Bank – 1999

- January 1, 1999, Last Chance For A Unitary Thrift Holding Company?
- June 29, 1998, Time Still For Unitary Thrift Charter Apps
- April 13, 1998, Why Insurers Should Apply for Thrift Charters, *National Underwriter*
- March 2, 1998, Why Insurers are Buying Thrifts NOW
- 1996, Insurance? It's in the Bank

## SPEAKING ENGAGEMENTS

Mr. Glancz has spoken at banking law programs for the Financial Services Roundtable, the American Bankers Association, the American Bar Association, the American Insurance Association (AIA), the American Law Institute-American Bar Association (ALI-ABA), PricewaterhouseCoopers Financial Services Audit Committee Forum, and other nationwide sponsors of banking law conferences. Mr. Glancz has also chaired or co-chaired many banking law conferences.

- October 7, 2010, "Dodd-Frank Financial Reform and Its Impact on the Banking Industry," ALI-ABA
- September 28, 2010, Consumer Financial Protection Bureau Symposium, hosted by Venable LLP
- August 19, 2010, "FDIC Receivership: Legal Considerations for Banks and Their Stakeholders" webinar for Strafford Publications
- July 26, 2010, "New Financial Reform Package: An Analysis of Dodd-Frank for Lawyers and Related Professionals" webinar for ALI-ABA
- September 22, 2009, Financial Services Reform: What the Regulatory Overhaul Means for Clients
- May 27, 2009, 2009 Forum on Practice Group Management
- May 15, 2009, Financial Services Roundtable Lawyer's Council Meeting
- February 23, 2009, Financial Services Industry Today: Enforcement Issues
- November 18, 2008, Venable co-sponsors "The Credit Crisis: Sources of Potential Liability and What to Do About It"
- August 11, 2008, 2008 ABA Annual Meeting in New York City
- June 6, 2008, Representing the Financial Services Client: Current Ethical Issues
- October 18, 2007 - October 19, 2007, ALI-ABA Financial Services Institute 2007 Conference
- July 24, 2006, The Deposit Insurance Reform Act of 2005: Proposed Rules Implementing the One-Time Assessment Credit, FDIC Dividends, and Related Assessment Issues
- February 2, 2006 - February 3, 2006, Financial Services Institute's Sixth Annual Advanced ALI-ABA Course of Study
- November 11, 2005, ABA Banking Law Committee Panel - Bank Enforcement Issues
- September 21, 2005, ABA Banking Law Committee Panel - Bank Enforcement Issues
- November 11, 2004 - November 12, 2004, Financial Services Audit Committee Forum
- May 6, 2004 - May 7, 2004, Financial Services Roundtable Lawyers Council 2004 Spring Meeting
- May 6, 2004 - May 7, 2004, Financial Services Institute 2004
- May 9, 2003, Financial Services Roundtable Lawyers Council 2003 Spring Meeting
- April 5, 2003, ABA Section of Business Law Spring Meeting
- February 22, 2003 - February 26, 2003, America's Community Bankers Seminar for Presidents
- February 6, 2003 - February 7, 2003, ALI-ABA Financial Services Modernization 2003 Conference
- November 14, 2002 - November 16, 2002, Banking Law Committee Institute Conference
- February 24, 2002, America's Community Bankers' Seminar for Presidents



## Stuart P. Ingis

Partner

Washington, DC Office

T 202.344.4613 F 202.344.8300

singis@Venable.com

### AREAS OF PRACTICE

Communications  
 Legislative and Government Affairs  
 Advertising and Marketing  
 Privacy and Data Security  
 Congressional Investigations  
 Recovery Act Task Force  
 Consumer Finance  
 Regulatory  
 Advertising and Marketing  
 Litigation

### INDUSTRIES

Financial Services  
 Consumer Financial Protection  
 Bureau Task Force

### BAR ADMISSIONS

District of Columbia  
 Pennsylvania

### EDUCATION

J.D., Villanova University, 1997  
 B.A., Hamilton College, 1993

Stuart Ingis represents clients in federal privacy and Internet-related legislation and rulemaking proceedings of recent years, including the Controlling the Assault of Non-Solicited Pornography and Marketing Act (Can-SPAM), the Telemarketing Sales Rule (TSR), proceedings pertaining to the financial privacy provisions of the Gramm-Leach-Bliley Act (GLBA), the Electronic Signatures Act (E-Sign), the Children's Online Privacy Protection Act (COPPA), and the Department of Commerce's Safe Harbor Program for compliance with the European Union's Data Protection Directive (the E.U. Directive). Mr. Ingis has also been significantly involved on behalf of clients in the Federal Communications Commission's implementation of the landmark Telecommunications Act of 1996 as it applies to the Internet. Mr. Ingis has been involved with Internet law and policy from the inception of the commercial Internet. He has spoken in the United States on privacy, electronic commerce and consumer protection, and related issues.

Mr. Ingis also is well-known for representing clients in crisis management situations, in particular with Congressional relations.

### HONORS

Recognized in the 2010 edition of *Chambers USA*, (Band 1), Privacy and Data Security, National

Recognized in the 2009 edition of *Chambers USA*, (Band 1), Privacy and Data Security, National

Recognized in the 2008 edition of *Chambers USA*, (Band 1), Privacy and Data Security, National

### ACTIVITIES

Mr. Ingis was a Fellow at the Villanova Center for Information Law. In that capacity he co-founded Project Bosnia, aimed at deploying the Internet and promoting the rule of law in Bosnia following the signing of the Dayton Accords.

### PUBLICATIONS

Mr. Ingis is the co-author of *Privacy Protection in the United States: A Survey*. Mr. Ingis was a primary draftsman of the advertising and consumer protection section of the American Bar Association's millennium plenary paper on Internet jurisdiction. Mr. Ingis also worked with the Electronic Commerce and Consumer Protection Group, composed of many large companies that drafted a code of best consumer protection principles and an approach to jurisdiction online.

Mr. Ingis also helped to draft the policies for the BBBOnLine Privacy Seal Program of the Council of Better Business Bureaus.

- August 2010, The Download - August 2010, The Download
- July 2010, Venable CFPB Watch: Introducing the New Sheriff in Town, CFPB Watch
- April 2010, The Download - April 2010, The Download
- February 2010, The Download - February 2010 - Developments in E-Commerce, Privacy, Marketing, and Information Services Law and Policy, The Download
- November 2009, The Download - November 2009 - Developments in E-Commerce, Privacy, Marketing, and Information Services Law and Policy, The Download
- September 17, 2009, Legal Review: Industry Releases New Self-Regulatory Principles for Online Behavioral Advertising, *Response Magazine*
- September 2009, The Download - September 2009 - Developments in E-Commerce, Privacy, Marketing, and Information Services Law and Policy, The Download
- July 2009, Self-Regulatory Principles for Online Behavioral Advertising, Banner Ad
- June 11, 2009, Historic Credit Card Crackdown Law Affects Creditors, Credit Card Issuers, Gift Card Sellers, Colleges and More, Financial Services Alert
- May 2009, The Download - May 2009 - Developments in E-Commerce, Privacy, Marketing, and Information Services Law and Policy, The Download
- April 21, 2009, Law Enforcement Risks for Advertisers, Affiliates & Networks; FTC Declares Identity Theft Red Flags Rule Applies to Health Care Professionals; FTC Asserts Jurisdiction to Investigate Security of Personal Health Data; Federal Stimulus Package Includes Dramatic Changes to Health Privacy and Security Law; NCTA v. FCC: The Use of Consumer Information for Marketing Purposes; Massachusetts Revises and Further Delays Implementation of New Data Security Regulations, The Download
- February 17, 2009, FTC Staff Issues Report on Self-Regulatory Principles for Online Behavioral Advertising; FTC Announces Conference on Global Data Security Concerns; Cybersecurity is a Top Priority for President Obama and Congress, The Download
- December 2008, FTC Report on Social Security Numbers and Identity Theft; FTC Proposes Revisions to Guides on Use of Endorsements and Testimonials in Advertising; Massachusetts Delays Implementation Date of New Data Security Regulations; Child Safe Viewing Act, The Download
- October 2008, Senate Commerce Committee Investigates ISP-Based Advertising; PROTECT Our Children Act; KIDS Act; Protecting Children in the 21st Century Act; Identity Theft Enforcement Act/Cybercrime Act; Ryan Haight Online Pharmacy Act; Proposed Labeling Requirements for Advertisements Depicting Toys and Games; FTC v. Patten; Nevada's Encryption Law Becomes Effective; Massachusetts Passes New Data Security Regulations, The Download
- September 2008, House Committee Examines Internet Advertising Practices; Two New Internet Browsers Introduced; FTC Amends Telemarketing Sales Rule to Prohibit Prerecorded Messages; International Roundup – Busy Fall for Cross-Border Data Flow Programs, The Download
- June 2007, Spyware Update: House Passes Two Bills; Senate Bill Introduced; FTC to Hold Workshop on Spam; FTC Issues Report on Broadband Internet Access and Network Neutrality; ChoicePoint Settles Security Beach Charges with 44 States; Court Holds that a Person has a Reasonable Expectation of Privacy in E-mail; EU Looking Closely at Search Engines' Activities, Notably Data Retention; EU Adopts Document Analyzing Definition of Personal Data, The Download
- April 2007, Utah Child Protection Registry; Child Online Protection Act; proposed new GLB model privacy form; new FCC CPNI privacy rules; effect of federal spyware legislation on online advertising; effect of federal pretexting legislation on legitimate marketing, The Download
- February 2007, Advertisers Held Responsible for Display of Ads through Adware Companies; Sony BMG Settles Charges re: Anti-Piracy CDs, The Download
- January 2007, I.D. Theft Task Force comments; word-of-mouth marketing; negative option marketing, The Download
- December 2006, Passage of U.S. SAFE WEB Act, security breach legislation, and pretexting legislation, The Download

## SPEAKING ENGAGEMENTS

- September 28, 2010, Consumer Financial Protection Bureau Symposium, hosted by Venable LLP
- July 20, 2010, "New Consumer Financial Protection Agency: Meet the New Sheriff in Town" for ALI-ABA
- July 13, 2010, "CFPA, BCFP & TCPA: Respond to Current Issues Facing the Industry" at ACA International's 2010 Annual Conference
- June 22, 2010, "Privacy – When Trust is the Currency of Effective Advertising" at Mobile Marketing Association's Audience Measurement 5.0
- May 26, 2010, "Alleviating Privacy Concerns Associated with Behavioral Targeting" at the American Conference Institute's 4th National Advanced Forum on Financial Services Marketing Compliance
- April 16, 2010, "Super-Sizing the FTC and What It Means for the Internet, Media & Advertising" at the Progress & Freedom Foundation Luncheon Briefing
- April 13, 2010, Behavioral Advertising and Privacy Problems Seminar and Breakfast, presented by Venable LLP and Promotion Marketing Association
- March 24, 2010, "2010 Privacy Outlook" at the Direct Marketing Association Meeting in Washington, DC
- March 17, 2010 - March 18, 2010, "Behavioral Advertising and Privacy Concerns" at the ANA Advertising & Business Affairs Conference
- January 15, 2009, Twin Cities Privacy Network (TCPN) Retreat
- January 14, 2009, Making Online Personal Information More Anonymous: Will It Save Privacy?
- December 11, 2008, Venable hosts "E-Tail Details 2.0: Online/Offline Advertising and Marketing Law"
- October 16, 2008, Can Privacy and Marketing Coexist? Don't Ask, Don't Sell
- June 17, 2008 - June 18, 2008, Regulatory Summit for Advertisers and Marketers
- June 17, 2008, "Ensuring Regulatory Compliance While Administering Behavioral Marketing Programs," at the American Conference Institute Second Annual Regulatory Summit for Advertisers and Marketers
- June 12, 2008 - June 13, 2008, 1st Annual Privacy Law Scholars Conference
- December 6, 2007, Law & Policy: Year in Review and What's New for 2008
- October 22, 2007 - October 24, 2007, IAPP Privacy Academy 2007
- September 10, 2007, Seminar Leader, Direct Marketing Association Direct Marketing Law in the 21st Century seminar
- June 26, 2007, Electronic Retailing Association's East Coast Legal Series
- May 18, 2007, "Legal Primer," at the 2007 Direct Marketing Association E-Mail Policy Summit
- March 27, 2007, Direct Marketing Law in the 21st Century Seminar
- January 30, 2007, CDIA Teleseminar: Data Security Best Practices
- January 15, 2007 - January 26, 2007, Asia-Pacific Economic Cooperation Senior Officials Meeting
- December 12, 2006, NAI Strategic Forum: Building Trust in Affiliate Marketing
- December 5, 2006, Minding Your Business: The Future of Privacy
- November 16, 2006, Privacy, Security and the New Congress: What to Expect in 2007
- November 10, 2006, ITAA Tech Law Event

**Alex Stricker**, Principal, is a member of CRA's Financial Economics Practice with 10 years of mortgage credit risk measurement and management experience. Mr. Stricker has experience with fair lending testing and regulatory compliance, credit risk analysis and pricing, and automated underwriting model development. Prior to joining CRA, he was a senior vice president with Countrywide Financial where his areas of responsibility included fair lending statistical analysis and capital models development and validation. Before that, he was a director with Fannie Mae.

Charles River Associates provides companies, legal teams, and regulators with comprehensive advisory services and specialized analytical expertise in financial markets and economics. Our Financial Economics Practice is comprised of experienced economists and statisticians from a range of industries, financial institutions, and regulatory organizations as well as prominent academics who present regularly to government, regulatory, and industry groups. Throughout North America and Europe, CRA's advisors, testifiers, and named experts offer clear analysis of high-profile issues such as consumer and mortgage lending, financial services regulation, cost of capital, and damages in major international treaty and contract arbitrations.