
Banking Controversy

Bank Regulation and Enforcement

The world's leading financial institutions bring their most significant enforcement and controversy matters to WilmerHale. Whether handling an agency enforcement matter, US Department of Justice (DOJ) investigation, high-stakes litigation or a Congressional inquiry, the firm's Banking Controversy Practice draws on the experience our attorneys have gained serving in senior roles at the DOJ, the offices of leading US Attorneys (including in New York and Washington DC), the Securities and Exchange Commission (SEC), the Office of the Comptroller of the Currency (OCC), the Consumer Financial Protection Bureau (CFPB), the Federal Reserve, the Treasury Department, the White House, and other agencies. Our practice has received numerous awards and rankings from *Chambers USA* and *Best Lawyers*, among others, with clients calling it "one of the top financial services practices in the country."

Areas of Focus

Department of Justice and US Attorney's Office Investigations and Litigation

WilmerHale's DOJ and US Attorney practice includes an impressive group of government alumni: two former Deputy Attorneys General, a former head of the DOJ's Civil Division, a former Solicitor General, a former Director of the FBI, a former US Attorney for the District of Columbia, a former Deputy US Attorney for the Southern District of New York, and numerous other former federal prosecutors. Drawing on the collective experience of these lawyers, no practice is better equipped to address DOJ investigations and government-facing litigation for the financial sector. For more information about this practice, please contact [Howard Shapiro](#) or [Jamie Gorelick](#).

Regulatory Enforcement and Investigations

The world's leading banks regularly rely on WilmerHale's representation in their most difficult and pressing regulatory enforcement matters. Since the financial crisis, our team has been involved in some aspect of nearly every major enforcement action involving large banking

organizations. We have also handled numerous high-profile matters before the SEC, Federal Reserve Board of Governors, Federal Deposit Insurance Corporation (FDIC), Financial Crimes Enforcement Network (FinCEN), Office of Foreign Assets Control (OFAC), Federal Housing Finance Agency (FHFA), Federal Trade Commission (FTC), Commodity Futures Trading Commission (CFTC) and agency inspectors general. For more information about our banking enforcement capabilities, please contact Franca Harris Gutierrez, and for more information about our securities experience, please contact Bill McLucas or Matt Martens.

Congressional Investigations

WilmerHale has one of Washington DC's most sought-after congressional investigations practices and regularly counsels financial institutions and other clients facing complex and high-stakes inquiries. We have represented numerous financial institutions in significant congressional inquiries since the financial crisis. For more information about congressional matters, please contact Howard Shapiro. For matters requiring a lobbying resolution, please contact Public Policy and Legislative Affairs Practice Co-Chairs Rob Lehman and Jonathan Yarowsky.

Multistate AG Investigations and State Regulatory Inquiries

WilmerHale's banking enforcement group includes a former Colorado State Attorney General and Massachusetts Deputy Attorney General, along with New York partners who have worked closely with the New York Department of Financial Services in their government roles. For more information about our state attorney general and state regulatory capabilities.

Financial Services Litigation and Class Actions

Many banks look to WilmerHale to handle their US Supreme Court litigation and high-profile litigation in the courts of appeals, and over the last two decades we have litigated many of the most significant and precedent-setting financial institutions matters. Clients also call on our litigators for high-stakes class actions and other consumer finance cases. For more information about WilmerHale's banking litigation capabilities, please contact Seth Waxman, Noah Levine, David Ogden or Matt Martens.

Intellectual Property Litigation

Our Intellectual Property Litigation Practice, named an IP Litigation Powerhouse in the 2019 edition of *BTI Litigation Outlook* and an IP Litigation Department of the Year finalist by *The American Lawyer* in 2016, has defended several prominent institutions against patent

infringement claims by nonpracticing entities and other plaintiffs. Our lawyers have tried major cases in federal district courts throughout the United States, at the US International Trade Commission, and in Germany and the United Kingdom. For more information about the firm's IP Litigation Practice, please contact [Bill Lee](#) or [Greg Lantier](#).

Cybersecurity

Technology presents greater risks and threats to financial institutions than ever before. Our [cybersecurity response](#) team is at the forefront of the emerging threat environment and has handled the most significant breaches for the most sensitive institutional clients. For more information on cybersecurity matters, please contact [Ben Powell](#) or [Kirk Nahra](#).

Crisis Management and Strategic Response

WilmerHale assists financial institutions in navigating multifaceted challenges with legal, public policy and media dimensions. A bipartisan group with extensive senior-level experience both in the executive branch and on Capitol Hill, we work with the financial sector to identify, develop and execute strategies to defend or advance a position—whether anticipating and responding to fast-moving events, or working over the longer term to craft and implement legislative or regulatory solutions to complex problems. For more information, please contact [Jamie Gorelick](#), [Bill McLucas](#) or [Robert Kimmitt](#).

Key Contacts



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Experience

DEPARTMENT OF JUSTICE AND US ATTORNEY'S OFFICE INVESTIGATIONS AND LITIGATION

- Represented clients in dozens of internal and DOJ investigations, and obtaining several declinations of prosecution from the enforcement authorities for our clients.
- Represented major financial institutions and securities market firms in financial crimes, anti-money laundering (AML) and economic sanctions investigations by the DOJ and other regulators.
- Represented major financial institutions in False Claims Act investigations and litigation, including two recent cases in which district courts dismissed all claims against our clients.
- Represented several financial institutions in connection with Foreign Corrupt Practices Act investigations concerning financial institutions with sovereign wealth funds.

REGULATORY ENFORCEMENT AND INVESTIGATIONS

- Have represented clients in dozens of formal and informal enforcement actions brought by or before several agencies, including the CFPB, OCC, Federal Reserve Board of Governors, FDIC, FinCEN, OFAC, FHFA, FTC, SEC, CFTC and agency inspectors general.
- Defended groundbreaking regulatory actions involving auction rate securities, initial public offering allocation practices, research analyst independence, mutual fund market timing, revenue sharing and broker-dealer markups, among many others.
- Been involved in some capacity in nearly every enforcement action the CFPB has taken against large national banks since its inception, including in the areas of credit cards and add-on products, mortgage lending, student lending, debt collection, fair lending, and others.
- Assisted financial and other institutions with their responses to nearly all of the major congressional inquiries regarding AML issues over the last two decades.

CONGRESSIONAL INVESTIGATIONS

- Represented numerous institutions and senior executives in connection with Financial Crisis Inquiry Commission inquiries.
- Represented a global financial institution in connection with congressional inquiries into a large and high-profile trading loss.
- Represented a global financial institution in US Senate Permanent Subcommittee on Investigations inquiry regarding money laundering, drugs and terrorist financing.

STATE ATTORNEY GENERAL INVESTIGATIONS AND STATE REGULATORY ENTITIES

- Represented bank and nonbank financial institutions in some of the most consequential and high-profile state attorney general investigations in recent years including:

- Representing a top mortgage servicer in the National Mortgage Settlement involving 49 state attorneys general.
- Representing a large nonbank financial services company in a joint investigation by the CFPB and several state attorneys general.
- Representing a worldwide financial services company in state attorney general investigations into foreign exchange practices and other administrative charges.
- Representing a global financial services company in an investigation into net asset value practices by the Massachusetts Securities Division.

FINANCIAL SERVICES LITIGATION AND CLASS ACTIONS

- Obtained a complete defense verdict as lead trial counsel in a federal class action jury trial in the Central District of California in a case brought against a financial services company seeking \$180 million in damages on behalf of 46,000 class members.
- Represented financial institutions in the US Supreme Court on preemption, jurisdictional and substantive banking matters in cases and represented financial institution trade groups as *amici* in multiple additional cases.
- Represented a major bank in a series of class actions consolidated in the Southern District of Florida pursuant to the multidistrict litigation (MDL) process, challenging item posting order, overdraft fees and related practices.
- Represented a major payment card issuer in a series of class actions consolidated in the Eastern District of New York pursuant to the MDL process, challenging on antitrust grounds the credit card interchange fees paid by merchants acquiring banks.
- Represented a major national lender in an appeal of a class action verdict imposing significant compensatory and punitive damages on the institution as assignee of second mortgage loans, based on allegedly improper fees charged by the originating lender, and in other similar litigation concerning assignee liability concerning such fees.

INTELLECTUAL PROPERTY LITIGATION

- Regularly litigate intellectual property disputes, having served as lead litigation counsel in more than 300 major patent and trademark litigation cases.
- Represented clients from a broad range of industries, including several preeminent financial institutions in patent infringement matters before the US Supreme Court, the US Court of Appeals for the Federal Circuit, US District Courts, US Court of Federal Claims, and the US International Trade Commission.

CYBERSECURITY ISSUES

- Regularly help companies comply with data-breach reporting obligations across the states as well as under sector-specific federal regimes, such as the Gramm-Leach-Bliley Act.
- Represented an international bank in seeking removal of information stolen by a hacker and uploaded to a file-sharing site in the United States.