



Marketplace Lending

Ballard Spahr brings unparalleled experience to its representation of marketplace lending firms. In addition to representing some of the largest and most established players in the space, we also advise start-ups and firms expanding well-established businesses into marketplace lending.

We are nationally recognized for excellence in financial services compliance and litigation, and bring those skills to the rapidly developing landscape of marketplace lending. Our decades of experience counseling consumer and small business finance companies has enabled us to develop, refine, and defend financial products in every U.S. jurisdiction, including those with challenging usury laws, aggressive state regulators, and paternalistic courts.

Our clients include FinTech platforms, balance-sheet finance companies, bank partners, investors, and service providers in both the “peer-to-peer” and “business-to-business” segments of the industry.

REGULATORY COMPLIANCE

As reflected by its top-tier national ranking in *Chambers USA*, Ballard Spahr offers marketplace lending firms experience in regulatory compliance that few firms – if any – can match. The attorneys in our Marketplace Lending Task Force advise on state usury limits (including the “true lender” issue and the impact of *Madden v. Midland Funding*), state licensing requirements, and compliance with the constantly changing array of state and federal laws and regulations that apply to firms operating in this space. We also counsel firms on how to avoid class action exposure and regulatory scrutiny arising from the often-ambiguous laws regulating advertising and marketing; unfair, deceptive and abusive acts and practices; credit reporting; debt collection; data security and privacy.

Many marketplace lending firms benefit from our experience helping clients to respond to compliance and safety and soundness examinations, administrative investigations, enforcement proceedings, and other dealings with regulatory authorities. We are facile with the full range of federal and state banking and credit laws, and regularly deal with federal and state banking and enforcement agencies. This experience is essential in helping clients understand how to effectively assess and mitigate regulatory risk.

PRODUCT DEVELOPMENT AND MARKET ENTRY

Members of the task force represent clients in developing and documenting new products, evaluating and acquiring existing players or portfolios of assets, and entering the market as a start-up or horizontal business expansion.

We document and advise on the structure and strategy of client relationships with other industry players, in concluding loan purchase/sale and account servicing arrangements, and in customer transactions. We draft consumer and small business agreements and disclosures, design or improve compliance systems and internal controls, and create internal policies and procedures. Having pioneered the use of pre-dispute arbitration provisions in consumer financial services contracts, we implement and enforce pre-dispute arbitration programs, including the most novel and consumer-friendly programs in the market today. We also conduct due diligence, work with financial advisors, and communicate with regulatory authorities.

The attorneys in our Marketplace Lending Task Force have extensive experience with virtually every financial product offered to consumers and small businesses. These include traditional loan products, innovative products such as merchant cash advances and small business loans repaid through credit card receivable remittances or recurring ACH authorizations, and higher-risk niche products, typically directed to subprime customers, such as tax refund anticipation, payday, and auto title loans. The breadth of our experience provides significant benefits to all of our clients, including marketplace lenders.

In implementing online lending programs, we have played an important role in developing cutting-edge mobile and electronic payment frameworks. We have advised companies on the delivery of financial services through social networking and mobile phone technology, and on electronic records storage and electronic delivery of credit-related disclosures.

REGULATORY ENFORCEMENT AND LITIGATION

We regularly deal with federal and state banking and enforcement agencies, including the Consumer Financial Protection Bureau, all federal banking agencies, the Federal Trade Commission, the Department of Justice, state agencies, and Attorneys General both within and outside our geographic footprint. Our attorneys guide clients in responding to administrative investigations, enforcement proceedings, and other dealings with regulatory authorities – and the firm has been recognized as one of the leading firms in the United States for this type of work. Our blog, *CFPB Monitor*, delivers news, guidance, and insightful perspectives to companies affected by the Consumer Financial Protection Bureau. It was named one of the 100 best law blogs in the nation by the American Bar Association. Visit us at www.cfpbmonitor.com.

We also are a market leader in the defense of class actions, derivative actions, and other complex litigation facing marketplace lending firms. In addition to our experience defending class actions involving a wide variety of traditional lending products, our attorneys have defended many cases involving issues of particular concern to marketplace lenders, including some of the most important usury cases of the past two decades.

MARKETPLACE LENDING TASK FORCE

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