

Tobias P. Moon

PARTNER

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Tobias Moon is a partner in Chapman's Bank Corporate Group and a member of the Banking and Financial Services Department. He counsels financial services companies, from startups to the country's largest financial institutions, on consumer and commercial lending, regulatory, compliance, and product innovation issues. He also evaluates marketing and disclosure regimes for Unfair, Deceptive or Abusive Acts or Practices (UDAAP) risks, analyzes state licensing considerations and interfaces with state regulators and government agencies on behalf of national financial services companies.

Tobias advises depository institutions—national and state-chartered banks and credit unions—on building, reviewing, and auditing compliance management systems to minimize compliance risks associated with various consumer and commercial financial products including mortgage, automotive, personal loans in addition to equipment finance loans and leases and loans secured by commercial real estate. He also advises nondepository mortgage brokers, lenders and servicers and automobile lenders on similar concerns.

In emerging technologies and innovative product delivery, Tobias has extensive experience helping fintechs, marketplace lenders, mortgage fintechs, online and small dollar lenders establish compliance management systems and addressing the myriad regulatory issues impacting design and delivery of new financial services products.

Tobias counsels clients on the federal and state laws governing consumer lending, including:

- Real Estate Settlement Procedures Act (RESPA)/Regulation X
- Fair Debt Collection Practices Act (FDCPA)/Regulation F

Admitted

District of Columbia

New York

Texas

Education

Brooklyn Law School, J.D.,

University of Nevada, Las Vegas, B.A., Philosophy,
summa cum laude

Practice Focus

Bank Regulatory Matters

Banking and Financial
Services

Consumer Credit Transactions

Consumer Financial Services

Credit Card Lending and
Processing

Debt Collection Practices

Deposit and Investment
Products

Disclosure Requirements
(Federal/State)

Fintech and Marketplace
Lending

General Compliance Activities

Interest and Usury

Internet Banking

- Truth in Lending Act (TILA)/Regulation Z
- Equal Credit Opportunity Act (ECOA)/Regulation B
- Gramm-Leach-Bliley Act (GLBA)/Regulation P
- Fair Credit Reporting Act (FCRA)/Regulation V
- Electronic Funds Transfer Act (EFTA)/Regulation E (including the remittance and prepaid rules)
- Consumer Financial Protection Bureau's (CFPB) small-dollar lending rule
- Home equity loans under section 50(a)(6), home equity lines of credit under section 50(t) and reverse mortgages under section 50(v) of the Texas Constitution and related regulations
- Credit services organization statutes and regulations across the country including Texas credit access businesses

Mortgage and Home Equity Lending

Non-Banking Activity Approvals

Privacy and Fair Credit Reporting

State Licensing, Regulation and Examination

Tobias also provides advice on state lending and servicing requirements including licensure, usury and fee limits, disclosure obligations, state privacy requirements (including the California Consumer Privacy Act (CCPA)) and data breach and data security requirements for consumer and commercial loans and equipment finance loans and leases.

Tobias is a former in-house counsel for bank and non-bank financial services providers and is a recognized thought leader on mortgage, mortgage fintech, marketplace and online lending and personal loan topics.

Representative Projects

Tobias's current and past experience includes:

- Provides ongoing regulatory advice to a fintech startup offering low-cost loans to employees of select employers online and optimizes the interplay between state licenses and a bank partnership in addition to assessing maximum state usury and fee limitations and disclosure obligations.
- Advises a mortgage fintech on RESPA Section 8 issues and marketing services agreements—MSAs—arising when backing up an offer to purchase residential real property with an all cash guarantee and allowing consumers to trade up and obtain equity in their existing homes to facilitate the purchase of new home before selling their existing homes.

- Set up a bank partnership program for an FDIC insured state-chartered bank leveraging nondepository loan brokers to expand its consumer and commercial loan product offerings.
- Advise an FDIC insured state-chartered bank's fintech division on product tying issues, state licensure, usury and fee limits, disclosures and state privacy considerations arising when offering online loans and credit cards.
- Assist a solar fintech disrupting the home improvement industry by providing regulatory guidance on a myriad of federal and state regulatory compliance issues.
- Drafts consumer and commercial deposit agreements, third-party authorizations, credit card agent agreements, limited liability company authorizations, blocked account control agreements, Regulation CC Disclosures and ACH, check positive pay, sweep and remote deposit addendums for a regional depository institution.
- Counsels a national mortgage servicer on the CFPB's mortgage servicing rules, fair debt collection, servicing disclosures, loss mitigation procedures, successors-in interest, servicing transfers and information requests.
- Designs compliance management system for a small dollar lender making unsecured personal loans online to borrowers in multiple states.
- Drafting loan originator compensation plans for nondepository, multistate mortgage lenders.
- Assessing the applicability of state privacy statutes including the CCPA for national mortgage companies. Analysis included determining the applicability of the CCPA's GLBA exemption and opt-in requirements in relevant states.
- Assessing the permissibility of charging credit card surcharges for retail merchants and ecommerce companies accepting credit card payments in multiple states.
- Determining the requirements associated with offering consumers with the ability to purchase open and closed-loop access devices directly from a financial services company and analyzing the applicability of state money transmission requirements to such transactions.
- Designing a language access program for a bank's fintech division offering unsecured loans across the country through a bank partnership with a national wireless carrier.
- Designing Texas 50(a)(6) controls for a regional mortgage lender.

Memberships

American Bar Association

American Bar Foundation, Fellow

Conference on Consumer Finance Law, Governing Committee

Mortgage Bankers Association

Presentations

- "The GLBA Exemption in the CCPA," Mortgage Bankers Association Webinar, November 21, 2019
- "Servicing Compliance," Mortgage Bankers Association's Regulatory Compliance Conference, September 24, 2019
- "Serving Borrowers with Limited English Proficiency (LEP)," Mortgage Bankers Association's Legal Issues & Regulatory Compliance Conference, May 6, 2019
- "Understanding the Risks of Cannabis Lending," Mortgage Bankers Association Webinar, April 3, 2019
- "LEP: Piecing the Puzzle Together," American Bar Association's Business Law Section, Consumer Financial Services Committee, Winter Meeting, January 13, 2019
- "Lending to Borrowers Employed by the Legal Marijuana Business," Mortgage Bankers Association's Regulatory Compliance Conference, September 16, 2018
- "Mortgage Servicing Rules Interactive Session" and "Language Access in Mortgage Banking," Mortgage Bankers Association's Legal Issues & Regulatory Compliance Conference, April 29, 2018
- "Mortgage Servicing Rules Workshop & Expert Roundtables," Mortgage Bankers Association Webinar, April 29, 2018
- "The Side Stage: Quick Tip – Default Acceleration," and "Business Operations Track: Servicing Borrowers with Limited English Proficiency," Mortgage Bankers Association's National Mortgage Servicing Conference & Expo, February 7 and 8, 2018
- "Acceleration Requirements for Mortgage Servicers," Mortgage Bankers Association Webinar, March 22, 2018 and October 11, 2017
- "Servicing Compliance Developments under the New CFPB Rule," Mortgage Bankers Association's Regulatory Compliance Conference, September 19, 2017
- "Limited English Proficiency: Understanding the Challenges of Language Access," Mortgage Bankers Association's Legal Issues & Regulatory Compliance Conference, May 10, 2017
- "Overview of Fair Servicing Regulations," Mortgage Bankers Association Webinar, March 7, 2017
- "Servicing Diverse Communities/Fair Servicing," Mortgage Bankers Association's National Mortgage Servicing Conference & Expo, February 16, 2017
- "Compliance Essentials - Servicing Including the Latest Rules," Mortgage Bankers Association's Regulatory Compliance Conference, September 18, 2016
- "Essentials Track - Servicing," Mortgage Bankers Association's Legal Issues & Regulatory Compliance Conference, May 1, 2016
- "Borrower Outreach and Communication," Mortgage Bankers Association's National Mortgage Servicing Conference & Expo, February 17, 2016
- "Effective Organizational Compliance Management," Ellie Mae Experience, March 2, 2016
- "Borrower Outreach and Communication," Mortgage Bankers Association's National Mortgage Servicing Conference & Expo, February 17, 2016

- “Essentials: UDAAP,” Mortgage Bankers Association’s Regulatory Compliance Conference, September 20, 2015
- “The Essentials of Fair Housing, ECOA, HMDA,” Mortgage Bankers Association’s Legal Issues & Regulatory Compliance Conference, May 3, 2015
- “Servicing Supersession,” Mortgage Bankers Association’s National Mortgage Servicing Conference & Expo, February 26, 2015
- “Essentials: Alphabet Soup,” Mortgage Bankers Association’s Regulatory Compliance Conference, September 28, 2014