



# Mortgage Lending Compliance

**McGlinchey’s mortgage lending compliance team, comprising responsive and innovative attorneys, has a deep understanding of state and federal regulatory compliance issues affecting the mortgage and housing finance industry.**

Mortgage lending is one of the most highly regulated industries in the U.S. In their efforts to protect borrowers in their transactions with lenders, the federal and state governments have enacted a veritable alphabet soup of regulations – and mortgage lenders must comply with all of them.

In this high-stakes regulatory environment, every lender, servicer broker, and other participant in the housing finance transaction needs experienced and knowledgeable legal professionals on their side to ensure that they are operating in compliance with a complex set of laws and regulations. McGlinchey’s mortgage lending compliance team has that knowledge and experience.

From the Truth in Lending Act (TILA), the Real Estate Settlement Procedures Act (RESPA), the Secure and Fair Enforcement for Mortgage Licensing (SAFE) Act, and the Homeowners Protection Act at the federal level, to the myriad of state laws impacting mortgage origination and servicing, McGlinchey attorneys are fluent in the language of mortgage lending compliance.

Our cross-disciplinary team of attorneys offers a wide range of transactional, regulatory compliance, and litigation services. We represent mortgage lenders, mortgage servicers, secondary market purchasers, settlement service providers, lead generators, online marketplaces, and various related financial institutions, as well as national and state mortgage trade associations. Clients rely on us for regulatory compliance advice and documentation, licensing advice, preparation and review of policies and procedures, designing and implementing effective compliance management systems, transactional and administrative counsel, audit assistance, examination response assistance, and guidance on all other aspects of mortgage origination and servicing.

McGlinchey has earned a reputation as a national leader in financial services law. A full-service law firm serving the financial industry, we pride ourselves on ensuring that our clients' financing programs move forward smoothly and efficiently. We create documentation for numerous lender-consumer transactions and draft the full gamut of housing finance agreements, including loan purchase/sale agreements, servicing agreements, indemnity agreements, and marketing agreements. Unique in the depth and breadth of our attorneys' knowledge of federal and state regulations, McGlinchey's mortgage lending compliance team routinely handles complex, multi-state matters smoothly and efficiently. We work hard to keep our clients in compliance throughout the life cycle of each loan and collaborate with our clients to understand their business goals and help them remain on the right side of regulations while achieving those goals.

## licensing

Our Licensing Team provides daily licensing and compliance counsel to numerous mortgage lenders/servicers regarding nationwide licensing and compliance matters, and in a number of cases, has done so since the inception of the company's operations. We conduct regular monitoring to ensure licenses remain in good standing and are regularly updated to reflect changes to the organizational structure and to facilitate the offering of new products and services. We assist compliance counsel with legal and regulatory compliance matters to ensure familiarity with company operations in advance of changes and interface with regulatory agencies to anticipate and preclude regulatory questions on examination or investigation. Our team also interfaces with regulatory agencies to obtain the necessary approvals for changes of control, mergers, acquisitions and asset purchases involving licensed entities.

## national mortgage lending/servicing

The mortgage lending compliance team assists clients as they interact with the Consumer Financial Protection Bureau (CFPB), Federal Trade Commission (FTC), Federal Housing Administration (FHA), the Department of Veterans Affairs (VA), and other federal agencies, as well as the government-sponsored enterprises (GSEs) Fannie Mae and Freddie Mac. Our attorneys help clients avoid liability caused by inadvertent noncompliance and help them make sense of the alphabet soup of agency requirements and federal laws and regulations.

## manufactured housing

With unrivaled knowledge and experience, McGlinchey is the nation's preeminent counsel to the manufactured housing industry. Clients can be confident that we will guide them with a sure hand through issues that arise in the manufactured housing sector, a hybrid area that shares traits with both retail lending and mortgage finance. Led by industry pioneers, McGlinchey's team represents manufacturers, retailers, lenders, loan servicers, trade associations, community operators, and secondary market purchasers of loans secured by manufactured homes. Our attorneys have been instrumental in changes to the titling laws in nearly a dozen states.

## mortgage origination

Our team assists in the drafting of policies and procedures and loan documentation, performs transactional due diligence, and offers guidance regarding compliance with federal and state mortgage lending laws and regulations. We advise regarding loan-originator compensation. We also provide advice and counsel to vendors, including the makers of mortgage loan origination and loan documentation systems. We represent third-party loan processors and underwriting companies, entities that are often located offshore. We give our clients a voice with respect to their regulatory compliance requirements.

## mortgage servicing compliance

Our attorneys draft and review policies and procedures and assist clients in developing and implementing effective compliance management systems. In addition, we counsel clients on examinations and audits, while also helping them respond to enforcement actions. Our team advises clients every step of the way, from issues with onboarding to day-to-day servicing matters, servicing transfers, escrow requirements, flood insurance, force-placed insurance, credit reporting, Servicemembers Civil Relief Act (SCRA) and corresponding state laws, third-party service providers, or anything in between. And if loans get into trouble, the team offers guidance on federal and state laws and regulations impacting default servicing, including collection, loss mitigation, foreclosure, real estate owned (REO) properties, and property preservation issues. We also track new legislation and regulations and provide advice on how to adapt to and implement the new requirements.

## reverse mortgages

Our attorneys have designed, developed, and implemented most of the private reverse mortgage programs on the market today. We advise originators, lenders, servicers, investors, and startup equity access companies relating to the FHA's Home Equity Conversion Mortgage (HECM) program, the Department of Housing and Urban Development (HUD)'s rulemaking, and Consumer Financial Protection Bureau (CFPB), state, and civil examinations and enforcement actions. Our counsel covers issues ranging from mortgagee letters and handbook considerations to state disclosure, fee, and licensing requirements, regulatory approvals, capital raises, and acquisition of lenders or servicing rights. McGlinchey attorneys also defend reverse mortgage companies in the trial and appellate contexts and assist with settling civil disciplinary enforcement actions.

## our work

- Served as primary state law compliance counsel for a financial technology company in the home equity and blockchain space regarding mortgage operations and several other aspects of the company's operations. Thanks to our attorneys' innovative mindset, this work expanded dramatically with respect to cryptocurrency-secured lending products—including mortgage products—cryptocurrency compliance work, mortgage operational compliance, and other sensitive new products.
- Collaborated with a residential mortgage loan origination and servicing company focused on manufactured housing to bring a full portfolio of securitized loans into compliance. Our responsive and flexible attorneys were able to reassure the client every step of the way through the complex project.

- Assisted a mortgage servicer with loans in every state to identify each unique state and federal regulatory requirement applicable to it and its sub-servicer and integrate each regulatory requirement into its compliance management system and oversight processes.
- Worked with a client to build an automated compliance rules engine into its mortgage loan origination system with the end goal of helping the client's mortgage lending customers ensure that they are in compliance with federal and state mortgage lending requirements, a good example of our firm's innovative approach to service.
- Managed the sale of \$900 million worth of chattel manufactured home loans for a full-service national bank, a string of deals that demanded the utmost diligence and excellent communication skills that produce the kind of error-free documentation that avoids problems down the road.

## cutting-edge counsel

Contact your McGlinchey mortgage lending compliance team for our latest insights about:

**The Fair Housing Act.** The federal Department of Housing and Urban Development has reverted to its old Fair Housing Act rule. McGlinchey's experienced attorneys predict this will lead to a surge in compliance litigation because the old—now reinstated—rule does not synchronize with U.S. Supreme Court precedent. When this confusion results in the inevitable, if specious, accusations of wrongdoing, clients need attorneys with the knowledge and skill to defend them vigorously.

**Manufactured Housing Loans on the Secondary Market.** Until recently, no robust secondary market for manufactured housing secured loans existed. McGlinchey's attorneys have noted a burgeoning interest in the sector. The team is now helping clients originate loans with an eye toward the secondary market. The team is also providing compliance advice in connection with these deals and drafting transactional documents in connection with sales to investors.

**Reactionary Legislation and its Impact on Housing Finance.** Reactionary legislation and its unintended consequences are one of the biggest challenges the housing finance sector will face in the near future. McGlinchey's agile attorneys are well-versed in helping clients dodge the proverbial landmines.

## strengths sought after by McGlinchey clients

Clients have many reasons to turn to McGlinchey for their mortgage lending compliance needs.

**A Deep Bench.** Our team is collaborative, creative, and responsive. Our mindset is to help our clients with every day issues and challenges. When litigation becomes inevitable, we offer a robust bench of [financial services litigators](#).

**Excellent Communication Skills.** Ample communication is essential in the face of ever-changing rules. McGlinchey's mortgage compliance attorneys are meticulous about keeping clients informed every step of the way.

**Market Dominance.** Each year, our firm provides compliance services to a large segment of the manufactured housing market. The firm's position as a national leader in financial services law means it can oversee every aspect of business for the lending industry—truly a full-service legal advisor.

**Unparalleled Experience.** Due to the unique depth and breadth of knowledge and the level of experience our attorneys possess, McGlinchey stands as a preeminent firm in the mortgage space. Our mortgage lending compliance team can assist clients with both transactional matters and regulatory compliance. We make sense of a complex web of federal regulations and their intersection with state laws. We draft the agreements necessary for lenders to launch successful multi-state programs and help them maintain compliance through the life of those programs. This is why McGlinchey has been able to build so many long-term client relationships.

## Initial Contacts

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## Related Industries

- Financial Services
- Real Estate

## Related Services

- Consumer Financial Services Compliance
- Consumer Financial Services Litigation
- Cybersecurity and Data Privacy
- Licensing
- Real Estate