



## **Brett J. Ashton**

Partner

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Brett Ashton is the Chair of Krieg DeVault's Financial Institutions Practice. Mr. Ashton counsels a wide array of financial services providers, including credit unions, banks, auto lenders, consumer finance companies, small dollar lenders, payment processors, and premium finance companies. He advises financial institutions on complex bank acquisitions, litigation defense and avoidance strategies, strategic planning, new product development, negotiation and defense of regulatory enforcement actions, and general regulatory compliance issues. Mr. Ashton has significant experience with assisting credit unions in their acquisition of banks while navigating the complex regulatory challenges associated with these transactions.

Mr. Ashton is actively involved in a number of financial services trade associations, including the American Financial Services Association, where he is Counsel to the association's Personal Loan Committee and Ancillary Products Working Group, the Indiana Financial Services Association, where he serves as Executive Director and Counsel, and the Illinois Financial Services Association, where he serves as Executive Director and General Counsel.

He is a frequent author, and speaker on recent developments in the financial services industry, and has been involved in the development of laws impacting the consumer finance industry at the state and federal level for over twenty years. Prior to joining Krieg DeVault, Mr. Ashton served as an Assistant General Counsel for American International Group ("AIG"), where he was responsible for legislative and regulatory matters nationwide on behalf of the company's multi-billion dollar financial services subsidiary.

### **Education**

- J.D., Indiana University Robert H. McKinney School of Law, Indianapolis, Indiana, 2000
  - Order of Barristers
- B.S. in Pre-Professional English, *Academic Honors*, Ball State University, Muncie, Indiana, 1994

### **Bar & Court Admissions**

- Indiana (2000)
- Illinois (2017)

### **Practices**

- Financial Services Litigation
- Corporate Finance
- Securities
- Mergers and Acquisitions
- Auto Finance Companies
- Consumer Finance Companies
- Credit Unions
- Equipment Leasing Finance
- Federal Home Loan Banks
- Financial Institutions
- Fintech Lenders
- Money Transmitters and Payment Processors
- Mortgage Lenders
- Artificial Intelligence (AI)

## Industries

- Financial Services

## Representative Experience

- Successfully negotiated the withdrawal of a pending cease and desist order against auto finance lender with state regulator while preserving the client's business model
- Counseled payment processor active in sovereign lending industry
- Acted as co-counsel in complex bank fraud litigation
- Developed and drafted state consumer finance law designed to modernize industry operations
- Advised bank holding company in the development of a new loan originator compensation structure in compliance with new federal regulations while preserving their existing corporate compensation philosophy
- Counseled banks on compliance with a wide variety of state and federal regulatory issues, including but not limited to, ECOA, TILA, RESPA, FCRA, OFAC, BSA, and the Patriot Act
- Assisted non-bank lender in assessment of liability and proposed remedial action for systemic violations of TILA and Regulation Z
- Assisted national bank in assessing liability for potential SCRA violations and proposed remedial plan
- Counseled state chartered bank on allowable disclosure under BSA in connection with pending civil discovery demand
- Assisted state chartered bank in development of document retention and E-Sign policies
- Counseled state financial services trade association with respect to the development of a new state consumer installment lending law for non-bank clients seeking modernization of existing lending laws in their state
- Advised state chartered community bank on modernization of existing treasury management services including ACH origination and related agreements
- Served as co-counsel in defense of regional consumer finance lender in class action involving allegations of violations of state usury laws
- Counseled bank holding company on regulatory implications of potential restructuring



- Acted as counsel to Acquiring Party in Form A regulatory filing with the Indiana Department of Insurance to obtain approval for sale of Indiana domiciled insurer.
- Acted as state legislative counsel to a national mortgage lending trade association

### Professional Associations

- Member, AFSA Mortgage Lending Committee
- Counsel, AFSA Ancillary Products Committee
- Member, American Bar Association
- Member, Indiana State Bar Association
- Member, Indianapolis Bar Association
- Member, Government Affairs Society of Indiana

### Seminars & Presentations

- Article, "Regulatory Landscape Remains "Uncertain" in Factoring Industry", Commercial Factor Magazine, International Factoring Association, May 3, 2023
- Co-presenter, "Are We in a Banking Crisis? What the Silicon Valley and Signature Banks' Failure Tell Us About the Future of Financial Institutions", Krieg DeVault Podcast Series, April 13, 2023
- Presenter, "State Regulation of the Factoring Industry - How to Comply with the Latest State Laws and Regulations Impacting Factors," International Factoring Association, April 6, 2023
- Presenter, "Financial Services Regulatory Developments: What Your Clients Need to Know in 2023," Meritas Financial Services Practice Group Meeting, March 2023
- Presenter, "Arbitration Clauses: Things Every Financial Institution Should Consider Before Agreeing to Arbitrate," Krieg DeVault Webinar, June 23, 2021
- "The Economic Growth, Regulatory Relief, and Consumer Protection Act", Krieg DeVault LLP Financial Institutions Webinar Series, September 2018
- "Banking Regulation and Compliance", Banking Law and Regulation, (ICLEF), October 2017
- "The OCC Fintech Special Purpose National Bank Charter - What is it, and what does it mean for the future of state licensing?," American Financial Services Association Winter Law/State Government Affairs Meeting, 2017
- "Latest Developments in Financial Services Law: A Recap Of Key Issues Impacting All Financial Institutions That Occurred in 2016, and What Is Next in 2017," Meritas Capability Webinar, 2016
- "The CFPB Proposed Rule On Payday and Small Dollar Lending - What It Means To Traditional Installment Lender," Kentucky Financial Services Association Webinar, 2016
- "The CFPB Proposed Rule On Payday and Small Dollar Lending - What It Means To Traditional Installment Lender," Ohio Financial Services Association Webinar, 2016
- "Dodd-Frank Wall Street Reform Regulations, Regulations, and more Regulations.....," Education Finance Council Annual Meeting, 2011
- "2010 Financial Regulatory Reform: What You Need to Know Now!," Indiana Bankers Association, 2010
- "Financial Reform Implications for the Consumer Credit Industry," State Government Affairs and Legal Issues Forum, 2010

### Publications

- Co-Author, "Redefining Regulatory Oversight: U.S. Supreme Court Ends Chevron Deference and its Impact on Banking Regulations", July 1, 2024.
- Author, "Counterfeit Checks", Hoosier Banker Magazine, May/June 2024

- Co-Author, "New Indiana Law Will Clarify How Financial Institutions May Make Changes to Deposit Account Agreements", March 13, 2024
- Author, "Deceptive Marketing", Hoosier Banker Magazine, March/April 2024
- Author, "Compliance Connection: Electronic Signatures", Hoosier Banker Magazine, January/February 2024
- Author, "Counterfeit Checks: Who is Liable?", Hoosier Banker Magazine, November/December 2023
- Author, "Electric Lien Filing Fees", Hoosier Banker Magazine, September/October 2023
- Co-Author, "California Commercial Lenders Beware: UDAAP Doesn't Only Apply to Consumer Lending Anymore", October 9, 2023
- Author, "Electronic Mortgage Loan Transactions", Hoosier Banker Magazine, July/August 2023
- Author, "Avoid Collections Blowback," Hoosier Banker Magazine, January/February 2023
- Author, "New York DFS Issues Final Commercial Lending Disclosure Regulation," February 13, 2023
- Author, "CFPB Issues Proposed Credit Card Late Fee Rule," February 1, 2023
- Author, "President Biden Weighs in on Financial Services "Junk Fees," October 27, 2022
- Author, "Positive Pay Service - What if the Customer Declines?" Hoosier Banker Magazine, August, 2022
- Author, "Check Fraud- Who is Liable for a Fraudulent Endorsement?" Hoosier Banker Magazine, May 2022
- Co-Author, "Indiana's Newly Passed LIBOR Legislation Immediately Preempted by Federal Counterpart," March 31, 2022
- Author, "The Illinois Predatory Loan Prevention Act – Lenders Beware," American Bar Association, March 25, 2022
- Co-Author, "Supreme Court Confirms that to Violate the TCPA your Automatic Telephone System Must Use a Random or Sequential Generator," April 7, 2021
- Co-Author, "Indiana Financial Institutions Continue to be Targeted in Class Action Overdrafts and NSF Lawsuits," February 3, 2021
- Author, "Illinois Legislature Passes Sweeping Changes to Consumer Lending Laws," Krieg DeVault Secured Lender Alert, January 2021
- Co-Author, "CFPB Issues Finalized Changes to Regulation F To Implement The Fair Debt Collection Practices Act," Krieg DeVault Secured Lender Alert, December 2020
- Co-Author, "OCC Issues Final "True Lender" Rule," Krieg DeVault Secured Lender Alert, November 2020
- Co-Author, "US Supreme Court Rules Structure of the CFPB Unconstitutional, Preserves Bureau's Authority to Operate," Krieg DeVault Secured Lender Alert, June 2020
- Author, "Changes are Coming to the Indiana Consumer Credit Code - Are You Ready?" Krieg DeVault Secured Lender Alert, June 2020
- Co-Author, "OCC Issues Advance Notice of Proposed Rulemaking Regarding Digital Banking Activities," Krieg DeVault Secured Lender Alert, June 2020
- Co-Author, "CFPB Provides Flexibility to Financial Institutions When Dealing with Billing Errors, Payment Rules and Deposit Accounts Terms Related to the COVID-19 Pandemic," Krieg DeVault Secured Lender Alert, May 2020
- Co-Author, "Paycheck Protection Program and Health Care Enhancement Act Update," Krieg DeVault Secured Lender Alert, April 2020
- Co-Author, "Interagency Statement on Loan Modifications and Reporting for Financial Institutions," Krieg DeVault Secured Lender Alert, April 2020
- Co-Author, "The CARES Act: Provisions Directly Affecting Financial Institutions," Krieg DeVault Secured Lender Alert, March 2020

- Co-Author, "Financial Services Regulators Respond to COVID-19," Krieg DeVault Secured Lender Alert, March 2020
- "The Department of Defense Issues an "Interpretative Rule" to the Military Lending Act - Auto and Personal Property Lenders Faced With Regulatory Uncertainty," January 10, 2018
- "CFPB Issues Final Payday and Installment Loan Rule," January 3, 2018
- "When Is An Acting Director Not Really An Acting Director? Richard Cordray's Parting Shot Against The Trump Administration," November 27, 2017
- "The CFPB Fires a Shot Across the Bow of Financial Services Companies Charging Convenience Fees," August 15, 2017
- "The CFPB Fires a Shot Across the Bow of Financial Services Companies Charging Convenience Fees - INDIANA," August 15, 2017
- "CFPB Finalizes Arbitration Rule," August 3, 2017
- "Is Your Website Compliant with the Americans With Disabilities Act?," November 4, 2016
- "CFPB Proposed Payday/Installment Loan Rule," August 16, 2016
- "CFPB Issues Long Anticipated Proposal to Significantly Limit Pre-Dispute Arbitration," May 9, 2016
- "Agencies to Release Proposed Rule On Executive Compensation," April 25, 2016
- "CPFB continues enforcement focus on auto finance industry with action against buy-here-pay-here dealer in late January for TILA and CFPA violations," February 3, 2016
- "CFPB Moves to Significantly Restrict the Use of Arbitration Clauses they Consider a 'Free Pass'," October 8, 2015
- "Regulatory Agencies Issue Last Minute Guidance Regarding Implementing the Truth in Lending Act and Real Estate Settlement Procedures Act Integrated Disclosure Rule," October 6, 2015
- "Dodd-Frank Act Rulemaking: Far From Complete", Hoosier Banker, December 2012