



KENNETH M. ACHENBACH

Partner
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BIOGRAPHY

Ken Achenbach's deep experience in the regulated financial services industries, as well as his experience with sophisticated approaches to M&A and operational risk allocation through insurance and indemnity arrangements make Ken uniquely positioned to assist his clients in overcoming obstacles and meeting their business objectives.

Ken routinely advises banks, trust companies, payment processors, and other financial services and technology companies on critical strategic initiatives, often involving the development and launch of new products and services, including Banking-as-a-Service (BaaS) treasury management or depository services arrangements, credit or payment platform arrangements, crypto and digital asset custody and emerging technology solutions.

Ken's practice spans a variety of traditional industry verticals, and Ken's broad experience enables him to provide effective, business-focused, solutions-oriented advice with respect to the navigation of extant banking, custodial, and payments legal and regulatory frameworks, helping his clients to develop structural and practical approaches to managing commercial and regulatory risk and, where necessary, to procure necessary licenses or financial institution charters or respond to regulatory inquiry. Ken also has extensive experience representing individual officers, directors, and stakeholders of financial institutions facing regulatory inquiry or scrutiny, whether as a result of past service or in anticipation of future service, and has served as independent counsel to boards of directors and audit and special committees in connection with investigations and other special matters. Additionally, Ken has also served as special counsel to a state regulatory agency, and has a deep understanding of the regulator's perspective, giving him insight into the efficient resolution of regulatory issues.

Ken's practice also includes advising clients with M&A matters and other transactions. He currently leads BCLP's U.S. Transactional Risk practice, which focuses on the use of representations and warranties insurance (RWI), tax and other contingent risk policies, together with other coverage types and sophisticated indemnity arrangements to manage transactional risk both for buyers and sellers. He has represented both strategic and private equity acquirers in the placement of RWI and other transactional risk products across hundreds of deals and competitive bid processes, and regularly advises sellers on ways to limit tail risk in order to maximize value. Ken and his team have investigated and successfully helped clients to prosecute claims and recover under RWI, fidelity bond, D&O, E&O, cyber, and other policy types.

CIVIC INVOLVEMENT & HONORS

- Guest Lecturer, Emory University School of Law

PROFESSIONAL AFFILIATIONS

- American Bankers Association – Associate Member
- Community Bankers Association of Georgia – Associate Member
- Georgia Bankers Association – Associate Member

ADMISSIONS

- Georgia, 2006

EDUCATION

University of North Carolina, J.D., 2006

Allegheny College, B.A., 2001

RELATED CAPABILITIES

- Financial Institutions
- Cryptocurrency & Digital Assets
- Funds Finance
- Workouts & Financial Restructuring
- Wealth Management
- Subchapter S
- Going Private
- Community Banking Litigation
- De Novo Banking
- Insurance: Corporate & Transactional
- Insurance & Reinsurance
- Financial Services
- Insurance (Class Actions)
- Insurance Regulatory
- Business & Commercial Disputes
- Financial Services Corporate & Regulatory Team
- Fintech
- Financial Regulation Compliance & Investigations
- Corporate
- Finance
- Investigations
- Litigation & Dispute Resolution
- Regulation, Compliance & Advisory
- InsureTech
- Anti-Money Laundering Compliance
- Payment Systems

RESOURCES

PUBLICATIONS

- "[Fairness in the Device-Driven Era](#)," Bankdirector.com, July 2017
- "[Forming a Game Plan for TruPS](#)," Bankdirector.com, September 2014

SPEAKING ENGAGEMENTS

- Co-Presenter, "Looking Beyond SVB and Signature Bank: Navigating Future Market Uncertainty & Disruption," [BCLP webinar](#), March 2023
- Co-Presenter, "Takeaways for Bank Boards: Impacts of SVB and Signature Bank Receiverships on Board Governance," [BCLP webinar](#), March 2023
- "Representations and Warranties Insurance in Real Estate Transactions" Webinars, February 2022 & June 2022
- "COVID-19 in 19: impact on US M&A" Webinar, March 2020
- "M&A Tax Update: Tips, Traps, Trends, and Insuring Tax Risks" Tax Executive Institute (St. Louis), November 2019
- Guest speaker on "The Bank Account," a podcast discussing issues relevant to the commercial banking and financial services industries.
- "Financial Technology and Regulatory Update," Georgia Banker's Association CECL Workshop, Macon, April 2018
- "Regulatory Compliance in 2017," Bank Director Magazine's Bank Board Training Forum, Atlanta, September 2017
- "Cover Your Assets: Advancement, Indemnification and D&O Insurance," 2018 In-House Counsel CLE Institute, Denver, November 2017
- "CFPB, Regulatory Outlook: An Insider's View," Panelist, BayPay, Atlanta, June 2017
- "Reps and Warranties Insurance: Another Tool in Your M&A Toolkit." - 2017 In-House Counsel CLE Institute, Atlanta, January 2017
- "How Great is Your Compliance Culture?" – Bank Director Magazine's Bank Board Training Forum, Chicago, September 2016
- "Duties to Creditors in a Bank Holding Company Bankruptcy and other Insolvency-Related Issues" – Georgia Bankers Association Town Hall Meeting on Trust Preferred Securities, Macon, August 2014

- "D&O Insurance – Understanding and Negotiating Coverage" – ICLE Georgia Banking Law Symposium, Atlanta, February 2014
- "Nuts and Bolts of S-Corp Taxation and Conversion" – Subchapter S Seminar, Atlanta, May 2013
- "Understanding Your Duties as a Bank Director and Mitigating the Risks of Board Service" – North Carolina Bankers Association, Bank Directors' Assembly, Greensboro, March 2012
- "The Bid Process Timeline: A Step-by-Step Approach" – Bank Director Magazine's FDIC-Assisted Bank Deals Conference, Atlanta, September 2011
- "FDIC Assisted Bank Deals: Opportunity Knocks – Framework of the Deal Structure" - Bank Director Magazine's FDIC-Assisted Bank Deals Conference, Chicago, May 2011

RELATED INSIGHTS

News

Apr 03, 2025

BCLP advises Terrestrial Energy Inc. in Milestone move to become first publicly traded molten salt nuclear reactor developer

News

Feb 27, 2025

BCLP advises Caleres, Inc. in acquisition of the Stuart Weitzman brand from Coach parent Tapestry, Inc.

News

Jan 15, 2025

BCLP advises Vantiva in the sale of its Supply Chain Solutions business to Variant Equity Advisors

Insights

Jan 09, 2025

California requires consumer finance providers to register by February 15

Insights

Sep 20, 2024

FinCEN adopts AML/CFT rules for investment advisers with few changes from proposed rules

Insights

May 17, 2024

SEC and FinCEN Propose Rules to Impose Customer Identification Program Obligations on Certain Investment Advisers

Insights

Feb 23, 2024

FinCEN proposes AML/CFT rules for investment advisers

News

Jan 11, 2024

BCLP Guides TeleGuam Holdings on \$200 Million Strategic Investment Deal

Insights

Dec 01, 2023

Basel 3.1 implementation in the UK and US

The UK regulators (primarily the Prudential Regulation Authority ("PRA")) are currently reviewing consultation responses received on the proposed implementation of Basel 3.1 in the UK, with the final rules being published between December 2023 and May 2024, and implementation due to start in the UK in July 2025 (pushed back from the original date of 1 January 2025) and finish by 1 January 2030. On 12 December 2023, the PRA has published the first of two near-final policy statements covering the implementation of the Basel 3.1 standards. This policy statement did not address the real estate lending concerns outlined in this article. The second near-final policy statement is expected in Q2 2024 and is likely to address these. The US Regulators, i.e. the Federal Reserve, OCC and FDIC, have on 27 July 2023 published their proposals to implement Basel 3.1 (or Basel – Endgame, as it is increasingly referr...