



## **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, digital asset custody and emerging technology such as DeFi/Web3 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, 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 PRACTICE AREAS**

- Banking Sector
- Cryptocurrency & Digital Assets
- Funds Finance
- Workouts & Financial Restructuring
- Wealth Management
- Subchapter S
- Going Private
- Community Banking Litigation
- De Novo Banking
- Bank Transactions & Strategy
- Bank Regulatory Compliance, Operational Support & New Products
- Insurance: Corporate & Transactional
- Captive Insurance
- Financial Services
- Insurance (Class Actions)
- Insurance Regulatory
- Insurance Insolvency & Receiverships
- Business & Commercial Disputes
- Financial Services Corporate & Regulatory Team
- Insurance
- Fintech
- Financial Regulation Compliance & Investigations
- Corporate
- Finance
- Investigations
- Litigation & Dispute Resolution
- Regulation, Compliance & Advisory
- Crypto and Digital Assets
- 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

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 referred to).

Insights

Nov 17, 2023

## **CFPB proposes to level the playing field with “big tech”**

Insights

Aug 01, 2023

### **RWI Market Turning to Unlikely Industries for New Deals: Health Care RWI Terms & Conditions Improving**

News

Jun 14, 2023

### **Cross-firm BCLP team advises Wireless Telecom Group in merger with Maury Microwave**

Webinars

Mar 31, 2023

### **Takeaways for Bank Boards: Impacts of SVB and Signature Bank Receiverships on Board Governance**

Webinars

Mar 17, 2023

### **Looking beyond SVB and Signature Bank: Navigating future market uncertainty & disruption**

News

Mar 16, 2023

### **BCLP advised Playtech Plc in connection with its investment in Hard Rock Digital**

BCLP has advised client Playtech plc (Playtech), in connection with its \$85 million investment (c. €80 million) in Hard Rock Digital (“HRD”).