Tucker Ellis LLP

Financial Services – Transactional

Overview

Our Financial Services – Transactional team has the experience to advise the full spectrum of businesses within the financial services industry, including commercial banks, investment advisers, securities broker-dealers, investment bankers, and insurance entities. We make it our business to stay abreast of legislative initiatives and regulatory mandates, actively participate in a variety of industry organizations, and offer complimentary training programs to keep our clients ahead of the curve and positioned for success.

Key members of our team have served as senior in-house counsel for clients in the financial services industry. The practical insights and perspective we have gained from living in our clients' shoes bring added value as we help our clients navigate the legal, regulatory, and reputational risks they face. First-hand knowledge of what keeps them awake at night allows us to anticipate their needs and develop practical, effective risk management solutions.

Read the latest insights about Financial Services on our Lingua Negoti Blog.

OUR CLIENT SEGMENTS AND SERVICE AREAS

COMMERCIAL BANKS

Our Financial Services industry team has a deep understanding of what it takes to operate a commercial bank/thrift. We focus our services around these strategic areas:

- Navigating the myriad of federal and state bank and thrift regulators – forming holding companies and de novo institutions; assisting with regulatory applications, results of examinations, and informal/formal enforcement actions; and addressing challenges under Dodd-Frank and other regulatory mandates
- Ensuring sound corporate governance and securities compliance – handling Sarbanes Oxley, Dodd-Frank, and stock exchange governance requirements; providing director education programs; assisting with strategic planning and policy development; partnering with management on 1934 Act compliance and annual meeting preparation; and advising on shareholder activists, proxy contests, and investor relations matters
- Accessing the capital markets – including serving as issuer's counsel on public offerings and stock exchanges, private placements, preferred equity, and sub-debt offerings
- Compensating directors, officers, and employees – including developing omnibus equity compensation programs; drafting executive employment agreements, change-in-contract

contracts, and supplemental retirement benefit plans; and creating/updating welfare and qualified retirement benefit programs

- Managing M&A transactions – buying and selling entire banks and thrifts; negotiating mergers of equals and strategic combinations in taxable or tax-free transactions; purchase and assumption transactions; branch purchases and dispositions; acquiring and selling financial services affiliates; and bulk asset and loan portfolio transactions
- Managing real estate assets – including branch leasing; acquisitions and dispositions; office leasing; construction; and environmental issues
- Protecting and managing personal, private information and data security – addressing breaches and providing practical solutions to comply with the complex web of state and federal laws (e.g., the Gramm-Leach-Bliley Act)
- Structuring and documenting commercial loans and handling workouts and restructurings – including asset-based loans; acquisition financing; mezzanine finance; healthcare finance; construction loans; letter of credit facilities; real estate/investment properties loans; and floor plan financing
- Public finance – bank's counsel in direct purchases of bonds from government entities; letter of credit bank counsel; underwriter's counsel for investment banks; and trustee bank's counsel
- Litigation – including representing banks and mortgage companies in individual and class action litigation involving lender liability; challenges to merger transactions; Truth in Lending Act claims; Electronic Funds Transfer Act; The Fair Credit Reporting Act; and predatory lending claims
- Bankruptcy – including bankruptcy and reorganization cases and cases involving preferences and fraudulent conveyances; federal and state court receiverships and Uniform Commercial Code secured party sales; recovery
- of assets and assertion of claims; settlement agreements, plans of reorganization, and plan support agreements
- Supporting trust and wealth management activities – including providing advice to bank trust departments and trust companies on complex trust, estate administration, and tax issues
- Corporate investigations, whistleblower activities, and white collar criminal defense – handling cases and investigations for commercial banks and mortgage companies
- IP – including counseling financial services clients targeted by patent trolls; preparing patent applications; representation in connection with company-wide name changes and rebranding initiatives; and securing trademark rights
- Government relations – counseling banking institutions on regulatory and legislative matters

Tucker Ellis LLP

INVESTMENT ADVISERS

Our versatile team serves a variety of clients in the investment adviser arena, including sole advisers, advisers affiliated with broker-dealers, those that are dual registered as both advisers and broker-dealers, and advisers to private equity funds. We provide valuable assistance in:

- Adviser start-up and formation matters and formulating and implementing initial compliance programs
- Ongoing compliance matters – including annual reviews, annual updating amendments, and compliance program modifications
- Regulatory inquiries, examinations, enforcement actions, and all facets of litigation (i.e., SEC, state securities divisions, other regulatory authorities, arbitration, and civil and criminal lawsuits)
- Developing and negotiating significant adviser-related business arrangements – including investment management advisory agreements, sub-advisor agreements, solicitor arrangements, executive employment, non-competition, confidentiality, non-solicitation, and other business agreements
- Privacy and data security compliance planning and policymaking, program review, crisis prevention, and crisis management
- Strategic partnerships and joint ventures
- Restructuring of dual-registrants
- Business separations and “corporate divorces” of advisers and their principals and winding down/dissolution processes
- Fiduciary duties – including advising on the intersection between adviser duties and ERISA and Department of Labor legal requirements
- Formation of pooled investment vehicles – including design of proprietary fund products, hedge funds, and fund-of-funds for both institutional and retail products
- Mergers and acquisitions of advisers – including both acquisitions and sales of businesses
- Bank financing and capital raises for advisory businesses
- Corporate investigations, whistleblower activities, and white collar criminal defense

SECURITIES BROKER-DEALERS

Our team has the know-how and experience to counsel broker-dealers on matters including:

- Broker-dealer start-up/formation matters and formulating/implementing initial compliance programs

- Regulatory inquiries, examinations, and enforcement actions (FINRA, state securities divisions, FCPA); arbitrating and litigating disputes with customers and third parties, including FINRA arbitrations
- Duties to customers – including due diligence requirements in making recommendations for a client investment in private placements and other non-traditional investments and suitability matters
- Developing and negotiating broker-dealer contractual arrangements – including placement agent, underwriting, executive employment, non-competition, confidentiality, non-solicitation, and other business agreements
- Strategic partnerships and joint ventures
- Restructuring of dual-registrants
- Business separations and "corporate divorces" of broker-dealers and their principals and winding down/dissolution process
- Broker-dealers as placement agents and underwriters' counsel in connection with private and public company capital raise transactions
- Broker-dealers as underwriters in connection with public securities offerings
- Mergers and acquisitions of broker-dealers – including both acquisitions and sales of businesses
- Bank financing and capital raises for broker-dealers
- Representing broker-dealers and registered representatives in investigations by regulatory authorities as well as in litigation filed before FINRA and in civil and criminal courts throughout the state of Ohio and across the United States
- Corporate investigations, whistleblower activities, and white collar criminal defense

INVESTMENT BANKERS

Our investment banker clients benefit from our experience in handling the following matters:

- Engagement agreements and related disputes – including tails, exclusivity matters, and indemnification protections
- Issuance of fairness opinions in M&A transactions
- Providing counsel to banks acting as placement agents/broker-dealers in connection with capital raise transactions
- Co-investment opportunities and related legal matters
- Serving as underwriter's counsel to investment banks serving as underwriters in connection with public finance transactions, including compliance with Municipal Advisor Rules and MSRB Rules

INSURANCE ENTITIES

Tucker Ellis LLP

Our insurance attorneys are prolific speakers and writers – and are the authors of Ohio Insurance Coverage, the definitive resource for policy and claim issues arising under CGL policies and coverage programs within that state. Our team represents many of the world's largest and respected insurers in meeting their business program, claim, and litigation needs. We have deep experience in areas including:

- comprehensive general liability
- employment practices liability
- professional liability
- directors and officers liability
- specialty policies and programs
- reinsurance
- public agency risk pools
- guidance and training to ensure legal compliance with state-imposed claim and underwriting guidelines

OTHER FINANCIAL SERVICES-RELATED REPRESENTATION

Our team advises research company providers in connection with published research, insider trading policies, and related regulatory matters.