



David L. Beam

OVERVIEW

Mr. Beam has a national practice advising companies on federal and state financial laws, with a focus on payments and credit regulation. This includes:

- Counseling clients on federal and state laws that regulate consumer financial products and services;
- Working with state and federal financial regulators to obtain approvals, licenses, or regulatory guidance;
- Defending companies in federal and state government audits, investigations, and enforcement actions; and
- Assisting in litigation matters, including putative class action proceedings, involving consumer financial laws.

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PRIMARY PRACTICE

- Consumer Financial Services

SECONDARY PRACTICES

- Depository Institutions
- Payment Systems
- Privacy, Data Protection and Information Management

Super Lawyers magazine named Mr. Beam a rising star in Washington, D.C., in both 2013 and 2014.

Payment Systems

Mr. Beam has an active practice representing various parties involved in consumer payment systems. He advises clients on compliance with a broad range of federal and state laws that regulate payment systems. These include, for example, state money service business (money transmitter) laws; state credit card laws; state gift and prepaid card laws; the federal Electronic Funds Transfer Act and Regulation E; the Credit CARD Act of 2009; Regulation II (the regulation implementing the Durbin amendment); and FinCEN regulations under the Bank Secrecy Act. He also negotiates transactions among parties involved in providing payment services, drafts consumer user agreements, and defends clients in government investigations and enforcement proceedings.

Mr. Beam's clients range from startups to some of the world's largest financial institutions. His practice embraces both traditional payment systems—such as plastic card-based systems—and emerging payment technologies.

Federal Preemption

A significant part of Mr. Beam's compliance practice involves advising financial institutions on the federal preemption of state and local laws regulating financial institutions. Mr. Beam has published and presented extensively on the preemption of state financial laws, particularly state consumer financial laws. He is also the Chair of the Preemption and Federalism Subcommittee of the American Bar Association's Consumer Financial Services Committee.

Credit Regulation

Mr. Beam represents a broad range of clients in the consumer lending and servicing industries. These include mortgage lenders, servicers and investors; credit card companies; student loan companies; consumer finance companies; and debt collectors. His practice focuses on helping clients develop new credit products and ensure ongoing compliance with federal and state consumer credit laws. He also performs compliance audits of consumer credit companies for potential purchasers or investors.

PROFESSIONAL BACKGROUND

Mr. Beam was a law clerk for the Honorable Robert W. Clifford of the Maine Supreme Judicial Court from 2001 – 2002.

PUBLICATIONS

- A Deep-Dive Analysis of the CFPB's Proposed Disclosure Regime, *PayBefore*, December 2014
- Finding the Right Prudential Regulatory Regime for Digital Currency Service Providers, *FinTech Law Report*, November/December 2014
- CFPB's Draft Model Forms Highlight Problems with Uniform Disclosures, *PayBefore* Vol. 8, No. 6, April 2014., April 2014.
- Global Government Solutions® 2014 Annual Outlook, K&L Gates Publication, February 2014
- Virtual Currency Under Federal Anti-Money Laundering Laws: FinCEN Provides Guidance, *Consumer Financial Services*, April 5, 2013

- The Consumer Financial Protection Bureau: A First Year Retrospective by K&L Gates, K&L Gates Publication, 23 July 2012
- It's a Whole New World: CFPB Proposed Plans to Supervise the Activities of Debt Collectors Responsible for Almost Two-Thirds of All Collection Receipts, Consumer Financial Services Alert, March 15, 2012
- Global Government Solutions® 2012: Annual Outlook, K&L Gates Publication, January 2012
- New Payment Technologies Present Challenges for FinCEN, Global Government Solutions® 2012: Annual Outlook, January 2012
- Risky Business: CFPB's New Consumer Risk Assessment Process, Mortgage Banking & Consumer Financial Products Alert, November 16, 2011
- California Governor Vetoes Burdensome Payroll Card Bill, Mortgage Banking & Consumer Financial Products Alert, October 10, 2011
- FinCEN's Mistake: It's Not the Smartphone, It's the Access Code, Paybefore Legal, Vol. 5, Issue XVII, October 2011
- An Old Definition of Prepaid Returns, Paybefore Update, Vol. 5, Issue 12, August 2011
- Bureau Asks for Help Deciding Whom to Supervise, Mortgage Banking & Consumer Financial Products Alert, July 6, 2011
- The New Consumer Financial Watchdog, Review of Banking and Financial Services, Vol. 27, No. 6, June 2011
- Federal Preemption Case Law Updates, Consumer Finance Law Quarterly Report, Vol. 64, No. 4, Winter 2010
- Global Government Solutions 2010: Mid-Year Outlook, K&L Gates Publication, July 2010
- Preemption for National Banks and Federal Thrifts After Dodd-Frank: Answers to the Ten Most Asked Questions, Financial Services Reform Alert, July 9, 2010
- Federal Reserve Board Finalizes Gift Card Rules, Mortgage Banking & Consumer Financial Products Legal Insight, March 25, 2010
- The New Trajectory of Federal Preemption, The Business Lawyer, Vol. 65, No. 2, February 2010
- Proposed Gift Card Rules: Act Now, or Terms and Conditions May Apply, Mortgage Banking & Consumer Financial Products Alert, December 7, 2009
- Million Dollar Baby: The Consumer Financial Protection Agency Act of 2009, Mortgage Banking and Consumer Financial Products, July 27, 2009
- Obama Order on Preemption Could Expose Banks to State Regulation, BNA Banking Report/Mortgage Banking & Consumer Financial Products Alert, June 10, 2009
- Obama Order on Preemption Could Expose Banks to State Regulation, BNA Banking Report, June 10, 2009
- The Gift That Keeps on Giving (to the Lawyers): Congress Passes a Federal Gift Card Law, Mortgage Banking & Consumer Financial Products Alert, June 1, 2009
- Defining the Scope of Federal Preemption: State Farm, Exclusive Agents, and Other Emerging Issues, The Business Lawyer, Vol. No. 64, Issue No. 2, February 2009
- SAFE Mortgage Licensing Act, Mortgage Banking Alert, February 25, 2009
- Federal Preemption: 2008 Recap and Guide to 2009, Mortgage Banking & Consumer Credit Alert, January 8, 2009
- Hurricane Subprime: Will Congress Provide Disaster Relief from Home Foreclosure?, BNA's Banking Report, April 2, 2007
- Hurricane Subprime: Will Congress Provide Disaster Relief From Home Foreclosure?, Mortgage Banking & Consumer Credit Alert, April 2007
- Bridging the Preemption Gap in 2007, Mortgage Developments 2007: Answers to Your Top

Questions, 2007

- Nontraditional Loan Products Require Traditional Underwriting Under Final Interagency Guidance, Mortgage Banking Alert, October 2006
- Supreme Court May Rethink *Chevron* Standard for Preemption, Communications Alert, September 2006
- Massachusetts Prepayment and Late Fee Provisions Not Preempted for Anybody, Claims Massachusetts Bank Commissioner, Mortgage Banking/Consumer Finance Alert, February 2006
- The Risk that Broke the Camel's Back: Federal Banking Agencies Target the Layering of Risk with Nontraditional Loan Products, Mortgage Banking/Consumer Finance Alert, January 2006
- Finder's Keepers, Brokers Weepers: Case Raises Questions About Who is Protected by Preemption Provision, AllRegs Weekly Digest, August 2005
- New OTS Opinion Recognizes that a Federal Thrift's "Preemption Umbrella" May Extend to Certain Non-Employee Agents of the Thrift, Mortgage Banking Commentary, November 2004
- No Trespassing: OCC Tells States to Keep Out, Mortgage Banking Commentary, January 2004

PROFESSIONAL/CIVIC ACTIVITIES

- ABA Consumer Financial Services Committee (Chair, Preemption and Federalism Subcommittee)

ADMISSIONS

- Bar of District of Columbia

EDUCATION

- J.D., University of Maine School of Law, 2001, (*magna cum laude*; Articles Editor, *Law Review*)
- B.A., Emory University, 1998

REPRESENTATIVE EXPERIENCE

- Served as regulatory counsel for American Express in connection with Bluebird, an alternative to checking accounts to be offered through Wal-Mart stores.
- Advised federally-chartered institutions and their operating subsidiaries engaged in payment activities on the impact of the new preemption standards in the Dodd-Frank Wall Street Reform and Consumer Protection Act, and assisted them with state law compliance where required.
- Working with the Group's state law team, performed a comprehensive audit of the mortgage lending and servicing operations of several federally-chartered banks to assess the impact of the preemption standards in the Dodd-Frank Act.
- Drafted user agreements and other transaction documents for various prepaid card programs.
- Defended a payment processing company in state investigations into whether its activities triggered state licensing requirements.
- Advised several mobile payment platforms on regulatory and licensing issues related to mobile payments.
- Counseled several clients on the relative advantages and disadvantages of issuing prepaid products out of a bank versus a state-licensed money service business.