



## J.H. Jennifer Lee

PARTNER

Jenny defends, counsels, and advocates for the financial services industry in complex consumer-facing and other regulatory matters, with an emphasis on resolution of sensitive disputes with the government or customer-litigant groups.



### Industries

### Practices

Complex Litigation  
Government Enforcement & White Collar Investigations  
Privacy, Cybersecurity & Data Protection

### Languages

German  
Korean

### Education

University of Michigan Law School JD, 2006  
Duke University BS, 2001

### Offices

San Francisco  
Washington, DC

### Phone

415.757.5511  
202.857.6088

### Email

[jenny.lee@arentfox.com](mailto:jenny.lee@arentfox.com)

Jenny served as an Enforcement Attorney in the CFPB's Field Litigation Team for several years since the agency's inception. Her "insider's view" as a former bank regulator provides an invaluable perspective to clients.

Jenny represents financial services companies in investigations by the Consumer Financial Protection Bureau, the Federal Trade Commission, the prudential bank regulators, state attorneys general, state banking agencies, and Congressional inquiries; and in defense of litigation matters involving federal or state consumer financial statutes and implementing regulations. Jenny also assists companies facing parallel investigations involving multiple agencies. She advises companies on how to minimize overall regulatory liability, helping to advance client priorities such as corporate reputation, customer trust, and efficiency to reduce implementation burdens.

She has unique expertise sought by clients requiring assistance with Civil Investigative Demands from the CFPB, defending their interests in ongoing enforcement investigations or litigation matters, including drafting NORA response letters, negotiating compliance with CIDs and negotiating consent orders. Clients facing private actions involving consumer financial services claims, including class actions, also rely on Jenny.

Jenny has successfully represented major corporations in non-public CFPB investigations, including: a national bank regarding ACH payment processing and demand deposit accounts for business banking customers; a national debt-collection agency regarding debt-collection activities pertaining to credit card accounts; a national bank in sales practices matters; a leading rent-to-own company regarding debt sales and consumer reporting; and a top student loan servicer regarding alleged UDAAP violations in servicing activities.

She also handles less-adversarial, rulemaking, and regulatory matters relating to the CFPB, the FTC, and state licensing boards whether in the supervisory exam context or otherwise. Compliance counseling arises in many contexts involving risk mitigation controls, new product design, M&A due diligence review, and transaction structuring. In that regard, Jenny advises clients on eighteen federal enumerated laws, military consumer protection laws, and Unfair and Deceptive Practices, as well as their state analogues.

Jenny's regulatory counsel has involved: representing numerous participants in the mortgage industry on compliance with RESPA Section 8 and other regulations; advising consumer credit and identity-theft protection companies on fair lending issues; and counseling investment companies and financial services firms on privacy and data protection issues under FCRA and GLBA. Jenny also provides counsel on money transmission, payments, prepaid cards, and federal and state rulemaking issues to banks, financial services companies, technology companies, public policy makers, or their business partners. She has advised emerging fintech companies on various matters involving: consumer loans, Terms of Use, disclosure issues, mobile banking technology, data privacy/protection, alternative credit scoring models, virtual currency, regulatory sandboxes and innovation, and proactive agency outreach opportunities. When new regulations emerge or are proposed, Jenny helps businesses present their perspectives to the CFPB in a way that will maximize productive dialogue.

## Client Work

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### Enforcement / Litigation / Investigation Matters

- Represented major national bank and bank executives in non-public CFPB investigation concerning sales across broad array of product lines.
- Represented major national bank in responding to a non-public, CFPB investigation regarding ACH payment processing and demand deposit accounts for business banking customers.
- Represented major national debt-collection agency in responding to a non-public, CFPB investigation regarding debt-collection activities pertaining to credit card accounts.
- Represented leading national rent-to-own company in responding to a non-public, CFPB investigation regarding a debt-sales transaction and consumer reporting.
- Represented top-producing national mortgage loan originator in enforcement matter before the California Department of Business Oversight.
- Represented global payroll services provider in responding to a non-public, CFPB investigation regarding stored-value payroll cards and Regulation E.
- Represented nationwide asset purchaser in pension industry in responding to a non-public, CFPB investigation regarding asset-sales contracts.
- Represented nation's top student loan servicer in responding to a non-public, CFPB investigation of alleged UDAAP regarding servicing activities.
- Advised global retail banking business regarding non-public, CFPB investigation regarding deposit account products and deposit reconciliation.
- Advised major national provider of identity-theft protection services regarding non-public, CFPB investigation of alleged UDAAP in connection with ancillary products for credit card accounts.
- Represented nationwide provider of online e-commerce and app products in home-improvement industry on non-public, agency investigation of compliance with California consumer-protection statutes.
- Represented national auto finance company in non-public, supervisory examination by California Department of Business Oversight.
- On behalf of automotive industry client, defeated TRO sought by lender in the Central District of California in contract dispute.
- Advised parties in litigation commenced by the CFPB in the Southern District of New York alleging UDAAP and Credit Practices Rule violations, resulting in complete dismissal of clients from the case.
- Defended retailer in food industry on class action litigation commenced in Missouri state court alleging privacy violations in connection with online sales and credit-card transactions, resulting in an order granting our motion to dismiss the client from the case.
- Defended social media marketing company and athletic club in separate class actions under the Telephone Consumer Protection Act in the Northern District of Illinois.

### Compliance Counseling / M&A Due Diligence / Public Policy / Congress & Agency Rulemaking

- Advised multiple clients, including providers of business credit, university and college processing services, and healthcare services, as to money transmission licensure and regulation under FinCEN and state rules.

Represented myriad participants in the mortgage industry (bankers, lenders, servicers, and outsourcing companies) regarding compliance with various regulations, including RESPA Section 8, TILA, escrow account disclosure rules, flood insurance requirements, and mortgage servicing requirements.

- Provided privacy compliance counseling to various technology companies under FCRA and GLBA.
- Provided compliance counseling on various state licensing issues in the state of California and beyond.
- Provided compliance counseling to consumer credit and identity-theft prevention services businesses on fair lending issues and CFPB.
- Provided compliance counseling to various emerging market Fin Tech companies on consumer loans, Terms of Use issues, disclosure issues, mobile banking technology, data privacy/protection, alternative credit scoring models, and virtual currency issues, including restrictions related to NY DFS BitLicense.
- Drafted Terms of Use and online disclosures for various businesses, including for example an online coding school and a marketplace lender.
- Counseled investment companies and financial services firms on privacy and data protection issues under FCRA and GLB Act.
- Counseled multiple Fin Tech companies in regards to CFPB rulemaking, Project Catalyst, and proactive agency outreach opportunities, including in connection with agency's ex parte policy.
- Provided advice and counseling to major consumer reporting agency regarding credit repair organizations and restrictions under CROA.
- Advised and represented two major credit card issuers in rulemaking proceedings before the CFPB regarding proposed regulation of mandatory arbitration provisions.
- Represented national consumer finance company in Senate inquiry regarding consumers' sales of pension assets.
- Conducted due diligence, compliance reviews, and internal legal advice to investors and buyers in connection with portfolio companies and/or target companies in the consumer finance space. Advised clients in regards to legal exposure associated with future acquisitions or recent acquisitions and required compliance overhauls.

### While at the CFPB

- First-chaired the agency's first joint state and federal enforcement action and other actions; issued and negotiated compliance with civil investigative demands; and took sworn testimony from witnesses during investigational hearings – securing consent orders for injunctive relief, consumer restitution, and civil money penalties.
- Investigated multiple financial services companies and institutions in connection with a variety of legal theories including: mortgage, retail-installment lending, debt-collection, military lending, debt-settlement businesses, mortgage relief assistance, payment processing, and other industries. Investigated these companies in connection with compliance with Truth in Lending Act (TILA), Electronic Funds Transfer Act (EFTA), UDAAP, and other regulations/laws.
- Served as Enforcement representative on myriad bank supervision matters to review compliance with federal consumer protection laws and CMS requirements.
- Developed templates and policy for consent orders, investigational hearings and other enforcement protocols now used in internal agency proceedings or in federal court matters.
- Established partnerships between the CFPB and multiple state consumer-protection agencies and advocate groups, including state attorneys general, local/county authorities, and state banking agencies.
- Trained examiners at the FDIC on how to detect Unfair, Deceptive, and Abusive Acts and Practices under the Dodd-Frank Act.

### Pro Bono Work

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Jenny is deeply committed to *pro bono* legal service and has provided advice on microfinancing issues in developing countries, defended a client in a death penalty case at trial, handled appeals work on post-conviction petitions of actual innocence, and represented other *pro bono* clients on a wide range of issues, including human trafficking claims, veterans benefits, immigration, and Servicemember Civil Relief Act issues.

- Recently won an asylum case at trial in which a family of four was granted asylum from Mexico under the Immigration and Nationality Act.

- Collaborated with Microfinance CEO Working Group on a pro bono basis to implement the Model Law and Commentary for Financial Consumer Protection in developing countries.
- Represented a pro bono client in an original trial in death penalty litigation in Illinois (prior to Illinois abolishing the death penalty), resulting in state's attorney deciding to change course and no longer seek the death penalty.
- Represented a pro bono client in asserting civil claims for human trafficking violations in federal court.
- Represented a veteran in obtaining disability benefits in administrative proceedings.
- Represented a victim of the earthquake in Nepal in obtaining immigration status on an emergency basis.
- Represented a military servicemember in a debt-collection litigation matter in the Norfolk, VA region on a Servicemember Civil Relief Act issue.

## Professional Activities

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- American Bar Association, Consumer Financial Services Section, Personal Property Finance Subcommittee, Vice-Chair, 2019-Present
- Asian Pacific American Bar Association of D.C., Board of Directors; Co-Chair of Partners and Senior Counsel Committee, 2016-2017
- International Association of Korean Lawyers - Chairman, Overseas Board of Directors, 2015-2017; Director, Overseas Board of Directors, 2011-2015
- Opera Lafayette, Director, Board of Directors (2010-2015)
- Korean American Bar Association of Washington DC, Vice President (2011-2013)
- Co-Chair of the Thomas Tang Moot Court Competition national finals, at the National Asian Pacific American Bar Association annual conference, Washington DC (2012)
- Korean American Bar Association of Chicago, Director, Board of Directors (2007-2009)
- Global Alliance For Africa, Director, Auxiliary Board (2006-2009)

## Publications, Presentations & Recognitions

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Jenny is a highly regarded commentator on consumer financial services issues and has been quoted in national and international publications including *The Wall Street Journal*, *American Banker*, *The National Law Journal*, *Forbes*, *Bloomberg*, and many others.

- "CFPB Denies Bank of America's Request to Quash Probe Into Unauthorized Consumer Account Openings", *The Banking Law Journal*, February, 2020
- "Supreme Court Battle, Presidential Race Loom Over CFPB in 2020," *American Banker*, December 23, 2019
- "What CRAs Must Know: Important FAQs Regarding CFPB's Recent Action for Employment Background Check Report Violations," *CFS Counsel*, December 12, 2019
- "Study Shows Marked Increase in FCRA Cases, Downward Trend in Consumer Protection Litigation Overall," *CFS Counsel*, December 10, 2019
- "Damages Under Dodd-Frank: Federal Court Awards CFPB \$59 Million in Unprecedented Penalties and Restitution Analysis," *CFS Counsel*, November 12, 2019
- "Ain't No Party Like an Anti-Discriminatory-Rule-Writing Party," *CFS Counsel*, November 7, 2019
- "Could Supreme Court Review Undercut CFPB Enforcement?," *CFS Counsel*, October 29, 2019
- "Supreme Court Review Could Undercut CFPB Enforcement," *Bloomberg Law*, October 28, 2019 (media mention)
- "Despite Reputation, CFPB Not Toothless Under New Leadership," *Compliance Week*, October 28, 2019 (media mention)
- "Federal Consumer Protection Methods: CFPB's Investigational Hearings," *The Review of Banking & Financial Services*, Vol. 35, No. 10, October 23, 2019
- "A Common Thread in 2019 CFPB Enforcement Activity: Denials of Petitions to Set Aside CIDs," *CFS Counsel*, October 17, 2019

- “CFPB Denies Bank of America’s Request to Quash Probe Into Unauthorized Consumer Account Openings,” *CFS Counsel*, September 26, 2019
- “Consumer Protection in the New Economy: Privacy Cases in E-Commerce Transactions or Social Media Activities,” *The Consumer Finance Quarterly Report*, Vol. 73, No. 1, August 2, 2019
- “Self-Reporting, TRID, and CFPB,” *CFS Counsel*, July 19, 2019
- “Congress Holds First Fintech Task Force Hearing, Focuses on Innovation Regulation,” *CFS Counsel*, July 1, 2019
- “What to Expect From CFPB’s New Director, Kathleen Kraninger,” *CFS Counsel*, June 12, 2019
- “Consumer Financial Protection Bureau Releases Proposed Debt Collection Regulations,” *CFS Counsel*, May 16, 2019
- “GLBA and Consumer Data: FTC Signals Less Flexibility and More Uniform Standards in Proposed Safeguards Rule Amendments,” *CFS Counsel*, April 15, 2019
- “Why CFPB Payday Revamp is an Even Bigger Deal Than You Think,” *American Banker*, March 29, 2019 (media mention)
- “Kraninger-Led CFPB and NY Attorney General Sue Kay Jewelers and Others for Unauthorized Credit Card Sales Practices,” *CFS Counsel*, March 29, 2019
- “Transactions in Transit: The Road to a Blended Automotive and Payments Industry,” *CFS Counsel*, March 20, 2019
- “Arent Fox Nabs Ex-CFPB Enforcement Pro In San Francisco,” *Law360*, January 18, 2019
- “Vizio Settles for \$17 Million Claims That it Collected and Distributed Consumers’ Viewing Histories on Smart TV Device Without User Consent,” October 29, 2018
- “CFPB Issues FAQs on Mortgage Servicing Rules on the Eve of Compliance Deadline,” March 26, 2018
- “Federal Court Orders Loan Servicer to Comply with CFPB’s CID Investigating Potential UDAAP and FCRA Violations,” March 20, 2018
- “D.C. Circuit Upholds CFPB’s Constitutionality: Why the PHH Case Underscores the Importance of Internal Agency Discipline,” February 13, 2018
- “Three Things Companies Hate About the CFPB’s Investigative Demands,” *The National Law Journal*, January 31, 2018 (media mention)
- “OCC’s Proposed Charter for Fintech Companies in Limbo,” January 31, 2018
- “Mulvaney-Led CFPB Actively Litigates in Court Regarding Overdraft Policy-Related Evidence,” January 25, 2018
- “Fight Erupts Over CFPB Interim Leadership,” *The Wall Street Journal*, January 18, 2018 (media mention)
- “What Lawyers Are Saying About Richard Cordray’s CFPB Departure Plans,” *The National Law Journal*, November 24, 2017 (media mention)
- “Senate Republicans Sink Controversial CFPB Anti-Arbitration Rule: Lessons Learned for the CFPB,” October 26, 2017
- “D.C. Decision, Expected in Fall, Could Reverse CFPB’s Actions, Change Structure,” *Forbes*, July 19, 2016 (media mention)

### Select Presentations

- Moderator, “Innovation: The CFPB’s No-Action Letters, Regulatory Sandboxes, and Trial Disclosure Policies,” 2020 ABA Consumer Financial Services Committee Winter Meeting, January 19, 2020
- Panelist, “CFPB Update and Enforcement,” California Mortgage Bankers Association Legal Issues & Regulatory Compliance Conference, December 2, 2019
- Presenter, “CFPB Section 1071: Why it Matters and What Can Be Done,” Electronic Transactions Association Spotlight Call, November 14, 2019
- Panelist, “Examining the Latest Activity of the CFPB, Coordination Amongst the Different Federal Agencies and What to Expect from Federal Enforcement Going Forward,” American Conference Institute National Forum on Consumer Finance Class Actions & Government Enforcement, July 23, 2019
- Presenter, “Mitigating Liability & Self Reporting,” American Bankers Association Webinar, July 11, 2019
- Panelist, “Consumer Financial Data Aggregation in the Prepaid Space: Identifying Key Concerns and the Potential for Regulatory Intervention,” American Conference Institute

#### National Forum on Prepaid Card Compliance, January 30, 2019

- Panelist, "Changes and Challenges at the Consumer Financial Protection Bureau," State Attorneys General Education Program, Eighth Annual Public Policy Institute on Financial Services, May 3, 2018
- Speaker, "Current Trends and Priorities for the CFPB," Minnesota Banking Law Institute, April 5, 2018
- Moderator and speaker, "Individual Attorney Liability in CFPB Enforcement Matters," American Bar Association Business Law Section Annual Meeting, Chicago, IL, September 14-16, 2017
- Speaker, "Responding to an Enforcement Action," Mortgage Bankers Association 2017 Conference, May 5-9, 2017
- Speaker, "A Rising Tide: Increased Pushback in CFPB CID Matters," Consumer Bankers Association 2017 Conference, April 2-5, 2017
- Moderator, "Heightened Scrutiny in Financial Services: Government Enforcement in the Banking Sector," International Association of Korean Lawyers Annual Conference, September 30, 2016
- Speaker, "Impact of the Regulatory and Compliance Challenges Surrounding Cryptocurrency, Bitcoin, and Blockchain on the Prepaid Industry," September 26-27, 2016
- Speaker, CFPB Examination and Enforcement Process panel during the Mortgage Bankers' Association Regulatory Compliance Conference 2016, September 18, 2016.
- Moderator and speaker, "Is Your Cell Phone Company Now a Bank?," Women in Housing and Finance, Luncheon Presentation, Washington, DC, November 2015
- Co-chair and speaker, "Consumer Lending Regulatory Compliance, Lessons Learned and Best Practices in an Era of Heightened Government Scrutiny for the Industry," American Conference Institute, New York, NY, October 2015
- Presenter, "The Other A in UDAAP," Federal Depository Insurance Corporation: Examiner Training Program, Arlington, VA, October 2014

## Life Beyond the Law

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Outside of law, Jenny's current interests include trail running, music and songwriting, travel, and exploring Golden Gate Park with her husband and brussels griffon.

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### Bar Admissions

California  
District of Columbia  
Illinois

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### Court Admissions

Supreme Court of the United States  
US Court of Appeals, District of Columbia Circuit  
US District Court, District of Columbia  
US District Court, Northern District of California  
US District Court, Central District of California  
US District Court, Eastern District of California  
US District Court, Southern District of California  
US District Court, Northern District of Illinois