

## THOMAS A. PENNINGTON

*Member, Financial Services*

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As former General Counsel for the Americas of The Bank of Tokyo-Mitsubishi UFJ, Ltd. (BTMU), Tom Pennington has extensive experience in the financial services industry and with its regulation, corporate and securities law, and litigation matters. Tom's focus is on federal regulatory advice, defense and investigations, federal and New York corporate governance, and corporate finance matters.

Tom represents financial institutions, and also advises fintech start-ups and clients in the investment management sector, with an emphasis on private fund formation and compliance. He has led and documented corporate, investment fund, and venture stage finance transactions.

Tom previously served as General Counsel for BTMU, the corporate and investment banking arm of the Mitsubishi UFJ Financial Group (MUFG), one of the largest financial groups in the world. During his time at MUFG, Tom was a key advisor to executive management and various boards of directors. He also played critical roles in areas as diverse as risk management, corporate governance, resolution and recovery planning, project management, distressed lending and portfolio management, compliance, media relations, regulatory compliance and relations, and managing investigations both internal and regulatory in nature. He was deeply involved in managing and advising on BSA/AML and OFAC matters from both the domestic and international perspectives. He was also active in strategic planning during his tenure at MUFG, which was of particular importance during the period of upheaval in the financial services sector following the financial crises in 2008.

In addition, Tom was responsible for the oversight and management of the BTMU's legal risk and affairs in the United States, Canada, and Latin America, including legal support for all of the bank's transactional businesses. Tom was a member of the bank's headquarters for the Americas executive committee, Latin America executive committee, and a number of other management committees including business strategy, risk

### Capabilities

Financial Regulatory Advice & Response

Bank Regulatory & Fintech

Civil Litigation

Fund Finance

Independent Sponsor

Opportunity Zones

Regulatory Supervision & Response

Resolution Planning & Stress Testing

Search Fund

Structured Finance & Securitizations

Syndicated Lending

### Education

J.D., New York University School of Law

B.S., West Virginia University

### Admissions

North Carolina, 2019

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and capital, and compliance. He served as a director of BTMU Leasing & Finance, Inc., BTMU LF Capital LLC, BTMU Securities, Inc., and MUFG Americas Capital Company, BTMU's merchant banking subsidiary. He also acted as corporate secretary and as the primary legal advisor to many of the bank's other subsidiaries operating in the United States.

New York, 1983

Tom currently serves as a guest lecturer at Duke University School of Law on bank regulation.

### Notable

- *Best Lawyers in America*, Administrative / Regulatory Law, 2023

### Affiliations

- American Bar Association
- North Carolina Bar Association
- New York State Bar Association
- Mecklenburg County Bar Association

### Representative Experience

- Advised a major U.S. bank on permissibility of making controlling and non-controlling investments in fintech technology companies. Provided specific guidance on the applicable rules for permitted investments based on investments made by either the bank holding company and its nonbanking subsidiaries, in its capacity as a financial holding company (including through the exercise of its merchant banking authority), or by the operating bank itself, including investments in bank service companies or financial subsidiaries or through an SBIC
- Advised a financial services company on the formation of a broker-dealer subsidiary, including drafting of formation documents, regulatory filings and advice, and establishment of its compliance program including drafting all policies and procedures
- Advises banks on compliance with the control rules of Regulation Y, including ramifications of differing levels of ownership, the impact of contractual or other financial relationships, and the definitions and ramifications of investing in voting vs. nonvoting securities
- Advised banks on the exercise of merchant banking powers under the Bank Holding Company Act, including the making of controlling and noncontrolling investments, limitations on and conditions to the exercise of the investment authority, and the establishment of a regulatory

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compliance program

- Advised a financial firm on the formation of feeder funds, primarily to private equity funds, venture capital funds, and fund of funds, including drafting of organizational documents, private placement memos, limited partnership agreements, subscription documents, blue sky and other regulatory filings, and BSA/AML and other regulatory compliance
- Advised a major U.S. bank on the permissibility of investing in a venture capital fund focused on start-up fintech companies as well as negotiating the terms of the venture capital fund and its underlying agreements
- Currently advising a major global bank on the transition from LIBOR to a risk free rate, including guidance on planning for the transition and developing an action plan, amending the bank's standard loan agreements, to include appropriate transition and fall back language, and reviewing and commenting on syndicated and other loans fall back, and other LIBOR related transition provisions