

## CORPORATE COMPLIANCE ALERT

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### U.S. Supreme Court Holds Intent to Defraud Bank Not Required for Bank Fraud Conviction

By **Nicole Hughes Waid, Partner**

Yesterday, the Supreme Court handed down its decision in *Loughrin v. United States*, No. 13-316. Justice Kagan delivered the opinion of the Court, which held that in a prosecution for bank fraud under 18 U.S.C. § 1344(2), the government need not prove that a defendant charged under that subsection intended to defraud a bank.

In *Loughrin v. United States*, Petitioner Kevin Loughrin executed a scheme to convert altered or forged checks into cash. No. 13-316, slip op. at 1 (U.S. June 23, 2014). Acting as a Mormon missionary going door-to-door in Salt Lake City neighborhoods, he rifled through residential mailboxes and stole any checks he found. *Id.* Over several months, Loughrin made out six of these checks to the retailer Target, for amounts of up to \$250. *Id.* Each of the six checks Loughrin presented to Target was drawn upon a federally insured bank, including Bank of America and Wells Fargo. *Id.* at 2. The Federal Government eventually caught up with Loughrin and charged him with six counts of bank fraud - one for each of the altered checks presented to Target. *Id.*

Loughrin argued that a conviction under 18 U.S.C. § 1344(2) requires “proof that he intended to defraud the banks on which the [altered checks] had been drawn.” U.S. v. Loughrin, 710 F.3d 1111, 1115 (10<sup>th</sup> Cir. 2013). The Supreme Court disagreed and affirmed the decision of the Tenth Circuit Court of Appeals. In the opinion, the Supreme Court stated that imposing such a requirement “would prevent §1344(2) from applying to a host of cases falling within its clear terms.” *Loughrin*, slip op. at 5. It also noted that the defendant’s proposed construction of subsection 1344(2) became “yet more untenable” in light of the clear language of subsection 1344(1), which contains an explicit requirement that a defendant intend to defraud a financial institution. *Id.*

A copy of the slip opinion is available at [http://www.supremecourt.gov/opinions/13pdf/13-316\\_j3ko.pdf](http://www.supremecourt.gov/opinions/13pdf/13-316_j3ko.pdf).

For more information, please contact any of Roetzel’s White Collar and Corporate Compliance attorneys:

**Anthony J. Calamunci**  
419.254.5247 | [acalamunci@ralaw.com](mailto:acalamunci@ralaw.com)

**Donald S. Scherzer**  
216.615.7418 | [dscherzer@ralaw.com](mailto:dscherzer@ralaw.com)

**Brian E. Dickerson**  
202.570.0248 | [bdickerson@ralaw.com](mailto:bdickerson@ralaw.com)

**Jonathan R. Secrest**  
614.723.2029 | [jsecrest@ralaw.com](mailto:jsecrest@ralaw.com)

**James L. Ervin, Jr.**  
614.723.2081 | [jervin@ralaw.com](mailto:jervin@ralaw.com)

**Nicole Hughes Waid**  
202.906.9572 | [nwaid@ralaw.com](mailto:nwaid@ralaw.com)

**Thomas M. Larned**  
202.697.4892 | [tlarned@ralaw.com](mailto:tlarned@ralaw.com)

**Amanda M. Knapp**  
216.615.7416 | [aknapp@ralaw.com](mailto:aknapp@ralaw.com)