

Solicitor General Submits Brief in *Madden*

May 25, 2016 |

In response to the U.S. Supreme Court's request, the Solicitor General submitted its brief in *Madden. V. Midland Funding, LLC*, giving insight into the government's view of bank preemption. The brief addresses the question of whether the National Bank Act, which preempts state usury laws regulating the interest a national bank may charge on a loan, continues to have preemptive effect after the national bank has sold or otherwise assigned the loan to another entity. The Solicitor General rejected the analysis of the U.S. Court of Appeals for the Second Circuit in *Madden*, characterizing the appellate court's conclusion that applying state usury laws to assignees of national banks does not significantly interfere with the bank's power to sell its loans as an "unduly crabbed conception of [National Bank Act] preemption." Although the Solicitor General noted that the *Madden* decision was incorrect, it urged the Supreme Court to reject the petition for certiorari because *Madden* would be a "poor vehicle for resolution" of the question presented.

[Brief](#)

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