

Law360 speaks with Partner Catherine Brennan after House Financial Services Committee bank partnership hearing

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On February 4, the House Financial Services Committee held a hearing that covered bank-nonbank partnerships and the application of state interest rate caps. According to *Law360*, the hearing touched on proposed rules from the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) that aim to mitigate industry concerns following the 2015 Second Circuit decision in *Madden v. Midland Funding* which called into question the long-accepted "valid-when-made" doctrine.

Hudson Cook Partner Catherine Brennan told *Law360* that she was frustrated with the hearing as it careened off to talking points and away from a discussion of fintech-bank partnerships. "The hearing was not intended as a search for the truth with regard to these partnerships, it was intended as a political talking point," she said. "There is extreme bias against this model," she added, stemming from decades ago when similar models were used between certain lenders and banks in the origination of payday loans. Catherine noted that many of the predatory practices highlighted by the witnesses, including extending maturity dates on a loan, illegal garnishments and mandatory electronic debits, are not common for loans originating in the fintech-bank partnership model.

Catherine assists national and state banks, investment banks, consumer and commercial finance companies, mortgage bankers, installment lenders and other licensed lenders in the development and maintenance of nationwide consumer and commercial lending programs. She engages in credit due diligence on behalf of investors in fintech firms, bank partnership platforms, small business lenders, merchant cash advance companies, consumer finance companies, title loan companies and payday lenders.

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