

Partner Kate Fisher quoted in deBanked article on FTC policing small business finance

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On October 22, *deBanked* published a comprehensive article summarizing recent FTC investigations into unfair or deceptive practices in the small business finance industry, including by merchant cash advance providers. The FTC's investigations follow the agency's Small Business Forum that was held on May 8, 2019. Hudson Cook Partner [Kate Fisher](#) participated in the forum's merchant cash advance (MCA) panel. *deBanked* spoke with Kate for her thoughts on the FTC's increased investigations into the industry.

Kate reiterated the difference between an MCA and a loan, stating that an MCA is a "purchase of future receipts. The business promises to deliver a percentage of its revenue only to the extent as that revenue is created. If sales go down, then the business has a contractual right to pay less. If sales go up, the business may have to pay more." Unlike with a loan, "there's no absolute obligation to repay," said Kate.

Regarding the FTC's investigations into unfair and deceptive practices in the fintech and MCA industries, Kate cautioned that businesses "... should be motivated to improve compliance with the law." She recommends that companies make certain that they have a robust vendor-management policy in place, and that they review contracts with ISOs. Companies should also ensure that they have the ability to audit ISOs and monitor any complaints. "Take them seriously and respond," Kate said.

Kate is a partner in the firm's Hanover, MD office and co-chairs the firm's [Business Funding Group](#). She represents banks, finance companies, private equity and investment bank investors, merchant cash advance companies, and small business lenders in establishing new programs and products, and conducting due diligence and compliance reviews of consumer lending and business financing portfolios. Kate has testified before the United States House of Representatives Small Business Subcommittee regarding improving small business capital access and recently appeared several times before the California legislature and New Jersey Senate Committee on Commerce regarding proposed disclosures for business finance transactions.

[Click here](#) to read the article. You may also watch a recording of the May 8 Small Business Forum on the page.

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