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**To:** Clients and Friends

**From:** David F. Dulock

**Subject:** OCC Issues Final Rule Amending OCC Regulations to Negate Interest Rate Transfer Decision in *Madden v. Midland Funding, LLC*, 786 F.3d 246 (2d Cir. 2015)

By final rule effective August 3, 2020, the Office of the Comptroller of the Currency (OCC) negates the decision in *Madden v. Midland Funding, LLC*, 786 F.3d 246 (2d Cir. 2015), in which the Second Circuit held that a purchaser of a loan originated by a national bank could not charge interest at the rate permissible for the bank if that rate would be impermissible under the lower usury cap applicable to the purchaser. The OCC final rule also applies to savings associations, the deposits of which are insured by the FDIC (*see* 12 U.S.C. §§1813(b) and 1462). The final rule and the OCC’s preamble analysis are published in the June 2, 2020 *Federal Register* (85 FR 33530, [click here](#)).

For national banks, the final rule amends 12 CFR part 7 by adding paragraph (e) to §7.4001, which reads: “(e) *Transferred loans*. Interest on a loan that is permissible under 12 U.S.C. 85 shall not be affected by the sale, assignment, or other transfer of the loan.”

For savings associations, the deposits of which are insured by the FDIC, the final rule amends 12 CFR part 160 by adding paragraph (d) to §160.110, which reads: “(e) *Transferred loans*. Interest on a loan that is permissible under 12 U.S.C. 1463(g)(1) shall not be affected by the sale, assignment, or other transfer of the loan.”

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