



Partner Catherine Brennan comments for Bloomberg on earned-wage access products

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According to *Bloomberg*, the Consumer Financial Protection Bureau (CFPB) is expected to reconsider previous guidance exempting some earned-wage access (EWA) products from federal credit laws. Under former CFPB director Richard Cordray, the Bureau exempted EWA products from a 2016 rule on payday loans. In November 2020, the Bureau issued an advisory opinion stating that no-fee EWA products aren't offering credit because people are accessing their earned money and pay it back through future earnings without accruing any debt besides the initial amount advanced. The CFPB's acting general counsel, Seth Frotman, sent a letter to consumer advocates in January 2022 in response to a New Jersey bill that would exempt some products that collect fees directly from consumers from the state's usury laws. Frotman indicated that he wants the Bureau to reexamine the 2020 guidance and assess whether EWA products should be treated as credit.

The CFPB's influence could have an impact on state legislative battles, said [Catherine Brennan](#), a partner and chair of Hudson Cook's [Fintech practice group](#). "This letter is signaling where there's some friction points, where there's some points for advocates to press on," she said of Frotman's letter.

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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