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Washington, D.C. – The Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) today jointly filed an amicus brief in support of the petitioners to the U.S. Supreme Court in the case of Cantero v. Bank of America. CSBS and AARMR support effective supervision and regulation of the residential mortgage industry for both state-chartered banks and state-licensed nonbanks engaged in mortgage lending and servicing.

The implications of Cantero extend well beyond state laws requiring interest payments on certain escrow accounts, raising fundamental questions about the ability of the federal government to preempt state consumer protection laws – indiscriminately and without justification.

“The case is a clear example of federal overreach, which if left unchecked would harm consumers and ignore the high-bar for preemption set by the Supreme Court and enshrined by Congress in Dodd-Frank,” said CSBS Board Chair Lise Kruse, who serves as North Dakota Department of Financial Institutions Commissioner.

Congress included language in the Dodd-Frank Act that authorizes the preemption of state laws “only if” the state law “prevents or significantly interferes with” a national bank’s powers. Moreover, the law requires a case-by-case analysis of the interference and consultation with the Consumer Financial Protection Bureau before state consumer protection laws may be set aside by the Office of the Comptroller of the Currency (OCC). However, the national bank in this case has advocated for a much less restrictive standard, which would result in the preemption of many commonsense state consumer protection laws.

State regulators strongly disagree with the preemption test used by the Second Circuit, which is tied to an outdated and unlawful definition of preemption incorporated in OCC regulations. These OCC regulations ignore the standards and processes Congress mandated in the Dodd-Frank Act and are inconsistent with Supreme Court precedents regarding preemption of state laws governing financial services.

State regulators also asked the Supreme Court to consider the market implications if the OCC and national banks are permitted to preempt laws that remain applicable to state-chartered or state-licensed institutions.

“State-chartered banks and state-licensed servicers would not receive the preemptive benefit sought by the bank in this case, imposing a cost on many smaller banks and mortgage companies that the largest national banks seek

to avoid," said AARMR President Clifford Charland, Director of Non-Depository Operations for the Maryland Office of Financial Regulation.

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The Conference of State Bank Supervisors (CSBS) is the national organization of bank regulators from all 50 states, American Samoa, District of Columbia, Guam, Puerto Rico and U.S. Virgin Islands. State regulators supervise roughly three-quarters of all U.S. banks and a variety of non-depository financial services. CSBS, on behalf of state regulators, also operates the Nationwide Multistate Licensing System to license and register non-depository financial service providers in the mortgage, money services businesses, consumer finance and debt industries.

The American Association of Residential Mortgage Regulators is a non-profit corporation whose mission is to promote the exchange of information and education concerning the licensing, supervision and regulation of the residential mortgage industry, to ensure the ability of state mortgage regulators to provide effective mortgage supervision for a safe and sound industry meeting the needs of the local financial markets and to protect the rights of consumers.