OCC’s Faulty Analysis on Interchange Fees Would Lead to Industry and Consumer Uncertainty

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Washington, D.C. – Today, the Conference of State Bank Supervisors (CSBS) asked the Office of the Comptroller of the Currency (OCC) to revise its flawed analysis in an interim final order preempting the Illinois Interstate Fee Prohibition Act (IFPA) and to withdraw an unnecessary interim final rule regarding a national bank’s power to charge interchange fees.

While the IFPA would create significant operational and compliance challenges for banks, the OCC’s analysis applies a manufactured preemption standard that is inconsistent with the National Bank Act and the U.S. Supreme Court’s decision in *Cantero v. Bank of America*. If it is not revised, the interim final order could lead to protracted litigation and uncertainty across the banking industry for both national and state-chartered banks.

CSBS separately asked the OCC to withdraw its related interim final rule regarding a national bank’s power to charge interchange fees because it is too broad, overreaching, and not necessary.

Statement by CSBS President and CEO Brandon Milhorn:

“The IFPA and similar state laws raise important operational and policy questions for the banking industry, but those concerns must be addressed within the legal framework established by Congress and the courts.

“Federal preemption applies only when a state law prevents or significantly interferes with the exercise of national bank powers — not simply because the OCC considers a law inconvenient, inefficient, or unusual. This watered-down, unlawful preemption standard pressed relentlessly by the OCC encroaches on state sovereignty and creates needless uncertainty for the banking industry and consumers.”

Read CSBS statements and comments on preemption:

- CSBS Statement on the OCC’s Proposed Rule to Preempt the Illinois Interchange Fee Prohibition Act
- CSBS Statement on Cantero v. Bank of America

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The Conference of State Bank Supervisors (CSBS) is the national organization of financial regulators from all 50 states, American Samoa, District of Columbia, Guam, Puerto Rico, and U.S. Virgin Islands. State regulators supervise 79% 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.

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