OCC Preemption of the IFPA

COMMENT LETTER

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May 29, 2026
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Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219

Re: Order Preempting the Illinois Interchange Fee Prohibition Act [Docket ID OCC-2026-0431]

The Conference of State Bank Supervisors ("CSBS")1 provides the following comments on the interim final order ("Order") issued by the Office of the Comptroller of the Currency ("OCC"): *Order Preempting the Illinois Interchange Fee Prohibition Act*.2 The Illinois Interchange Fee Prohibition Act ("IFPA") raises difficult policy questions and creates significant operational complexities and compliance risks for banks; however, the preemption analysis contained in the Order is flawed because it applies a standard that is inconsistent with the Supreme Court decision in *Cantero v. Bank of Am., N.A.* ("*Cantero*").3 As explained below, the Order treats any conflict, regardless of its significance, as sufficient to warrant preemption under the National Bank Act ("NBA"). It also wrongly assumes, contrary to *Cantero*, that only state laws of general applicability escape preemption under the NBA.

CSBS has significant concerns with the serious operational and compliance challenges that the IFPA will create for banks. For this reason, it is of the upmost importance that the OCC rest any determination that the IFPA is preempted on a solid legal foundation. Unfortunately, the Order misses the mark in this respect. As with the prior interest-on-escrow preemption determination,4 this Order would further enshrine a manufactured, watered-down preemption standard that is inconsistent with Supreme Court precedent and the NBA. CSBS urges the OCC to revise its preemption analysis to address the critical flaws outlined in this letter in order to rest any conclusion that the IFPA is preempted on a solid legal basis.

Read the comment letter

- 1

[1] CSBS is the nationwide organization of state banking and financial regulators from all 50 states, the District of Columbia, and the U.S. territories.

- 2

  OCC, Interim Final Order, *Order Preempting the Illinois Interchange Fee Prohibition Act*, 91 Fed. Reg. 23150 (Apr. 29, 2026) (hereinafter the "Order").

- 3

  *See*Cantero v. Bank of Am., N.A.*, 602 U.S. 205 (2024).

- 4

  See OCC, Final Rule, *Preemption Determination: State Interest-on-Escrow Laws*, 91 Fed. Reg. 29350 (May 19, 2026).

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