November 23, 2026

Jennifer M. Jones
Deputy Executive Secretary
Attention: Comments — RIN 3064-AG34
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: State Bank Parity — RIN 3064-AG34

Dear Ms. Jones:

The Conference of State Bank Supervisors ("CSBS")[1] appreciates the opportunity to comment on the Federal Deposit Insurance Corporation's ("FDIC") proposed rule on State Bank Parity.[2] CSBS supports extending parity between state and national banks to services provided across state lines without a host-state branch. The proposed rule would help preserve a competitive state charter and the continuing role of state law and state supervision in interstate banking.

The proposal is targeted to the application of host-state law. It would not independently determine whether a particular host-state law is preempted, alter federal interest-rate authority, or reallocate state supervisory responsibilities. Nor would it validate the legally suspect preemption positions of the Office of the Comptroller of the Currency ("OCC").[3, 4]

I. Parity for non-branch services would preserve meaningful charter choice

A fundamental precept of the dual banking system is that banks have a meaningful choice between viable state and national charters as their business models and geographic reach evolve.[5] Disparate treatment of comparable interstate services can erode the viability of that choice by pressuring banks to select a national charter when they would otherwise prefer a state charter and state supervision. By extending parity to non-branch services, the proposal preserves the state charter as a practical alternative and sustains the diversity of supervisory approaches that is a central strength of the dual banking system.

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[1] CSBS represents state banking and financial regulators in all 50 states, the District of Columbia, and the U.S. territories. The views expressed in this letter do not necessarily reflect the positions of individual states.

[2] FDIC, Notice of Proposed Rulemaking, *State Bank Parity*, 91 Fed. Reg. 60018 (Sept. 22, 2026) (hereinafter the "proposal").

[3] *See* CSBS and American Association of Residential Mortgage Regulators, Comment Letter Re: Preemption Determination: State Interest-on-Escrow Laws; Real Estate Lending Escrow Accounts (Jan. 29, 2026) (hereinafter "CSBS/AARMR, Interest-on-Escrow Preemption Letter"); CSBS, Comment Letter Re: Order Preempting the Illinois Interchange Fee Prohibition Act, at 1–3 (May 29, 2026) (hereinafter "CSBS, IFPA Preemption Letter"). *See also Cantero v. Bank of Am., N.A.*, 602 U.S. 205, 219-20 (2024); *Conti v. Citizens Bank, N.A.*, 157 F.4th 10 (1st Cir. 2025); *Cantero v. Bank of Am., N.A.*, 2026 U.S. App. LEXIS 13066, *63 (May 5, 2026).

[4] Many of the OCC's legally suspect preemption determinations rely on preemption regulations at 12 C.F.R. §§ 7.4007 and 7.4008 that are overbroad and ignore the preemption standard and process required under 12 U.S.C. § 25b(b)(1)(B).

[5] *See* 143 Cong. Rec. H3088–89 (daily ed. May 21, 1997) (statement of Rep. Roukema) (describing the 1997 amendments as preserving the state charter as a "viable and effective option" for interstate banks); 143 Cong. Rec. H3094 (daily ed. May 21, 1997) (statement of Rep. Bereuter) (describing the 1997 amendments as preserving a "viable, competitive alternative to the national bank charter."). *See also* Alan Greenspan, Chairman, Board of Governors of the Federal Reserve System, *Financial Reform and the Importance of the State Charter*, remarks at the Annual Meeting and Conference of the Conference of State Bank Supervisors (May 3, 1997).

Among its many benefits, state supervision gives banks access to regulators who understand local markets and are accountable for addressing problems affecting the communities they serve. A bank should not be compelled to surrender that supervisory relationship as its customers and business expand across state lines.

Congress recognized the importance of interstate parity in the Riegle-Neal framework, which provides that host-state laws apply to branches of out-of-state state banks to the same extent they apply to comparable national bank branches.[6] Banking services increasingly reach customers through online and mobile platforms and other non-branch channels. Extending parity to these services would advance the same policy objective of preserving a viable state charter for interstate banking.

There is no rational basis to restrict parity based solely on the existence of a brick-and-mortar location. Instead, conditioning parity on the presence or absence of a physical branch will likely distort business decisions without necessarily improving service or supervision. A bank may incur the expense of a branch that its customers do not need, limit the geographic availability of a product, or consider a charter conversion to avoid unequal treatment. Smaller institutions are particularly sensitive to costs that must be spread across a limited customer base.[7] The proposed rule would enable state banks to serve customers across state lines on an equal footing with national banks without establishing branches solely to obtain parity. That flexibility will undoubtedly expand customers' access to banking services while allowing their banks to retain state charters and established supervisory relationships.

II. The proposal is limited to parity in the application of host-state law

The proposed rule would extend parity to non-branch services while retaining the limits of the existing framework. It would not independently determine whether a particular host-state law is preempted, alter federal interest-rate authority, or reallocate state supervisory responsibilities.

a. The proposed rule would not independently determine that state law is preempted

As the FDIC explains, the proposed rule would not independently determine that any particular host-state law is preempted.[8] Its effect would be derivative: a state bank would receive relief from a host-state requirement only to the extent that requirement is lawfully inapplicable to comparable services provided by an out-of-state national bank. The rule would supply no independent basis for preemption under the National Bank Act.

Host-state requirements that apply to comparable national bank services would continue to apply to services provided by out-of-state state banks. For example, a host-state fair lending requirement applicable to those national bank services would also apply to an out-of-state state bank providing the same services. The OCC itself acknowledged in 2004 that its preemption regulations did not preempt state anti-discrimination laws.[9] In those unusual circumstances where host-state law would be inapplicable under the parity framework due to a lawful preemption determination, home-state law would apply.[10]

Parity would depend solely on the scope and continued validity of the underlying national bank treatment. If a preemption determination were set aside or held inapplicable, the rule would provide no independent

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[6] 12 U.S.C. § 1831a(j)(1).

[7] Research finds that the smallest financial institutions consistently report higher regulatory compliance costs than their larger financial institution peers. *See, e.g.*, Thomas Siems, *Do Banking Regulations Disproportionately Impact Smaller Community Banks?* (July 29, 2025).

[8] Proposal, 91 Fed. Reg. at 60021.

[9] *See*, *e.g.*, OCC Interpretive Letter No. 998, at 1 (Mar. 9, 2004) (published Aug. 2004).

[10] *See* Proposed 12 C.F.R. § 331.3, 91 Fed. Reg. at 60025.

basis for preserving an exemption for a state bank unless another valid basis supported equivalent national bank treatment.

CSBS has opposed and will continue to oppose OCC preemption initiatives that exceed the agency's authority or evade the substantive and procedural limits imposed by federal law. State consumer protection laws enable states to respond to harmful practices and protect their residents.[11] Unlawful federal preemption deprives consumers of those vital protections and undermines the state regulatory system.[12]

When the OCC seeks to preempt a state consumer financial law, federal law mandates a case-by-case determination, supported by substantial evidence on the record, that the law prevents or significantly interferes with a national bank's exercise of its powers.[13] This case-by-case determination is necessary because federal law expressly precludes field preemption.[14] In *Cantero v. Bank of America, N.A.*, the Supreme Court required a practical assessment of the nature and degree of interference, informed by its preemption precedents.[15] Identifying the existence of an insignificant compliance cost or effect on a bank's business decisions is not a substitute for that required analysis.

CSBS has repeatedly challenged OCC initiatives that disregard these limits. We opposed the interest-on-escrow preemption and escrow-account proposals because they failed to satisfy the dictates of Section 25b and *Cantero*.[16] CSBS has also challenged the standard and process followed by the OCC in its preemption analysis of the Illinois Interchange Fee Prohibition Act for treating almost any interference with national bank powers as sufficient without properly assessing its significance against the "prevents or significantly interferes" standard in the National Bank Act.[17] CSBS further opposed the interim final rule on non-interest charges and fees because its broad description of national bank powers could create conflicts with state laws unrelated to interchange fees.[18] The OCC cannot circumvent the mandatory preemption inquiry by declaring that a bank has unrestricted discretion to exercise any narrowly-defined banking power.

CSBS continues to urge the OCC to rescind and replace its categorical preemption regulations with a framework faithful to Section 25b.[19] Extending parity to non-branch services would increase the consequences of OCC preemption decisions for state banks, reinforcing the need for compliance with the legal limits clearly established by Congress and the courts.

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[11] *See* S. Rep. No. 111-176, at 174–75 (2010) (explaining that state initiatives help identify the need for federal consumer protection measures and that "[s]tates are much closer to abuses and are able to move more quickly when necessary to address them"). *See also* Di Wu, Abdoul G. Sam & Xiangrui Wang, *Spillover Effects of Financial Deregulation: The Unintended Consequences of the OCC Preemption Rule on Mortgage Lending Practices*, 95 Int'l Rev. Fin. Analysis, art. 103462 (2024) (finding that OCC preemption of state anti-predatory lending laws increased income overstatement and falsification on subprime mortgages).

[12] *See id.*, at 16–17 (2010) (discussing federal preemption of state anti-predatory-lending laws and its contribution to consumer harm); CSBS, Letter Re: Rescission of OCC Preemption Regulations (May 8, 2025) (arguing that the OCC's preemption regulations unlawfully shield national banks from state consumer financial laws and confer a competitive advantage on national charters at the expense of state charters). *See also* Testimony of Arthur E. Wilmarth, Jr., Before the Senate Committee on Banking, Housing, and Urban Affairs, at 52–53 (Apr. 7, 2004) (explaining how broad OCC preemption would undermine meaningful charter choice, impair state regulatory authority, and diminish consumer protection).

[13] 12 U.S.C. §§ 25b(b)(1)(B), (b)(3), and (c).

[14] 12 U.S.C. § 25b(b)(4).

[15] *See Cantero v. Bank of America, N.A.*, 602 U.S. 205, 219–21 (2024).

[16] *See* CSBS/AARMR, Interest-on-Escrow Preemption Letter, *supra* note 3.

[17] *See* CSBS, IFPA Preemption Letter, *supra* note 3, at 1–3 (May 29, 2026). CSBS noted the significant costs associated with implementation of the Illinois Interchange Fee Prohibition Act and sought a proper and careful analysis of the impact of the rule under the National Bank Act preemption standard. *Id.*

[18] *See* CSBS, Comment Letter Re: National Bank Non-Interest Charges and Fees, at 2–3 (May 29, 2026).

[19] *See* CSBS, *supra* note 12.

b. Federal and state interest-rate authority and DIDMCA opt-outs would remain unchanged

The FDIC expressly states that the proposal would not affect the interest rates state banks may charge under Section 27 of the Federal Deposit Insurance Act.[20] The proposed rule would neither expand interest-rate exportation authority nor alter the scope or effect of state opt-outs under the Depository Institutions Deregulation and Monetary Control Act of 1980 ("DIDMCA"). Questions concerning where a loan is made and the application of a state opt-out would continue to be governed by that separate statutory framework.[21]

c. The proposed rule would preserve existing state supervisory authority

Under the proposal, state banks would remain subject to state supervision when serving customers across state lines. The rule would address the application of substantive host-state law without reallocating existing supervisory responsibilities. Home- and host-state regulators would continue to exercise their examination and enforcement authority under applicable law, including with respect to non-branch activities. The rule would not establish exclusive home-state supervision of all interstate activity.

State regulators would also retain their ability to share information, coordinate examinations, and address violations of applicable law through existing cooperative arrangements. These arrangements help regulators identify problems affecting residents of more than one state while limiting unnecessary duplication. State regulators could consider updating the Nationwide Cooperative Agreement to address coordination for non-branch services. Any such revisions would be a matter for the participating regulators; the proposed rule would not amend their agreements.[22]

Conclusion

CSBS appreciates the FDIC's acknowledgement of the critical importance of the continued viability of the state charter. This targeted proposal would help preserve meaningful charter choice for interstate banking while maintaining the role of state law and state supervision.

Sincerely,

Brandon Milhorn
President and CEO

[20] *See* Proposal, 91 Fed. Reg. at 60020–21 (discussing 12 U.S.C. § 1831d and section 111 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994).
[21] The scope of state opt-outs under section 525 of DIDMCA—including whether "loans made in such State" encompasses loans extended by out-of-state state-chartered banks to borrowers in an opt-out state—is the subject of ongoing litigation. *See* Order at 2–3, *Nat'l Ass'n of Indus. Bankers v. Weiser*, No. 24-1293 (10th Cir. Apr. 2, 2026) (granting rehearing en banc and directing supplemental briefing on the interpretation of section 525); Complaint ¶¶ 1–10, *Nat'l Ass'n of Indus. Bankers v. O'Day*, No. 6:26-cv-01201-AA (D. Or. June 15, 2026), ECF No. 1 (challenging Oregon's application of its opt-out to loans extended by out-of-state state-chartered banks). The proposed rule would not affect these disputes.
[22] *See* CSBS, Nationwide Cooperative Agreement (1997).