: 4810-33-P]

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket ID OCC-2026-0431]

RIN 1557-ZA10

Order Preempting the Illinois Interchange Fee Prohibition Act

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Interim final order; request for comments.

SUMMARY: The OCC is issuing an interim final order concluding that Federal law preempts the Illinois Interchange Fee Prohibition Act, which purports to prohibit national banks and Federal savings associations from charging or receiving interchange fees on the tax and gratuity portions of payment card transactions; and restrict the use of payment card transaction data. The OCC invites public comments on this interim final order.

DATES: The interim final order is effective June 30, 2026. Comments on the interim final order must be received on or before [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER***].

ADDRESSES: Commenters are encouraged to submit comments through the Federal eRulemaking Portal. Please use the title "Order Preempting the Illinois Interchange Fee Prohibition Act" to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal – Regulations.gov:*

Go to *https://regulations.gov/*. Enter Docket ID "OCC-2026-0431" in the Search Box and click "Search." Public comments can be submitted via the "Comment" box below the displayed document information or by clicking on the document title and then clicking the "Comment" box on the top-left side of the screen. For help with submitting effective comments, please click on "Commenter's Checklist." For assistance with the *Regulations.gov* site, please

call 1-866-498-2945 (toll free) Monday-Friday, 9 a.m.-5 p.m. ET, or e-mail *regulationshelpdesk@gsa.gov*.

- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, 400 7th Street, SW, Suite 3E-218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street, SW, Suite 3E-218, Washington, DC 20219.

Instructions: You must include "OCC" as the agency name and Docket ID "OCC-2026-0431" in your comment. In general, the OCC will enter all comments received into the docket and publish the comments on the *Regulations.gov* website without change, including any business or personal information provided such as name and address information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this action by the following method:

- *Viewing Comments Electronically – Regulations.gov:*

Go to *https://regulations.gov/*. Enter Docket ID "OCC-2026-0431" in the Search Box and click "Search." Click on the "Dockets" tab and then the document's title. After clicking the document's title, click the "Browse All Comments" tab. Comments can be viewed and filtered by clicking on the "Sort By" drop-down on the right side of the screen or the "Refine Comments Results" options on the left side of the screen. Supporting materials can be viewed by clicking on the "Browse Documents" tab. Click on the "Sort By" drop-down on the right side of the screen or the "Refine Results" options on the left side of the screen checking the "Supporting & Related Material" checkbox. For assistance with the *Regulations.gov* site, please call 1-866-498-2945 (toll free) Monday-Friday, 9 a.m.-5 p.m. ET, or e-mail *regulationshelpdesk@gsa.gov*.

The docket may be viewed after the close of the comment period in the same manner as during the comment period.

FOR FURTHER INFORMATION CONTACT: Karen McSweeney, Special Counsel, Priscilla Benner, Counsel, and Elizabeth Small, Counsel, Chief Counsel's Office, 202-649-5490; Office of the Comptroller of the Currency, 400 7th Street, SW, Washington, DC 20219. If you are deaf, hard of hearing or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

Credit and debit cards (payment cards) are vital and deeply rooted components of the modern American and global economy. They are among the most universally accepted and common payment methods, routinely used by millions of customers to pay merchants for products and services worldwide.[1]

National banks and Federal savings associations serve essential roles within card networks, which are a crucial means of exercising their statutory deposit-taking and lending powers. They contract with card networks (*e.g.*, Visa and Mastercard) and others to facilitate payment card transactions. As the issuers of credit and debit cards, they provide payment cards to customers, assess cardholder risk, and offer services including fraud detection and prevention, dispute resolution, and rewards programs. As acquirers, they contract with merchants who accept payment cards and connect these merchants to the card network so that transactions are seamlessly processed and settled.

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[1] OCC, *Comptroller's Handbook*, "Credit Card Lending," 1 (2021) ("Credit Card Lending Handbook"). *See also* Berhan Bayeh et al., Federal Reserve 2025 Findings from the Diary of Consumer Payment Choice at 5 (finding that, in 2024, credit and debit cards were used for approximately 65 percent of consumer payments).

As compensation, national banks and Federal savings associations are paid fees for their payment card services. These fees, which include interchange fees,[2] compensate these institutions for the costs of their participation, incentivize their provision of services and continued participation in the network, and enable enhancements, such as fraud detection and prevention, rewards programs, and technology upgrades.

Interchange fees have often been the focus of lawmakers. In 2010, as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), Congress limited certain debit card interchange fees in a provision generally known as "the Durbin Amendment."[3] In 2024, in an effort to balance the State's budget,[4] the Illinois legislature enacted the Interchange Fee Prohibition Act (IFPA), which becomes effective on July 1, 2026.[5] The IFPA (1) prohibits charging or receiving interchange fees on the tax and gratuity portions of payment card transactions; and separately (2) restricts the use of payment card transaction data.

The IFPA may have a destabilizing effect on the nation's payment card systems. At a minimum, the systems' participants, including national banks and Federal savings associations, may have to spend "staggering" sums to comply with this single State's law.[6] Card network participants may have to significantly alter their operations, which could include national banks or Federal savings associations declining payment card transactions subject to the IFPA. Some have stated that compliance with the IFPA could lead to "potentially business-ending consequences" for some participants.[7]

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[2] An "interchange fee" is generally the fee paid to an issuer bank as part of a payment card transaction.

[3] Pub. L. 111-203, 124 Stat. 1376, Title X, Sec. 1075, codified at 15 U.S.C. 1693o-2.

[4] *See American Banker, Why Illinois' Budget Bill has Bankers Sounding the Alarm* (June 10, 2024), available at *https://www.americanbanker.com/news/why-illinois-budget-bill-has-bankers-sounding-the-alarm*; *Bloomberg Law*, *Illinois Credit Card Swipe Fee Law Sparks Legal Fight with Banks* (Aug. 8, 2024), available at *https://news.bloomberglaw.com/banking-law/illinois-credit-card-swipe-fee-law-sparks-legal-fight-with-banks*.

[5] 815 Ill. Comp. Stat. 151/10-1 *et seq*.

[6] *Ill. Bankers Ass'n v. Raoul*, --- F. Supp. 3d ---, 2026 WL 371196, at *13 (N.D. Ill. Feb. 10, 2026).

[7] *Id.* at *6.

As applied to national banks and Federal savings associations, the IFPA also runs afoul of the Supremacy Clause of the U.S. Constitution and is preempted.[8] Although the OCC believes that this conclusion is clear under relevant Supreme Court precedent, the IFPA has been the subject of litigation since shortly after its enactment, which has led to substantial uncertainty for national banks and Federal savings associations.[9] As such, the OCC is issuing this interim final order concluding that the IFPA is preempted by (1) the National Bank Act with respect to national banks; and (2) the Home Owners' Loan Act of 1933 (HOLA) respect to Federal savings associations.[10] This order will provide urgently needed clarity to help ensure national banks' and Federal savings associations' continued safe, sound, reliable, efficient, and effective participation in the payment card system.[11] Given the importance of this issue, the OCC also invites public comment on all aspects of this order and intends to issue a final order as soon as possible after the close of the comment period and after sufficient time to consider and address comments. The agency notes that nothing in this order would change the applicability of any other federal laws that do or may in the future apply to national banks or Federal savings associations regarding payment cards or otherwise.

B. Summary of the IFPA

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[8] U.S. Const. art. VI, cl. 2.

[9] *See, e.g.*, *Ill. Bankers Ass'n*, 2026 WL 371196.

[10] The analysis in this interim final order focuses on national bank powers and preemption of the IFPA by the National Bank Act. However, the HOLA and its implementing regulations provide Federal savings associations with comparable powers. *See* 12 U.S.C. 1464; 12 CFR 145.17, 155.200. The HOLA also applies "the laws and legal standards applicable to national banks" in determining whether Federal law preempts State regulation of Federal savings associations. 12 U.S.C. 1465(a). As such, this interim final order applies equally to Federal savings associations and preemption by the HOLA.

[11] Congress and courts have long recognized the OCC's authority to provide clarity on preemption. *See* 5 U.S.C. 554(e) (authorizing agencies to issue declaratory orders "to terminate a controversy or remove uncertainty"); *see also* 12 U.S.C. 25b (expressly granting the OCC authority to issue preemption determinations on State consumer financial laws by regulation or order); 12 U.S.C. 43 (recognizing the OCC's authority to issue interpretive rules or opinion letters on preemption); *Aguayo v. U.S. Bank*, 653 F.3d 912, 919 (9th Cir. 2011) (concluding that the OCC's "regulatory authority, which carries the same weight as federal statutes, includes interpretation of state law preemption under the NBA"); *Wells Fargo Bank N.A. v. Boutris*, 419 F.3d 949, 962 (9th Cir. 2005) ("once the OCC's authority to allow the creation of and to regulate operating subsidiaries as it has done is established, its authority to displace contrary state regulation where the Bank Act itself preempts contrary state regulation of national banks follows"); *Wachovia Bank, N.A. v. Burke*, 414 F.3d 305, 314 (2d Cir. 2005) ("Federal courts have recognized that the OCC may issue regulations with preemptive effect.").

Interchange Fee Prohibition. The first operative provision of the IFPA prohibits card issuer banks, card networks, acquirer banks, and other participants from receiving or charging a merchant an interchange fee on the tax or gratuity amount of a payment card transaction.[12] This prohibition applies if the merchant informs the acquirer bank of the tax or gratuity amount as part of the authorization or settlement of the transaction.[13] Alternatively, the merchant has 180 days to transmit the relevant documentation (*e.g.*, paper receipts) to the acquirer bank, after which the issuer bank has 30 days to credit the merchant for any interchange fee charged on the tax or gratuity amount.[14] Violations of the interchange fee prohibition carry a civil penalty of $1,000 per transaction.[15]

Data Use Limitation. The second operative provision of the IFPA provides that no "entity, other than the merchant, involved in facilitating or processing" a payment card transaction may "distribute, exchange, transfer, disseminate, or use" transaction data except to facilitate or process the transaction or as otherwise required by law.[16] Violations of the data use limitation are violations of the Illinois Consumer Fraud and Deceptive Business Practices Act.[17]

II. Preemption Analysis

A. Preemption Standard

The Supremacy Clause of the U.S. Constitution provides that Federal law is "the supreme Law of the Land" and contrary State law is preempted.[18] In applying this principle, the Supreme Court has identified several ways in which Federal law may preempt State law, including when

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[12] 815 Ill. Comp. Stat. 151/150-10(a). The IFPA defines an interchange fee as "a fee established, charged, or received by a payment card network for the purpose of compensating the issuer for its involvement in an electronic payment transaction." *Id*. at 151/150-5.

[13] *Id*. at 151/150-10(a).

[14] *Id*. at 151/150-10(b).

[15] *Id*. at 151/150-15(a).

[16] *Id*. at 151/150-15(b).

[17] *Id.*

[18] *Supra* note 8 ("This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.").

there is a conflict between State and Federal law.[19] In *Barnett Bank*, the Supreme Court clarified the standard for conflict preemption in the national banking context, holding that State law is preempted when it "prevent[s] or significantly interfere[s]" with a national bank's exercise of its Federal powers.[20] The *Barnett Bank* Court also stated that Federal grants of authority in the national banking context are "not normally limited by, but rather ordinarily pre-empt[], contrary state law."[21]

In 2024, in *Cantero v. Bank of America*, the Supreme Court reaffirmed the *Barnett Bank* standard and explained that its application must be based on "a practical assessment of the nature and degree of the interference caused by a state law."[22] This assessment may include consideration of *Barnett Bank* and its antecedents and be based on "the text and structure of the laws, comparison to other precedents, and common sense."[23] In addition to *Barnett Bank*, the *Cantero* Court specifically discussed six antecedent cases, noting that they "furnish content" regarding the *Barnett Bank* standard:[24] *Fidelity Federal Savings & Loan Ass'n v. de la Cuesta*,[25] *Franklin National Bank of Franklin Square v. New York*,[26] *First National Bank of San Jose v. California*,[27] *Anderson National Bank v. Luckett*,[28] *McClellan v. Chipman*,[29] and *First National Bank v. Kentucky*.[30]

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[19] *Barnett Bank of Marion Cnty., N.A. v. Nelson*, 517 U.S. 25 (1996).

[20] *Id.* at 33.

[21] *Id.* at 32. As this language in *Barnett Bank* reflects, there is no presumption against preemption in the context of National Bank Act preemption. *See, e.g.*, *Bank of Am. v. City & Cnty. of S.F.*, 309 F.3d 551, 558 (9th Cir. 2002).

[22] 602 U.S. 205, 219-20 (2024).

[23] *Id.* at 220 n.3; *see id.* 219-21.

[24] *Id.* at 219-20. The Court also stated that "courts addressing preemption questions in this context must do as *Barnett Bank* did and likewise take account of those prior decisions of this Court and similar precedents." *Id*. at 215-16.

[25] 458 U.S. 141 (1982).

[26] 347 U.S. 373 (1954).

[27] 262 U.S. 366 (1923).

[28] 321 U.S. 233 (1944).

[29] 164 U.S. 347 (1896).

[30] 76 U.S. 353 (1869). The OCC recently proposed a preemption determination on several State interest-on-escrow laws, which contains an extensive discussion of these antecedent cases. *See* Preemption Determination: State

B. Interchange Fee Prohibition

When the OCC charters a national bank, the bank "gains various enumerated and incidental powers."[31] For example, national banks have express statutory authority to "loan[] money on personal security," "receiv[e] deposits," and engage in "all such incidental powers as shall be necessary to carry on the business of banking."[32] As the OCC and courts have long recognized, national banks thus have broad powers to engage in activities that are part of, or incidental to, the business of banking, including issuing payment cards and processing payments.[33]

National banks also have the authority to be compensated for the products and services they provide, including to charge and receive interchange fees for processing payment card transactions.[34] To address any confusion and expressly reaffirm this authority, at the same time that the OCC is issuing this preemption order, the agency is also issuing an interim final rule to amend 12 CFR 7.4002.[35] The interim final rule codifies national banks' authority to charge non-interest charges and fees, specifically stating that they have the power to "assess, collect, impose, levy, receive, reserve, take, or otherwise obtain" non-interest charges and fees, including interchange fees from payment card activity, regardless of whether those fees are set by the bank or a third party.

Interest-on-Escrow Laws, 90 FR 61093 (Dec. 30, 2025). The application of these cases to the IFPA is discussed below.

[31] *Cantero*, 602 U.S. at 210.

[32] 12 U.S.C. 24(Seventh)*; see also* 12 CFR 7.1000.

[33] *See, e.g.*, OCC Conditional Approval No. 773, 2006 WL 4589434, at *1 (Nov. 30, 2006) ("[M]erchant processing activities are part of, or incidental to, the business of banking[.]"); OCC Corporate Decision 99-50, at 4 (Dec. 23, 1999) ("[P]rocessing credit and debit card transactions and other electronic payments are clearly part of the business of banking[.]"), *https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2000/cd99-50.pdf*; OCC, Conditional Approval No. 248, at 4 (June 27, 1997) ("It is clear that merchant processing activities are permissible for national banks[.]"), *https://www.occ.gov/topics/chartersand-licensing/interpretations-and-actions/1997/ca248.pdf*.

[34] *See, e.g.*, 12 CFR 7.4002; OCC Interpretive Letter 932 (Aug. 17, 2001) (discussing national banks' authority to charge non-interest charges and fees), *https://www.occ.treas.gov/topics/charters-and-licensing/interpretations-and-actions/2002/int932.pdf*. *See also* 15 U.S.C. 1693o-2 (demonstrating Congress's recognition that credit and debit card "issuers," including national banks, may charge "interchange transaction fees.").

[35] The interim final rule on non-interest charges and fees is published elsewhere in this issue of the *Federal Register*.

While *Cantero*, *Barnett Bank*, and *Barnett Bank's* antecedents do "not purport to establish a clear line to demarcate" which State laws are and are not preempted, they offer a lens through which the standard comes into focus.[36] Specifically, these cases demonstrate that, at a minimum, a State law prevents or significantly interferes with a Federal power when it (1) interferes with critical flexibility granted to a national bank under Federal law (*Fidelity*); (2) interferes with a national bank's efficiency or effectiveness in exercising its Federal power (*Franklin*); or (3) qualifies a Federal power in an unusual way (*San Jose*). The interchange fee prohibition does all three.[37]

As revised, 12 CFR 7.4002 should remove any doubt that Federal law both authorizes national banks to charge interchange fees and vests them with wide flexibility to charge such fees in accordance with sound business judgment and safe and sound banking principles.[38] This flexibility supports a national bank's efficient and effective exercise of its deposit-taking, lending, and payment processing powers, as well as its corollary authority to be compensated. Federal law grants these powers to national banks "without relevant qualification," and as such, these grants are "not normally limited by, but rather ordinarily preempt[], contrary state law."[39] As was the case in *Fidelity*, where a State law restricting the use of due-on-sale clauses interfered with the flexibility granted by Federal law, the IFPA's interchange fee prohibition restricts a

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[36] *Cantero*, 602 U.S. at 215.

[37] As the First Circuit recently observed, certain State laws can create an "obvious" or direct conflict with Federal law that results in preemption under the *Barnett Bank* standard. *Conti v Citizens Bank NA*, 157 F.4th 10, 17-18 (1st Cir. 2025).

[38] *See Baptista v. JPMorgan Chase Bank, N.A.*, 640 F.3d 1194, 1198 n.2 (11th Cir. 2011) ("[T]he significant objective of 12 CFR § 7.4002 is to allow national banks to charge fees and to allow banks latitude to decide how to charge them."). The revised 12 CFR 7.4002 also makes clear that "charge" means to assess, collect, impose, levy, receive, reserve, take, or otherwise obtain, including through a fee sharing or similar economic relationship. It also clarifies that national banks may take such actions directly or through intermediaries, partners, payment networks, interchanges, or other third parties.

[39] *Barnett Bank*, 517 U.S. at 32. In *Barnett Bank*, the State law forbade national banks from engaging in a power (selling insurance in small towns) that Congress had expressly authorized "without relevant qualification" so the State law was preempted. *Id.*

national bank's discretion to determine the appropriate compensation for its payment card activity, thereby interfering with the flexibility granted by Federal law.[40]

Franklin, which the Supreme Court described as the "paradigmatic example of significant interference,"[41] is also apt. Much like the State law advertising restriction in *Franklin*,[42] which interfered with a national bank's efficient and effective exercise of its powers, the IFPA's prohibition on certain interchange fees has a comparable effect. Participation in one or more card networks supports a national bank's efficient and effective exercise of its deposit-taking and lending powers by providing benefits that national banks can leverage, including expertise, technological infrastructure, and economies of scale. For example, participation in a card network avoids the need for national banks to engage in complex, inefficient, ineffective, and costly bilateral negotiations with myriad counterparties to establish the terms of payment card activity. Instead, the card networks have a comprehensive set of rules that govern use of the network and interactions among its participants. The card networks also provide other important services, including risk management services to detect and prevent fraud. This framework improves safety, certainty, and interoperability, thereby increasing the efficiency and effectiveness of payment card activity. Compliance with the interchange fee prohibition, however, is likely to introduce significant complexity into the payment card systems, including

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[40] *See Fidelity*, 458 U.S. at 155 (finding preempted a California State law that forbade a Federal savings and loan association from exercising a due-on-sale clause at its option and thus "deprived the lender of the 'flexibility'" given to it by Federal law); *see also, e.g.*, *Gutierrez v. Wells Fargo Bank, NA*, 704 F.3d 712, 723, 730 (9th Cir. 2012) (holding that "[b]oth the 'business of banking' and the power to 'receiv[e] deposits' necessarily include the power to post transactions" and that a State law purporting "to dictate a national bank's order of posting" is preempted (second alteration in original) (quoting 12 U.S.C. 24)), *abrogated in part on other grounds by TransUnion LLC v. Ramirez*, 594 U.S. 413 (2021); *Baptista*, 640 F.3d at 1198 ("The state's prohibition on charging fees to non-account-holders, which reduces the bank's fee options by 50%, is in substantial conflict with federal authorization to charge such fees."); *Monroe Retail, Inc. v. RBS Citizens, N.A.*, 589 F.3d 274, 284 (6th Cir. 2009) (holding that the State law would "'significantly interfere' not only with the [b]anks' ability to collect and set their service fees, but also with the [b]anks' federal authority to complete other transactions and balance their accounts" (citation omitted)); *Wells Fargo Bank of Tex. NA v. James*, 321 F.3d 488, 495 (5th Cir. 2003) ("[N]ational banks are authorized by federal regulation 12 CFR 7.4002(a) to charge non-account holding payees a check-cashing fee. Thus, because [the State law] prohibits the exercise of a power which federal law expressly grants the national banks, [it] is in irreconcilable conflict with the federal regulatory scheme, and it is preempted by operation of the Supremacy Clause."); *Bank of Am.*, 309 F.3d at 564 ("[T]he National Bank Act and OCC regulations together preempt conflicting state limitations on the authority of national banks to collect fees for provision of deposit and lending-related electronic services.").

[41] *Cantero*, 602 U.S. at 216.

[42] *Id.*; *see Franklin*, 347 U.S. at 377-78.

by requiring national banks to accommodate the taxation schemes of hundreds of localities.[43] This jeopardizes national banks' ability to effectively and efficiently participate in the payment card systems, and thereby exercise their lending and deposit-taking powers, on a national scale.[44]

In addition, interchange fees are an important aspect of the compensation structure that a national bank evaluates when deciding whether to participate in a card network. These fees compensate the bank for the cost of processing a payment card transaction, as well as its assumption of related risks such as fraud and non-payment.[45] The fees also support the bank's broader payment card infrastructure, such as its fraud detection and prevention tools, and they fund valuable customer services like rewards programs. Under the interchange fee prohibition, however, a national bank would be required to process the entirety of a card transaction but be denied compensation for the portion of the transaction related to taxes and tips. To offset the uncompensated portion, a national bank could pursue less efficient and less effective alternatives, such as increasing costs for credit and debit card users, limiting or eliminating rewards programs, or deferring investments in tools to detect and prevent fraud. For some national banks, the consequences of this State law may even be "business-ending."[46] This interference with a national bank's efficient and effective exercise of its powers is at least as significant as the

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[43] *See* 815 Ill. Comp. Stat. 151/150-5 (defining "tax" as "any use and occupation tax or excise tax imposed by the State or a unit of local government in the state").

[44] *See, e.g.*, *Rose v. Chase Bank, USA, N.A.*, 513 F.3d 1032, 1037-38 (9th Cir. 2008) (concluding that, under *Barnett Bank* and *Franklin*, State disclosure requirements on certain credit products known as convenience checks are preempted based on their interference with a national bank's exercise of its lending power, even though such disclosures did not directly affect the terms of the bank's lending); *Parks v. MBNA Am. Bank, N.A.*, 278 P.3d 1193, 1200 (Cal. 2012) ("However, to say that [a national bank] *may* offer convenience checks *so long* as it complies with [State disclosure laws on certain credit products] is equivalent to saying that [the bank] *may not* offer convenience checks *unless* it complies with [the State law]. Whether phrased as a conditional permission or as a contingent prohibition, the effect of [the State law] is to forbid national banks from offering credit in the form of convenience checks unless they comply with state law.").

[45] *See* OCC, *Comptroller's Handbook*, "Merchant Processing" 32, 82 (2014); OCC, *Comptroller's Handbook,* "Payment Systems" 97 (2021) ("Payment Systems Handbook") (describing the interchange fee is a "fee paid by one bank to another to handle costs and credit risk"); Credit Card Lending Handbook, *supra*, at 60, 172 ("The [interchange] fee takes into account authorization costs, fraud and credit losses, and the average bank cost of funds.").

[46] *Ill. Bankers Ass'n*, 2026 WL 371196, at *6.

interference in *Franklin*.[47] Indeed, it is hard to imagine a more "unusual" qualification on a national bank's exercise of its powers.[48]

A national bank's decision to contract with a card network to facilitate its payment card activity does not change this analysis. National banks have clear authority to contract with third parties,[49] and the OCC's concurrent interim final rule unambiguously reaffirms a national bank's power to charge interchange and other fees "set" by third parties. As outlined above, contracting with third parties, including the card networks, provides many benefits to a national bank. Reliance on a third-party service like a card network is thus "one of the most usual and useful of weapons" in the modern economy.[50] Absent "some affirmative indication" from Congress,[51] then, the role of the card networks does not change the conclusion that the interchange fee prohibition is preempted. To hold otherwise would expose broad swaths of national bank activity to State law that would otherwise be preempted, simply because the bank contracts with a third party to facilitate its exercise of its powers. Such an odd result would undermine National Bank Act preemption and the intent of Congress.

As the foregoing demonstrates, the nature and degree of the interchange fee prohibition's interference with a national bank's Federal powers is "more akin" to the interference in the cases where the Court found preemption, including *Franklin*, *Fidelity*, *Barnett Bank*, and *San Jose*.[52]

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[47] *See Kivett v. Flagstar Bank, FSB*, 154 F.4th 640, 660 (9th Cir. 2025) (Nelson, J., dissenting) (concluding that the advertising restriction in *Franklin* "pales in comparison to a state law that dictates a national bank's pricing").

[48] *See First Nat'l Bank of San Jose*, 262 U.S. at 370. For similar reasons, the interchange fee prohibition is clearly not comparable to the State law at issue in *Anderson*, which applied a rule that was as "old as the common law itself." 321 U.S. at 251-52.

[49] *See, e.g.*, 12 U.S.C. 24(Third); *see also* 12 U.S.C. 1867 (authorizing the OCC to regulate and examine certain services performed for national banks by third parties "to the same extent as if such services were being performed by the [national bank] itself," which further demonstrates Congress's recognition that national banks routinely use third-party services).

[50] *See Franklin*, 347 U.S. at 377.

[51] *Id.*

[52] *Cantero* also referenced three antecedent cases in which the Court found that a State law was not preempted. In each of these cases (*Anderson*, *Kentucky*, and *McClellan*), the State law at issue was one of general applicability. *See Cantero*, 602 U.S. at 217-19. These cases are inapposite to this analysis. The interchange fee prohibition, which is targeted at payment card activity, is hardly a law of general applicability.

Therefore, the interchange fee prohibition "must give way" to Federal law and is preempted with respect to national banks.[53]

C. Data Use Provision

Under Federal law, national banks have the power to use data in a variety of ways. Specifically, as part of the business of banking, national banks may engage in a range of services related to banking, financial, or economic data.[54] Banks may provide these services, which include collecting, transcribing, analyzing, and storing data, for themselves or others.[55] One type of this data is transaction data,[56] which can be used to strengthen risk management, support fraud analysis, tailor products and services to customer needs, and increase operational efficiency.[57] Accordingly, Federal regulations and guidance afford national banks the flexibility to integrate risk management principles "within the bank's risk management system commensurate with the bank's size, complexity, and risk profile," to include utilizing transaction data in support of fraud detection and prevention.[58]

The IFPA's data use limitation imposes a near-complete ban on a national bank's use of electronic payment transaction data. Such a prohibition is clearly preempted under *Cantero*,

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[53] *See Watters v. Wachovia Bank, N.A.*, 550 U.S. 1, 12-13 (2007). As explained above (*supra* n.10), the interchange fee prohibition is also preempted with respect to Federal savings associations.

[54] 12 CFR 7.5006(a); *see also* 12 CFR 7.5006(b) (discussing when a national bank may perform these activities with respect to other types of data).

[55] OCC. Interpretive Letter 928, 4 (Dec. 24, 2001) *https://www.occ.gov/topics/charters-and-licensing/interpretations-and-decisions/2002/int928.pdf*; *id.* n.12 (stating that "as part of the business of banking, national banks may collect, transcribe, process, analyze, and store for itself and others banking, financial, or economic data" and listing OCC interpretive rulings and letters that support this view); OCC Interpretative Letter 1077, 4 (Jan. 11, 2007) *https://www.occ.treas.gov/topics/charters-and-licensing/interpretations-and-decisions/2007/int1077.pdf*.

[56] 12 CFR 7.5006(a) ("[E]conomic data includes anything of value in banking and financial decisions[.]").

[57] *See, e.g.*, Payment Systems Handbook, *supra*, at 48 (explaining that banks use real-time monitoring of customer behavior to identify irregular payment patterns and prevent fraud); OCC, *Federal Regulators Issue Joint Statement on the Use of Alternative Data in Credit Underwriting*, News Release 2019-142 (Dec. 3, 2019) (attaching an interagency statement on the use of alternative data in credit underwriting); *see also* OCC, Operational Risk Description: Fraud Risk Management Principles, Bulletin 2019-37, 4 (July 24, 2019) (stating that national banks may "deploy solutions that serve to detect anomalies and prevent potential fraudulent transactions or activities . . . monitor transactions and behaviors, employ layered or multifactor authentication, monitor networks for intrusions or malware, analyze transactions on internal bank platforms, and compare data with consortium or publicly available data").

[58] OCC, *Operational Risk Description*, *supra*, at 3.

Barnett Bank, and *Barnett Bank's* antecedents. As was the case with the preempted State law addressed in *Barnett Bank*, the IFPA purports to prohibit a national bank from exercising a broad and unqualified Federal power—use of transaction data. Compliance with the IFPA would thus deprive a national bank of its flexibility to use transaction data for innumerable important purposes, including as a critical element of fraud and cybersecurity risk management. This deprivation clearly runs afoul of *Fidelity*. As such, the data use limitation would undermine not only a national bank's efficient and effective operations but also its ability to manage risks in a safe and sound manner. This clearly exceeds the significant interference identified that resulted in preemption in *Franklin* and imposes a far more "unusual qualification" than the preempted State law in *San Jose*. Accordingly, the data use limitation unambiguously prevents or significantly interferes with national banks' exercise of their Federally authorized powers.[59]

D. The Patchwork Effect

Ultimately, the IFPA will create significant uncertainty for consumers and impose incredible operational challenges for national banks and other participants in the nation's card networks. In addition to the challenges with complying with the IFPA alone, other States and localities could enact laws governing interchange fees and use of transaction data. Some of these laws may be substantially similar to the IFPA while others could differ vastly.[60] Such a fractured patchwork of State laws would undermine the uniformity necessary for the functioning of the nation's payment card systems, thereby materially disrupting interstate commerce.[61] This is precisely what preemption, as provided for in the U.S. Constitution, is designed to address.

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[59] *See supra* n.10.

[60] *See First Nat'l Bank of San Jose*, 262 U.S. at 370 ("If California may thus interfere other states may do likewise; and . . . varying limitations may be prescribed."); *see also Kivett*, 154 F. 4th at 662-63 (Nelson, J., dissenting) (citing *Watters*, 550 U.S. at 13-14, and *Easton v. Iowa*, 188 U.S. 220, 229 (1903)).

[61] *Cf. Marquette Nat'l Bank of Minneapolis v. First of Omaha Serv. Corp.*, 439 U.S. 299, 312 (declining to interpret Federal law to incorporate State law in a way that would "throw into confusion the complex system of modern interstate banking").

IV. Order

The National Bank Act, the Home Owners' Loan Act, and the regulations promulgated thereunder preempt the IFPA's interchange fee prohibition and, separately, the IFPA's data use limitation with respect to national banks and Federal savings associations.[62] National banks and Federal savings associations are neither subject to nor required to comply with these provisions of State law.

V. Preemption Procedures

A. 12 U.S.C. 25b

As part of Dodd-Frank, Congress established procedural requirements for OCC "preemption determinations." A preemption determination is an OCC regulation or order that concludes that a "State consumer financial law" is preempted in accordance with the *Barnett Bank* standard.[63] A State consumer financial law is "a State law that . . . directly and specifically regulates the manner, content, or terms and conditions of any financial transaction . . . or any account related thereto, with respect to a consumer."[64]

The IFPA is not a "State consumer financial law." Although the interchange fee prohibition may directly and specifically regulate the manner, content, or terms and conditions of a financial transaction, the relevant interchange fee transaction is between a merchant and the other participants in the card network (*e.g.*, issuer bank, acquirer bank), rather than a consumer. Similarly, the data use limitation does not directly and specifically regulate a financial transaction or a related account. Instead, it limits how a national bank may use data generally. Therefore, this order is not a "preemption determination" within the meaning of 12 U.S.C. 25b.[65]

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[62] The OCC's preemption conclusions with respect to the interchange fee prohibition and data use limitation are separate and severable from one another. The OCC has determined that these conclusions operate independently. Accordingly, if either conclusion is vacated, overruled, or otherwise disturbed, it is the OCC's intention that the remaining conclusion remains in effect, which will provide clarity to stakeholders.

[63] 12 U.S.C. 25b(b)(1)(B)

[64] 12 U.S.C. 25b(a)(2).

[65] Even if the IFPA were a State consumer financial law, the preemption standard and analysis would be the same under 12 U.S.C. 25b(b)(1)(B), which incorporates the *Barnett Bank* standard. *See Cantero*, 602 U.S. at 214 n.2.

B. 12 U.S.C. 43

Under 12 U.S.C. 43, the OCC generally must provide notice and at least 30 days for comment before issuing "any opinion letter or interpretive rule" concluding that "Federal law preempts the application to a national bank of any State law" relating to specified categories, including consumer protection.[66] While there are strong arguments that section 43 does not apply to this order, the OCC does not need to affirmatively reach this conclusion. Section 43 permits the OCC to make exceptions to the notice-and-comment requirement if the agency "determines in writing that the exception is necessary to avoid a serious and imminent threat to the safety and soundness of any national bank."[67]

As explained in the interim final rule that the OCC is publishing concurrently with this order, the IFPA creates a complex and potentially unworkable standard, and it imposes significant potential liability for non-compliance. Therefore, national banks may take drastic actions to avoid these risks, up to and including declining payment card transactions subject to the IFPA.[68] Given the complexity of the payment card systems and the modern economy, these effects may not be limited to Illinois.

For national banks that choose to continue to support these payment card transactions, the OCC understands that these banks will need to inform customers, in advance of the IFPA's July 1 effective date, that the terms and conditions of their payment cards may soon change.[69] The OCC also understands that national banks will need to inform merchants about possible changes, including updates to how they process payments, the need for new software or hardware, or that

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[66] 12 U.S.C. 43(a). Under paragraph (b), the OCC must publish any final such opinion letter or interpretive rule in the *Federal Register*.

[67] 12 U.S.C. 43(c)(3).

[68] *E.g.*, Letter from H. Carney, Executive Vice President, Financial Institution Policy & Regulatory Affairs, American Bankers Association, to W. Giles, Principal Deputy Chief Counsel, OCC at 3 (March 30, 2026) (ABA Letter) ("We are also hearing that some issuing financial institutions—particularly smaller and mid-sized banks—are concluding that the IFPA's risks and costs are too great, and have indicated they may simply cease issuing credit or debit cards to their customers, while also exploring options for declining card transactions in Illinois.")

[69] *Id.*

some transactions may be declined.[70] These communications, as well as the potential for national banks to stop supporting covered payment card transactions, may generate significant customer and merchant confusion about whether, or how, payment cards will work after the IFPA's effective date. These potential actions may cause doubt about continued access to basic lending and deposit services, which could lead to economic harm and disruption and pose significant risks to the safety and soundness of national banks and the national banking system as a whole.

With respect to the data use provision, compliance could also seriously and imminently threaten the safety and soundness of national banks. As discussed above, national banks use transaction data for a variety of critical purposes in support of their safety and soundness, including risk management and fraud detection and prevention. Preventing national banks from using data for these purposes would place them in an untenable position, fraught with both known and unknown risks. National banks face unrelenting threats from fraudsters, cybercriminals, and other malicious actors; the IFPA would deny them access to the tools necessary to combat these serious and imminent threats.

For these reasons, the OCC determines that, if section 43 were to apply to this order, an exception to section 43's notice-and-comment requirement is necessary to avoid a serious and imminent threat to the safety and soundness of national banks.[71]

VI. Other Analysis

[70] *Id.*

[71] In addition, section 43 does not apply when the OCC's action "raises issues of Federal preemption of State law that are essentially identical to those previously resolved by the courts." 12 U.S.C. 43(c)(1). The U.S. District Court for the Northern District of Illinois has addressed whether the National Bank Act preempts the IFPA and resolved this in the affirmative for the data use limitation. Therefore, the OCC concludes that, at a minimum, preemption of the data use limitation raises essentially identical preemption issues to those that have been resolved by a court.

A. Administrative Procedure Act

The OCC is issuing this interim final order without prior notice and the opportunity for public comment. These Administrative Procedure Act (APA) requirements, codified at 5 U.S.C. 553, apply to agency rulemakings and are thus inapplicable to this order.

In addition, even if these requirements were applicable, the APA provides that notice-and-comment is not required when an "agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."[72] Consistent with the discussion above and as explained in the OCC's concurrent interim final rule, the OCC has good cause because notice-and-comment is impracticable. Nevertheless, the agency is interested in the views of the public and requests comment on all aspects of this interim final order.

B. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA),[73] the OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC has reviewed this interim final order and determined that it does not create any new or revise any existing collections of information. Accordingly, no PRA submissions to OMB will be made with respect to this interim final order.

C. Regulatory Flexibility Act

[72] 5 U.S.C. 553(b)(B).

[73] 44 U.S.C. 3501-21.

The Regulatory Flexibility Act (RFA)[74] requires an agency to consider whether the rules it proposes will have a significant economic impact on a substantial number of small entities.[75] The RFA applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b). As discussed above, the OCC is acting by order, rather than by rule. Further, consistent with § 553(b)(B) of the APA, the OCC has determined for good cause that general notice and opportunity for public comment is impracticable. Therefore, the RFA's requirements relating to initial and final regulatory flexibility analysis do not apply to this interim final order.

While not required, the OCC evaluated whether the interim final order will have a significant economic impact on a substantial number of small entities. The OCC currently supervises approximately 609 small entities, all of which will be impacted by the interim final order.

In general, the OCC classifies the economic impact on an individual small entity as significant if the total estimated impact in one year is greater than 5 percent of the small entity's total annual salaries and benefits or greater than 2.5 percent of the small entity's total non-interest expense. Furthermore, the OCC considers 5 percent or more of OCC-supervised small entities to be a substantial number. Thus, at present, 30 OCC-supervised small entities would constitute a substantial number. Therefore, since the interim final order will affect all OCC-supervised banks, a substantial number of OCC-supervised small entities would be impacted.

However, the interim final order imposes no new mandates, and thus no direct costs, on affected OCC-supervised institutions. Therefore, the OCC believes that the interim final order will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act of 1995

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[74] 5 U.S.C. 601 *et seq*.

[75] Under regulations issued by the Small Business Administration (SBA), as of June 2025, a small entity includes a depository institution, bank holding company, or savings and loan holding company with total assets of $850 million or less and trust companies with total assets of $47 million or less. The SBA may adjust these thresholds annually, so check the citation for the most recent asset thresholds. *See* 13 CFR 121.201.

As a general matter, the Unfunded Mandates Reform Act of 1995 (UMRA) requires the preparation of a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year ($193 million as adjusted annually for inflation).[76] However, the UMRA does not apply to final rules for which a general notice of proposed rulemaking was not published. As discussed above, the OCC is acting by order, rather than by rule. Further, consistent with § 553(b)(B) of the APA, the OCC has determined for good cause that general notice and opportunity for public comment is impracticable. While not required, the OCC has analyzed the interim final order under the factors in UMRA. Because this interim final order imposes no new mandates, it will not require additional expenditure of $193 million or more annually by any State, local, or tribal governments, in the aggregate, or by the private sector. Accordingly, for these reasons, the OCC has not prepared the written statement described in § 202 of UMRA.

E. Riegle Community Development and Regulatory Improvement Act of 1994

Pursuant to § 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA) of 1994,[77] in determining the effective date and administrative compliance requirements for new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, the OCC must consider, consistent with principles of safety and soundness and the public interest, (1) any administrative burdens that the final rule would place on depository institutions, including small depository institutions and customers of depository institutions and (2) the benefits of the final rule. As discussed above, the OCC is acting by order, rather than by regulation. In addition, this order does not impose any

[76] 2 U.S.C. 1531 *et seq.*

[77] 12 U.S.C. 4802(a).

reporting, disclosure, or other requirements on insured depository institutions. Therefore, for these reasons, § 302(a) does not apply to this interim final order.

F. Executive Orders 12866 and 14192

The Office of Information and Regulatory Affairs has determined that this interim final order is economically significant as defined by section 3(f)(1) of Executive Order 12866. The OCC conducted an analysis consistent with Executive Order 12866.[78] If OCC-supervised banks were required to comply with the IFPA, they would incur costs (1) to upgrade their systems to transmit tax and gratuity information when interfacing with other participants in the payment card systems, including merchants and card networks; and (2) to manually process tax documentation. With respect to system upgrades, we estimate an initial cost savings of more than $232 million, of which $72 million would accrue to acquirer banks and $160 million to issuer banks. With respect to manually processing tax documentation, we estimate cost savings of $145 million per year for the first several years, of which $121 million would accrue to acquirer banks and $24 million to issuer banks. In addition, if OCC-supervised issuer banks were required to comply with the IFPA, these issuer banks would no longer receive revenue from the interchange fees on taxes and gratuity in Illinois for payment cards. We estimate that OCC-supervised card issuers would lose a total of $200 million of revenue if required to comply with the IFPA.[79] The OCC's quantification of these effects is described below.

However, as discussed above and in the interim final rule published concurrently with this order, the IFPA creates a complex and potentially unworkable standard. There is substantial uncertainty about whether and how banks can implement these changes by the IFPA's effective date, which may lead to banks to take drastic actions. Other costs and negative effects to the

[78] The analysis uses a baseline that assumes that OCC-supervised institutions would be required to comply with the interchange fee prohibition but not the data use limitation of IFPA on July 1, 2026. In addition, the OCC based its analysis on publicly available data and made assumptions as described throughout. Accordingly, these estimates may be imprecise.

[79] There may also be indirect impacts for acquirer and issuer banks, card networks, merchants, and others. Because these indirect impacts are difficult to determine, they are not included in our estimates.

national banking system and the U.S. economy associated with these actions, including the customer confusion and doubt about continued access to basic lending and deposit services, were not as readily quantified under the circumstances but are nonetheless grave risks.

Estimated Direct Cost Savings

A. Cost Savings to Acquirer Banks

Based on Consolidated Reports of Condition and Income (Call Report) data, we estimate that there are approximately 49 OCC-supervised acquirer banks, six of which operate some or all of their own core payment card processing systems. One of these banks estimated a one-time cost of $16 million to upgrade its systems to comply with the IFPA.[80] These costs are mainly related to software development, and as such, we do not expect the cost to vary with institution size. We assume that the institutions that fully operate their own systems will incur the same cost of $16 million each, while those that operate only some of their systems will incur half the cost. We believe that the remaining OCC-supervised acquirer banks would not incur any direct upfront system upgrade costs, as we expect these costs will be absorbed by core payment service providers instead.[81] We thus estimate that, absent this interim final order, OCC-supervised acquirer banks would incur a one-time system upgrade cost of $72 million.

If merchants elect to submit tax documentation manually to their acquirer bank, the bank will also incur costs. One acquirer bank with an acquiring transaction volume of 400 million in Illinois estimates that implementing this process may cost up to $50 million per year.[82] This acquirer bank's sales volume amounts to 41 percent of total sales volume for all OCC acquirer banks.[83] Assuming that this acquirer's share of paper submission costs is the same as its share of

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[80] Declaration of Mark C. Williams ¶ 15, *Ill. Bankers Ass'n v. Raoul*, No. 24-cv-07307 (N.D. Ill. Aug. 21, 2024) (Decl. M. Williams).

[81] While these providers may pass costs on to their client acquirer banks over time, we do not have sufficient information to estimate this cost.

[82] Decl. M. Williams, *supra*, ¶ 22.

[83] *See* Call Report, Schedule RC-L, Item 11.a and 11.b.

total sales volume, we estimate that the total paper submission cost is $121 million for all OCC acquirer banks.

B. Cost Savings to Issuer Banks

Based on Call Report data, there are approximately 152 banks that issue both credit cards and debit cards, one that issues only credit cards, and 702 that only issue debit cards. We first evaluate the cost savings for credit card issuer banks. Six of these issuer banks process their own payment card transactions or have hybrid processing models, while the rest outsource the processing to other providers. The largest system upgrade costs would be incurred by issuer banks who operate their own processing. One large issuer that conducts its own credit card processing estimates system upgrade costs of $25 million.[84] We assume that this cost is for software development, that this cost does not vary with issuer size, and that costs for issuers with a hybrid processing model are half. We thus estimate that total upgrade costs are $137.5 million. Issuers that outsource their processing will incur considerably lower upfront system upgrade costs. One smaller institution estimates that system upgrades for interfacing with two credit card and two debit card networks would cost $45,000.[85] Thus, we estimate that the remaining 147 credit card issuers may spend an additional $6.6 million. We next estimate costs for the 702 banks that issue only debit cards. We assume that they participate in two debit card networks (the minimum required)[86] and that their upgrade costs would be $22,500 per institution (half of the cost upgrading to interface with four networks noted above). Thus, we estimate that the combined upgrade cost would be $16 million. Overall, we estimate the combined system upgrade costs for all OCC-supervised issuer banks would be $160 million.

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[84] Declaration of Christopher Conrad ¶ 19, *Ill. Bankers Ass'n v. Raoul*, No. 24-cv-07307 (N.D. Ill. Aug. 21, 2024) (Decl. C. Conrad).

[85] Declaration of Hope M. Garrett ¶ 16, *Ill. Bankers Ass'n v. Raoul*, No. 24-cv-07307 (N.D. Ill. Aug. 21, 2024) (Decl. H. Garrett).

[86] *See* 12 CFR § 235.7(a)(1).

With respect to manually processing tax documentation, one issuer bank estimates that it would require at least 100 analysts,[87] which we estimate would cost $4.5 million per year.[88] According to the Call Report, this issuer accounts for 19% of total credit card balances for all OCC-supervised banks. Assuming that this bank therefore also accounts for 19% of costs related to paper submissions, the estimated cost for paper submission for all OCC-supervised issuer banks is $24 million.

Estimated Revenue Impacts for Issuer Banks

A. Tax

To estimate this revenue impact for credit cards, we used publicly available, aggregate Y-14M data from the Federal Reserve.[89] We scale to total market based on the reported share of credit card balance of four-fifths of total U.S. bankcard balances,[90] and we assume that OCC-supervised institutions hold 81.2 percent of the credit card purchase volumes.[91] We also assume that the share of Illinois interchange fee income for a credit card issuer is 3.9 percent of its total

[87] *See* Decl. C. Conrad, *supra* ¶ 22.

[88] *See* Decl. M. Williams, *supra* ¶ 22.

[89] Federal Reserve Bank of Philadelphia, *Large Bank Consumer Credit Card Balances: Total Purchase Volume*, https://fred.stlouisfed.org/series/RCCCBPURCHASETOT, April 10, 2026; Federal Reserve Bank of Philadelphia, *FR Y-14M Data*, *https://www.philadelphiafed.org/surveys-and-data/large-bank-credit-card-and-mortgage-data*, April 10, 2026. This data is limited to consumer credit cards for largest banks.

[90] Federal Reserve Bank of Philadelphia, *FR Y-14M Data*, *https://www.philadelphiafed.org/surveys-and-data/large-bank-credit-card-and-mortgage-data*, April 10, 2026.

[91] *See* Office of Comptroller of the Currency, *2025 Annual Report*, *https://www.occ.gov/publications-and-resources/publications/annual-report/files/2025-annual-report.pdf*.

revenue from interchange fees[92] and that only Illinois' sales taxes of 6.25 percent applies.[93] Finally, we use 2 percent to calculate the interchange fee revenue for credit cards. Based on this analysis, we estimate that OCC-supervised credit card issuer banks would lose approximately $173 million of interchange fee revenue if required to comply with the IFPA.

With respect to debit cards, we estimate this revenue impact using publicly available, aggregate Y-14M data from the Federal Reserve.[94] We assume the following: OCC-supervised institutions hold 81.2 percent of relevant purchase volumes; the ratio of debit card purchase volume to credit card purchase volume is 82 percent;[95] the share of Illinois interchange fee income for a debit card issuer is 3.9 percent of its total revenue from debit card interchange fees; the share of interchange fee income attributable to Illinois sales taxes is 6.25 percent; and an interchange fee of 0.05 percent for all OCC-supervised banks.[96] Accordingly, we estimate that OCC-supervised debit card issuer banks would lose approximately $4 million of interchange fee revenue if required to comply with the IFPA.

B. Gratuity

To calculate the impact of removing interchange fees on tips, we rely on reported income in Illinois from occupations that are traditionally associated with tips such as Food Services, Waiters and Waitresses, Bartenders, etc.[97] We assume that approximately 55 percent of this income is from tips and 15 percent of these tips are paid in cash. We use the same ratio of debit

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[92] *See* U.S. Bureau of Economic Analysis (BEA), *SQGDP1 State Quarterly Gross Domestic Product Summary* (accessed Thursday, April 9, 2026) (indicating Illinois's share of the current United States dollar Gross Domestic Product in 2025 is 3.9 percent).

[93] *See* 35 ILCS 105/1 to 105/22. We do not account for the local and excise taxes that are also subject to the IFPA.

[94] Federal Reserve Bank of Philadelphia, *Large Bank Consumer Credit Card Balances: Total Purchase Volume*, https://fred.stlouisfed.org/series/RCCCBPURCHASETOT, April 10, 2026; Federal Reserve Bank of Philadelphia, *FR Y-14M Data*, *https://www.philadelphiafed.org/surveys-and-data/large-bank-credit-card-and-mortgage-data, April 10, 2026*.

[95] *See* Federal Reserve, Federal Reserve Payments Study, 2024 Accessible Version of Trends in Noncash Payments (March 6, 2025).

[96] *See* 12 CFR 235.3 (applicable to issuers with total assets equal to or greater than $10 billion).

[97] Bureau of Labor Statistics, *May 2023 State Occupational Employment and Wage Estimates*, *https://www.bls.gov/oes/2023/may/oes_il.html* (inflation adjusted to 2025).

to credit card purchase volume to split the tips paid with cards into those paid with a credit card (55 percent) and those paid with a debit card (45 percent) to differentiate the applicable interchange fees. We apply the same average interchange fee of 2 percent for credit cards and .05 percent for debit cards. We also assume that OCC issuers hold 81.2 percent of payment card balances and purchase volumes. Accordingly, we estimate that OCC-supervised card issuers would lose approximately $23 million of interchange fees related to tips if required comply with the IFPA.

Executive Order 14192, titled "Unleashing Prosperity Through Deregulation," separately requires that an agency, unless prohibited by law, identify at least 10 existing regulations to be repealed when the agency publicly proposes for notice and comment or otherwise promulgates a new regulation with total costs greater than zero. Executive Order 14192 further requires that new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least ten prior regulations. The OCC has determined that the interim final order will be a deregulatory action under Executive Order 14192 because it will result in cost savings for OCC-supervised institutions as discussed above. The OCC estimates that this rule generates $37 million in annualized cost savings at a seven percent discount rate, discounted relative to year 2024, over a perpetual time horizon.

G. Congressional Review Act

Because the OCC is acting by order, rather than by rule, the OCC believes that Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act)[98] does not apply. Nevertheless, the OCC will submit the interim final order and other appropriate reports to Congress and the Government Accountability Office for review.

H. Providing Accountability Through Transparency Act of 2023

[98] 5 U.S.C. 801 *et seq*.

The Providing Accountability Through Transparency Act of 2023[99] requires that a notice of proposed rulemaking include the internet address of a summary of not more than 100 words in length of a proposed rule, in plain language, that shall be posted on the internet website *www.regulations.gov*. While the OCC is not issuing a notice of proposed rulemaking, a summary of this interim final order can be found below and at *https://occ.gov/topics/laws-and-regulations/occ-regulations/proposed-issuances/index-proposed-issuances.html*.

The OCC is issuing an interim final order concluding that Federal law preempts the Illinois Interchange Fee Prohibition Act, which purports to (1) prohibit national banks and Federal savings associations from charging or receiving interchange fees on the tax and gratuity portions of payment card transactions; and (2) restrict the use of payment card transaction data. The OCC invites public comments on this interim final order.

Katherine S. Tyrrell
First Deputy Comptroller of the Currency.

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[99] 5 U.S.C. 553(b)(4).