Banking and Finance Law Daily Wrap Up, PREEMPTION—OCC backs bankers' appeal of Illinois interchange fee ruling, (Mar. 17, 2026)

Banking and Finance Law Daily Wrap Up

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The plaintiffs' opening brief and the OCC's amicus filing argue Illinois' interchange-fee ban and data-use limits are preempted and disrupt national payments.

Banking and credit union trade groups asked the Seventh Circuit to reverse in part a Northern District of Illinois ruling that refused to permanently enjoin the Illinois Interchange Fee Prohibition Act's interchange-fee restriction, arguing that the law prevents or significantly interferes with federally authorized banking powers. In a separate amicus brief, the Office of the Comptroller of the Currency supported the plaintiffs-appellants and urged reversal as to the interchange-fee prohibition and affirmance as to the district court's ruling that the statute's data-usage limitation is preempted (*Illinois Bankers Association v. Raoul*, No. 26-1440 (7th Cir.)).

The appeal follows the district court's February ruling upholding the IFPA's interchange-fee limitation while permanently enjoining the data-usage limitation as applied to national banks and certain other entities. The district court concluded that payment card networks, rather than banks, set interchange fees, but held that the data-usage limitation directly constrained federally authorized data-processing powers (*Banking and Finance Law Daily*, Feb. 11, 2026).

Federally authorized banking powers. In their principal brief, the Illinois Bankers Association, American Bankers Association, America's Credit Unions, and Illinois Credit Union League argue that federal law protects nationally chartered institutions from state interference and that the IFPA's interchange-fee prohibition significantly interferes with federally protected powers to lend, receive deposits, issue payment cards, process transactions, and receive compensation for those services.

The brief's preliminary statement says a necessary component of the "business of banking" is the ability to receive compensation for providing authorized services and contends that Illinois' law limits issuers' ability to receive interchange fees on the tax and gratuity portions of card transactions.

The plaintiffs argue that the district court erred by focusing on the fact that card networks set default interchange rates. According to the brief, that feature of the payment system does not alter the underlying federal powers exercised by banks and other issuers through the card-payment system. The brief also argues that the law imposes significant compliance costs and operational burdens, including manual reimbursement requirements and new technical processes to separate tax and gratuity data from the base transaction amount.

The principal brief also argues that the district court should have extended preemption analysis to the interchange-fee prohibition under the Homeowners' Loan Act and the Federal Credit Union Act, and that out-of-state state-chartered banks should receive equivalent protection under the Riegle-Neal Interstate Banking and Branching Efficiency Act. In addition, the plaintiffs contend that Illinois cannot impose the IFPA's burdens on financial institutions chartered by other states but not on Illinois-chartered institutions, raising a dormant Commerce Clause argument.

Wrong preemption standard to fee restriction? The OCC's amicus brief states that the district court applied a legally erroneous standard in assessing National Bank Act preemption and incorrectly treated third-party involvement in payment processing as severing the preemptive effect of federal banking law. The OCC argues that the interchange-fee prohibition prevents or significantly interferes with national banks' powers because it bars them from charging fees for processing debit and credit transactions, including the tax and gratuity portions, even though banks process the entire transaction and bear the related fraud and nonpayment risks.

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According to the OCC, IFPA is an "unworkable state law" that threatens to upend the national payments system and would require banks and others to expend "staggering" sums to accommodate a single state's regime. The amicus brief contends that federal law not only permits national banks to use third parties in exercising their powers but expressly contemplates that service providers and payment card networks will assist banks in processing transactions, promoting interoperability, and preventing fraud.

For that reason, the OCC says the district court erred in treating the presence of third-party payment card networks as a reason to deny preemption. The OCC also argues that the district court correctly held the IFPA's data-usage limitation preempted because it constrains, and in many respects wholly eliminates, national banks' and federal savings associations' power to process and use transaction data for functions such as fraud monitoring, payment disputes, and loyalty programs.

The amicus brief asks the Seventh Circuit to remand with instructions to enter a permanent injunction against both the interchange-fee prohibition and the data-usage limitation.

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