Banking and Finance Law Daily Wrap Up, PREEMPTION—7th Cir.: Appellate court vacates, remands Illinois interchange fee case, (May 11, 2026)

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By Colleen M. Svelnis, J.D.

Following an interim final rule and order issued by the OCC bearing on the statute at issue, the appellate court vacated the judgment of the district court and remanded for appropriate further proceedings.

On May 8, 2026, the U.S. Court of Appeals for the Seventh Circuit stated that after the District Court entered its decision in *Illinois Bankers Assoc. v. Raoul,* the Office of the Comptroller of the Currency issued an interim final rule and an order bearing on the state statute at issue in these appeals. Following this, multiple parties filed supplemental briefs, with plaintiffs and the Comptroller contending that the rule and order require decision in plaintiffs' favor, and the Attorney General of Illinois contending that the rule and the order are invalid both procedurally and substantively, and at all events do not affect the appropriate decision on the merits. The Court determined that the district court should address these matters, and any related issues, before the 7th Circuit attempts to do so. As a result, the appellate court vacated the judgment of the district court and remanded the case to the U.S. District Court for the Northern District of Illinois for further proceedings, while cancelling oral argument that had been set for May 13. (*Illinois Bankers Assoc. v. Raoul*, Nos. 26-1354, 26-1371, 26-1440 & 26-1441, Order (7th Cir. May 8, 2026)).

Preemption issue. In 2024, a group of banking and credit union organizations filed a complaint challenging the validity of the Illinois Interchange Fee Prohibition Act (IFPA), 815 ILCS 151/150-1 et seq. The law prohibits banks, payment card networks, and other entities from charging or receiving interchange fees for the tax and gratuity portions of a transaction. The complaint alleged IFPA is unlawful because it violates several federal and state laws and usurps the federal government's sole regulatory authority over the covered financial institutions. Further, the complaint alleged the act would disrupt and harm the existing card payment system already operating. At the time, the law was set to take effect on July 1, 2025 (see *Banking and Finance Law Daily*, Aug. 16, 2024).

In February 2026, the Illinois Interchange Fee Provision was upheld on Illinois banking associations' challenge with the district court. The court held that IFPA does not impact a customer's decision whether or not to use a bank's services because all financial entities are subject to the law. After the court's earlier order found express conflicts between IFPA and the National Banking Act (NBA), Illinois AG Kwame Raoul pointed out the conflict was not so clear. The parties all agreed that payment networks, not the national banks, set interchange fees. The court concluded that the IFPA interchange fee provision does not directly conflict with NBA powers. The face that the state's interchange fee limitation does not directly regulate banks made upholding it complicated, but the court said it had an easier time permanently enjoining the data usage limitation (see *Banking and Finance Law Daily*, Feb. 11, 2026).

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Companies: Illinois Bankers Association; American Bankers Association; America's Credit Unions; Illinois Credit Union League

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