Banking and Finance Law Daily Wrap Up, PREEMPTION—N.D. Ill.: Illinois interchange fee law blocked for most banks after OCC fee rule, (Jun. 2, 2026)

Banking and Finance Law Daily Wrap Up

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The court granted a permanent injunction barring Illinois from enforcing the IFPA interchange-fee limitation against national banks, certain out-of-state banks, federal savings associations, and payment card networks.

A federal district court in Illinois has granted the Illinois Bankers Association and co-plaintiffs partial permanent injunctive relief against the Illinois Interchange Fee Prohibition Act (IFPA), after reconsidering its prior ruling in light of intervening Office of the Comptroller of the Currency actions. On remand from the Seventh Circuit, the court held that Illinois may not enforce the IFPA's interchange-fee limitation against national banks, banks chartered by states other than Illinois that are subject to Riegle-Neal, federal savings associations, or payment card networks. The court's February ruling on the IFPA data-usage limitation otherwise remains in effect (*Illinois Bankers Association v. Raoul*, No. 1:24-cv-07307 (N.D. Ill. Jun. 1, 2026)).

Background. The IFPA bars covered entities from charging or receiving interchange fees on the tax or gratuity portion of an electronic payment transaction. It also contains a data-usage limitation restricting use of electronic payment transaction data except to facilitate or process the transaction or as required by law. The court in February 2026 granted summary judgment in part to both sides. The court then declined to enjoin the IFPA interchange-fee limitation as to national banks and federal savings associations, reasoning that payment card networks, rather than banks, set interchange fees. However, the court permanently enjoined the IFPA data-usage limitation as to national banks, banks chartered by states other than Illinois that are subject to Riegle-Neal, federal savings associations, federal credit unions, and certain other entities participating in electronic payment transactions when carrying out functions that facilitate those federally protected powers (see *Banking and Finance Law Daily*, Feb. 11, 2026). After that decision, both sides appealed. While the appeal was pending, the OCC issued an interim final rule revising 12 C.F.R. § 7.4002 and an interim final order stating that federal law preempts the IFPA as applied to national banks and federal savings associations. The OCC said the rule clarified national banks' authority to receive non-interest charges and fees, including interchange fees, whether set by a bank or by or in consultation with a third party. The OCC also said the IFPA significantly interfered with federally authorized banking powers (see *Banking and Finance Law Daily,* Apr. 27, 2026). The Seventh Circuit then vacated the district court's permanent injunction and directed the court to assess the effect of the OCC's actions.

OCC actions. The district court rejected the OCC's position that the case had become moot or that the court lacked jurisdiction to consider the preemption issue because the OCC was not a formal party. The court said it could not grant an APA claim that had not been pleaded or issue relief against the OCC, but it still could assess the effect of the OCC's assertions on the federal preemption question before it. The court gave limited weight to the OCC's interim final order. The court found the order's reasoning not particularly persuasive and noted procedural and statutory concerns, including questions over the OCC's use of an interim order and the requirements for OCC preemption determinations under Dodd-Frank. However, the court said the interim final rule amending the OCC's fee regulation changed the preemption analysis.

The revised rule expanded the national-bank fee regulation to cover obtaining fees directly or indirectly through intermediaries, partners, payment networks, interchanges, or other third parties. The court reasoned that, under the new rule, national banks' powers include discretion to have third parties set fees for them. In that context, the court

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concluded that the IFPA would require a reconfiguration of banks' use of that power and imposed an undue burden on national bank functions.

Permanent injunction. The court granted the plaintiffs' request for a permanent injunction preventing Illinois from enforcing the IFPA interchange-fee limitation against national banks, out-of-state banks covered by Riegle-Neal, federal savings associations, and payment card networks. The court said the preemptive effect had to extend to payment card networks because the interchange-fee provision was tied to national-bank powers and complete relief required protecting the payment networks involved in the payment process. The court said the OCC actions did not change its analysis regarding the interchange-fee limitation as applied to credit unions, savings associations, or savings banks chartered by states other than Illinois. It also said the statute's application to Illinois-chartered entities was not before the court. The court's earlier determination on the data-usage limitation remains in effect.

Industry reaction. The American Bankers Association, Illinois Bankers Association, America's Credit Unions, and Illinois Credit Union League issued a joint statement welcoming the ruling. The co-plaintiffs said the decision recognized that federal law protects parts of the national payments system from conflicting state requirements. They also said the ruling did not fully resolve their concerns because credit unions and Illinois-chartered banks remain subject to the IFPA, creating uncertainty and the possibility of inconsistent treatment within the same transaction.

The Independent Community Bankers of America and the Community Bankers Association of Illinois also issued a statement supporting the Illinois General Assembly's vote to delay implementation of the IFPA by another year and urging repeal. According to the ICBA and CBAI, the law could affect community banks' ability to offer credit and debit card services in Illinois communities.

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Companies: Illinois Bankers Association; American Bankers Association; Community Bankers Association of Illinois; Illinois Credit Union League; America's Credit Unions; Illinois Retail Merchants Association; Independent Community Bankers of America

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