May 19, 2026

Office of the Comptroller of the Currency

Chief Counsel's Office

400 7th Street SW, Suite 3E-218 Washington, DC 20219

Re: Comments on Interim Final Rule — National Bank Non-Interest Charges and Fees (Docket No. OCC-2026-0430; FR Doc. 2026-08328)

To Whom It May Concern:

On behalf of the Consumer Choice Center, a nonpartisan consumer advocacy organization representing consumers across all 50 states, I submit these comments in support of the OCC's interim final rule clarifying that national banks' authority to impose non-interest charges and fees under 12 CFR 7.4002 includes interchange fees.

We urge the OCC to finalize this rule promptly. The state law it preempts, the Illinois Interchange Fee Prohibition Act (IFPA), is a big-government mandate dressed up as consumer protection. It is functionally unworkable, jeopardizes the integrity of the U.S. payment card system, and would inflict real harm on the consumers it claims to protect while robbing them of the rewards and benefits they rely on. Additional government intervention in the payment card system, whether at the federal or state level, will hamper competition, raise costs for consumers and small businesses, and weaken the broader American economy.

Interchange Is the Engine Behind the Card Benefits Consumers and Small Businesses Actually Use

Interchange revenue, which runs roughly 2% to 4% per transaction, is what funds the cash-back programs, hotel points, airline miles, fraud protection, chargeback rights, and 0% introductory offers that tens of millions of American consumers depend on.

Some 31 million Americans hold airline travel rewards credit cards, and more than half of all frequent flyer miles and points issued in 2023 were generated by card use. Sixteen million domestic visitor air trips in a recent year were booked with points earned on airline-branded credit cards. For lower- and

middle-income households, cash-back on groceries and gas is a shadow subsidy that extends working families' purchasing power.

These benefits do not flow only to individual cardholders. Millions of American small businesses run on cashback business credit cards to manage cash flow on inventory, fuel, utility bills, and supplies. Interchange-funded rewards are working capital for Main Street as much as for consumers. Capping or banning the interchange that funds them does not leave the rewards untouched. It eliminates them, and pushes the cost back onto cardholders in the form of higher annual fees, fewer no-fee account options, and shrinking premium product menus.

The history is unambiguous. The 2010 Durbin Amendment capped debit-card interchange in the name of consumer relief. The actual result was a documented 60% increase in debit-card fraud and, according to George Mason University's Mercatus Center, a collapse in the share of banks offering free checking from 76% to 38%. Account fees rose. Merchants kept the savings. Consumers ate the cost. That isn't a hypothetical. That's the controlled experiment Congress already ran.

The IFPA is the same idea. It bans interchange on the tax and gratuity portion of every card transaction in Illinois, exposes participants in the payment system to $1,000-per-transaction penalties, and offers no plausible compliance pathway. The OCC itself documents that compliance would require coordinated technological changes across global card networks, acquirer banks, issuer banks, and millions of merchants, none of which can be built by the IFPA's July 1, 2026 effective date.

The IFPA Would Harm the Consumers and Small Businesses It Purports to Protect

The Consumer Choice Center has spent the last two years warning about state-level efforts to do for credit cards what Durbin did for debit. Colorado has just passed SB26-134, the IFPA's nearest cousin, and similar proposals are circulating in New York, Massachusetts, and Minnesota. Every one of these bills shares two features: a politically convenient carve-out for smaller banks, and a private right of action that hands plaintiff lawyers a fresh revenue stream. Because the IFPA pairs an unworkable compliance regime with a $1,000-per-transaction private right of action, it is essentially designed to

generate litigation. The plaintiff bar gets a new feeding ground every time a card transaction in Illinois clears with a tax line on the receipt.

If the interim final rule does not preempt the IFPA, the consequences are predictable. Banks already on record with the OCC have indicated they will decline transactions subject to the law or stop offering credit and debit cards in Illinois altogether. Card networks have no operational way to identify in real time whether a given swipe is at a merchant separating tax from gross, or whether the issuer is above or below the $60 billion threshold Colorado's SB26-134 invented to soften the political optics.

The participants who pay for this kind of state-level experimentation are not Visa and Mastercard. They are the family from Indiana road-tripping through Illinois whose card declines at the gas pump. They are the cardholder in Denver whose airline rewards quietly stop accruing. They are the small-business owner whose terminal cannot reliably distinguish a Colorado transaction from one originating across the state line. The cost lands on cardholders and merchants, and disproportionately on the lower- and middle-income consumers who can least afford to lose either the rewards economy or the free-checking model that interchange supports.

The Broader Economic Cost

Consumer spending drives roughly 70% of U.S. GDP. State-level interference in the payment card market does not just affect one transaction at a time. It introduces friction across the system. Declined cards at the point of sale, devalued rewards, shrinking premium product menus, and higher annual fees all translate into fewer dollars spent, weaker tourism flows, and slower local economic activity. Colorado, where SB26-134 now sits on the governor's desk, depends on out-of-state visitors swiping cards issued by banks that have nothing to do with Colorado law. So does every other state.

A 50-state patchwork of incompatible interchange rules would, all else equal, meaningfully drag on consumption. The IFPA model is the kind of self-inflicted wound a working consumer economy cannot afford. Preempting it is not just sound legal interpretation. It is sound economic policy.

Strong Support for the Activity-Neutral Framework

The Consumer Choice Center commends the OCC for grounding the rule in an activity-neutral framework. The amended definition of "charge" in § 7.4002(a), which covers direct and indirect compensation through intermediaries, partners, payment networks, interchanges, and other third parties, correctly reflects the reality of how the modern payments system works. National banks contract with card networks because doing so is more efficient than negotiating fees bilaterally with millions of merchants. The regulator should not penalize a national bank for taking advantage of that efficiency, nor pick winners and losers among compensation structures.

We likewise support the addition of interchange fees as a nonexclusive example of permissible non-interest charges under § 7.4002(b), and the removal of the word "customer" from the operative provision. Both edits resolve genuine ambiguities exploited by the Raoul SJ opinion and align the regulation with the National Bank Act and decades of OCC and judicial interpretation.

Areas for the Department's Attention

While we strongly support finalizing this rule, two issues warrant the OCC's attention going forward.

First, while the agency's "good cause" finding to bypass notice-and-comment is defensible on these facts, given the imminent July 1, 2026 effective date of the IFPA and the systemic risk it poses, we encourage the OCC to treat this as a narrow exercise rather than a template. Notice and comment is one of the few procedural safeguards consumers have when agency action affects everyday financial products. Reserving "good cause" for genuine emergencies preserves the integrity of the process for everyone.

Second, the broader question of competition in the payment card market is not resolved by this rule, nor should the rule be expected to resolve it. The Consumer Choice Center continues to oppose federal price controls on card interchange and on consumer credit interest rates, including the Credit Card Competition Act and the Sanders-Hawley 10% APR cap. The controlled experiments in Illinois (a 36% cap that reduced subprime lending by 38%) and Chile (a similar cap that excluded 9.7% of previous borrowers from the formal market) demonstrate the same lesson: capping the price of credit collapses access to it. As the OCC considers companion guidance or future rulemakings, we encourage attention to transparency reforms and

pro-competitive market structure improvements, rather than the price-control instruments that have repeatedly failed.

Conclusion

The OCC's interim final rule does what good regulators do too rarely: it protects an enormous, working, consumer-facing system from political interference designed to look like consumer protection. The IFPA, SB26-134, and their cousins in other states are not consumer-protection measures. They are wealth transfers from cardholders and small businesses to retail trade associations, with a side helping for the plaintiffs' bar.

The Consumer Choice Center urges the OCC to finalize this rule on or near its effective date, and thanks the agency for its prompt action on this matter.

Thank you for your time and consideration on this matter.

Respectfully submitted,

Yaël Ossowski

Deputy Director

Consumer Choice Center

yael@consumerchoicecenter.org

consumerchoicecenter.org