Our Take

PwC's Financial Services Risk & Regulation Update

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1 OCC issues interim rule and order on preemption

What happened? On April 24, the OCC issued an an interim final order preempting[1] the Illinois Interchange Fee Prohibition Act (IFPA) accompanied by an interim final rule clarifying national bank powers to charge certain fees.

What does the IFPA say, and what have courts said to date? The IFPA, enacted in 2024 and scheduled to take effect July 1st, 2026, would prohibit banks, card networks, and other payment participants from charging interchange (swipe) fees on the portions of card transactions attributable to state or local taxes and gratuities. It also includes a data usage restriction limiting how transaction data can be used outside of processing the payment. The law prompted a lawsuit by several industry groups and in February 2026, a district court upheld the state interchange fee prohibition, saying it was not preempted by federal law, on the basis that the fees were "set" by third parties, not the banks. The court did, however, determine that the data usage provision was preempted as applied to national banks. The industry groups appealed the court's decision on the interchange fee prohibition to the 7th Circuit Court of Appeals.

What does the OCC's interim final order say? Following similar commentary in an Amicus Brief filed on March 13th, the order outlines the OCC's view that federal law preempts the IFPA and states that national banks and federal savings associations are not required to comply with the state law. The order finds that the IFPA would significantly interfere with national banks' ability to conduct payment card activity and receive compensation for those services, while introducing substantial operational and liability risk. The OCC highlights the complexity of complying with the law's tax-and-gratuity provisions, the uncertainty created by varied state and local tax regimes, and the likelihood that banks and other participants would need to alter or limit card operations to manage exposure. Separately, the order that the IFPA's data-use restriction is independently preempted because it would prevent banks from using transaction data for fraud prevention, cybersecurity, and other core risk management functions.

What does the OCC's interim final rule say? The rule updates the OCC's regulation on National Bank Charges (12 CFR 7.4002) to reaffirm national banks' authority to charge fees (including interchange-related fees), regardless of whether those fees are set directly or through network arrangements.

What's next? Both OCC issuances are effective on June 30th, with comments due to the OCC on May 29. Oral argument in the appeal of the IFPA litigation before the 7th Circuit is scheduled for May 13.

[1] Federal preemption is the principle that federal banking regulations take precedence over conflicting state requirements. Certain areas of preemption are codified under the National Bank Act and Dodd-Frank Act, which prohibit state laws and regulations from "significantly interfer(ing)" with banks' abilities to "carry on the business of banking" when they conflict with federal requirements.

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The OCC puts its cards on the table

The OCC's actions this week are a revival of a familiar position for the agency, one that prompted the issuance of the National Bank Charges rule in the first place: divergent standards across the country are disruptive to the national banking system. What is different this time is the trigger. Whereas the original rule emerged from state efforts to regulate bank pricing such as ATM fees and deposit charges, the current flashpoint is the resurgence of the interchange debate through state laws that regulate not the transaction as a whole, but discrete components such as taxes and gratuities. This adds additional complexity by requiring payment participants to identify, separate, and treat portions of a single card transaction differently. The OCC is explicitly framing that as operationally unworkable at scale and capable of creating network-level disruption, especially if similar state approaches proliferate. By taking a firm stance on the IFPA, the agency is moving early to head off a broader trend, as states increasingly seek to assert themselves on consumer protection, data usage, and interchange pricing.

Legal questions remain and create uncertainty for banks

By issuing the interim rule and order, the OCC, as the chartering body for national banks is (i) asserting that IFPA is preempted and (ii) augmenting the baseline argument for pre-emption of the state prohibition prior to the 7th circuit hearing. The OCC's posture and timing in the preemption debate is somewhat unusual, proceeding on an accelerated basis while the underlying dispute remains active on appeal. That approach may invite administrative law challenges, including arguments that the OCC moved too quickly. In addition, the standard courts apply has become more fact-dependent following recent Supreme Court rulings. The current framework requires a "nuanced comparative analysis" of whether a state requirement "prevents or significantly interferes" with national bank powers.

On net, this means the OCC's recent actions strengthen the federal preemption argument for national banks, but they do not eliminate uncertainty about how courts will weigh the operational burden of tax-and-tip segmentation, or what challenges lie ahead for the interim rule. This uncertainty may not be fully resolved by the 7th Circuit this summer, and participants with Illinois exposure should continue planning for the July 1st effective date by preparing contingency scenarios, and monitoring judicial and legislative developments at the federal and state levels – both in Illinois and other jurisidictions.

2 House holds hearing on capital proposals

What happened? On April 28th the US House Financial Services Committee held a hearing featuring testimony from industry representatives on the recent capital reform proposals issued by the banking agencies, including a revised proposal to implement Basel III endgame.

What was discussed? The witnesses and lawmakers, representing a range of perspectives, covered the proposals and calls for adjustments, including:

- **Calibration of risk weights and the use of data.** Multiple witnesses acknowledged that the 2026 proposal reflects a more robust empirical analysis than the 2023 proposal, including expanded data collection and impact analysis. However, witnesses argued that aspects of the standardized approach still rely on assumptions that may not reflect actual loss experience across portfolios, potentially overstating risk for certain exposures. They called for greater transparency into the underlying datasets and methodologies used to set standardized risk weights and recommended mechanisms for ongoing recalibration to ensure capital requirements remain aligned with observed risk over time.
- **Interaction with stress testing.** Witnesses acknowledged that the revised 2026 proposal responds to one of the primary criticisms of the 2023 proposal by recognizing overlap between risk-weighted capital requirements and stress testing. However, they argued that market risk and operational risk are still likely to be captured both in minimum capital requirements and in the stress capital buffer. They urged regulators to further address this overlap so that banks are not required to hold capital twice for the same stressed losses.
- **Mortgage servicing rights (MSRs).** The President of the Mortgage Bankers Association called for reducing the MSR risk weight to 100% (from 250%) and supported eliminating the cap on the amount of MSRs that can be included in Common Equity Tier 1 (CET1) capital. He tied the higher MSR risk weight adopted in earlier Basel III rules directly to banks' exit from mortgage servicing and to higher borrower costs, arguing that the 100% weight is necessary to increase competition in servicing and reduce mortgage origination costs.
- **Residential mortgage capital treatment:** Witnesses and members called for changes to residential mortgage risk weighting to ensure that private mortgage insurance (PMI) is recognized. They argued that PMI absorbs losses and reduces credit risk, yet insured mortgages can still be treated the same as uninsured loans under the current framework. Witnesses urged regulators to integrate PMI in capital requirements, so banks are not discouraged from lending to borrowers with smaller down payments.
- **Treatment of trading and market-making activities.** Witnesses emphasized that the revised proposal makes progress in reducing punitive capital charges on trading activities but warned that concerns remain around the treatment of market risk. They argued that excessive capital requirements could reduce banks' willingness to intermediate in fixed income and derivatives markets, thereby lowering liquidity and increasing volatility. They encouraged regulators to further refine the market risk components to better reflect hedging benefits and actual risk exposures.

What's next? Comments on the capital reform proposals are due by June 18th.

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More workable proposals with a clearer path to finalization

Relative to comparable hearings on the 2023 Basel III endgame proposal, which received criticism from both sides of the aisle, the 2026 capital proposals received a noticeably warmer reception. This suggests that both lawmakers and the industry now view the 2026 package as a viable baseline and that the remaining debate is about targeted calibration choices rather than whether the proposals should proceed at all. The most immediate pressure is on mortgage-related exposures, where reverting MSRs closer to a 100% risk weight or easing CET1 caps has both industry alignment and a direct link to borrower costs, easing the path for banks to potentially re-enter the mortgage market at scale. The overlap with market and operational risk in stress testing will likely be another primary area for advocacy with the industry pushing for further adjustments to reduce double-counting. Other elements of the framework are likely to be finalized largely as proposed, with targeted modifications for cases in which there are well-supported calls for adjustment.

On our radar

Senate Banking Committee advances nomination of Fed Chair nominee Kevin Warsh. On April 29th, the Senate Banking Committee voted to advance the nomination of Kevin Warsh to serve as Governor and Chair of the Federal Reserve, sending the nomination to the full Senate for consideration.

Powell announces intent to remain on Fed Board past May. In a press conference on April 29th, Fed Chair Jerome Powell said that he would remain on the Fed as a Governor after his term as Chair ends on May 15th "for a period of time to be determined."

CFPB finalizes rule on small business data collection. The CFPB issued a final rule revising Regulation B to implement Section 1071 of the Dodd-Frank Act on small business lending data collection and reporting. As finalized, the rule maintains a narrowed initial set of covered lenders, products, and data points, simplifies compliance timing by establishing a single initial compliance date, and includes transition provisions intended to reduce implementation burden. The final rule largely adopts the framework set out in the CFPB's November 2025 proposal. The rule is effective June 30th, 2026, with a compliance date of January 1st, 2028.

Treasury initiates review of Community Development Financial Institutions Fund programs. On April 27th, the U.S. Department of the Treasury announced a review of certified Community Development Financial Institutions (CDFIs) to assess compliance with applicable laws and program requirements. The review is intended to strengthen oversight, prevent misuse of federal funds, and ensure accountability among institutions receiving CDFI Fund assistance.

Treasury announces nomination for Assistant Secretary for Financial Markets. On April 28th, the U.S. Department of the Treasury announced the President's intent to nominate G. Hunter McMaster II to serve as Assistant Secretary for Financial Markets. McMaster currently serves as Counselor to the Secretary and previously performed the duties of the role in an acting capacity.

BIS releases working paper on digitalization and financial health. On April 29th, the Bank for International Settlements published a working paper examining the impact of digital innovation on financial health outcomes. The paper highlights that while digital technologies are expanding access to financial services, they are also associated with rising risks such as fraud, over-indebtedness, and exposure to unsuitable financial products.

Additional information

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