



Regulatory Alert

Regulatory Insights for Financial Services

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State Bank Parity: FDIC Proposal

KPMG Regulatory Insights

Broader Parity: Would create parity between out-of-State State banks and national banks with regard to host State laws whether or not they maintain a branch in the host State; similarly, would treat all out-of-State State banks providing services in a host state equally.

Preemption: Would not determine which State laws would be preempted; parity would be determined only after preemption for national banks is determined by the OCC or a court ruling; litigation potential related to State interchange fee laws and the FDIC's interpretation of the FDI Act text is likely.

Interest Rates: Would not impact the interest rates that State banks are permitted to charge with respect to any of their loans, as provided by Section 27 of the FDI Act (i.e., State banks retain regulatory parity with national banks regarding interest rates).

The Federal Deposit Insurance Corporation (FDIC) [proposed](#) to amend its regulations at 12 CFR part 331, which govern the application of host State laws to out-of-State State banks pursuant to Section 24(j) of the Federal Deposit Insurance Act (FDI Act – titled Activities of Insured State Banks). In particular, the FDIC proposes to amend the regulations to recognize parity between out-of-State State banks and national banks concerning the application of host State laws when State banks provide services outside of their chartering State. By extension, the amendments would also enhance consistency in the application of host State laws for all out-of-State State banks providing services in a host State.

The proposal aims to address potential uncertainties stemming primarily from recent litigation over the Illinois Interchange Fee Prohibition Act (IFPA), which could apply differently to out-of-State State banks operating in Illinois based on whether an out-of-State State bank maintains a branch in Illinois.

The proposal is centered around these topics:

- Amended Application of the Host State Law

- Definition of Host State
- Background, including Application of the IFPA and Scope

The FDIC requests comments no later than November 23, 2026.

Proposed Rule on State Bank Parity

The proposed rule on State bank parity seeks to provide parity for all out-of-State State banks operating in a host State, independent of whether they maintain a branch in the host State (see illustrative example below).

FDI Act. Section 24(j) of the FDI Act, which is currently codified in the FDIC regulations at 12 CFR 331.3, provides that “the laws of a host State...shall apply to any branch in the host State of an out-of-State State bank to the same extent as such State laws apply to a branch in the host State of an out-of-State national bank.” Accordingly, when host State laws do not apply to a national bank they would **also** not apply to an out-of-State State bank that maintains a branch in the host state. However, the treatment for out-of-State State banks that do not maintain branches in the host State but provide services there is not



addressed in the law. Given the rise of internet-related services, it is increasingly common for State banks to offer services across State lines, leaving room for potential uncertainty and “competitive imbalance” in the application of host State laws to out-of-State State banks operating within their jurisdiction.

The Illinois Interchange Fee Prohibition Act, enacted by the State of Illinois in 2024, highlighted the potential for disparate treatment between out-of-State State banks providing services in Illinois based on whether they maintain a branch within the State (see Background below).

Amended Application of the Host State Law

Under the proposal, the FDIC would amend its regulations at 12 CFR Part 331 to provide parity between out-of-State State banks and national banks with regard to the application of host State laws regardless of whether the State bank maintains a branch in the host State. Accordingly, if a host State law does not apply to a national bank, it would similarly not apply to an out-of-State State bank providing services in that host State.

The FDIC proposed to amend its regulations to state “for purposes of section 24(j) of the FDI Act, the laws of a host State, including laws regarding community reinvestment, consumer protection, fair lending, and intrastate branching, would apply to any branch in the host State of, or any services provided in the host State by, an out-of-State State bank to the same extent as such State laws apply to a branch in the host State of, or any services provided in the host State by, an out-of-State national bank. To the extent a host State’s law is inapplicable to an out-of-State State bank in such host State pursuant to section 24(j) of the FDI Act, the home State’s law shall apply.”

Definition of Host State

The proposal would also make a conforming amendment to the current definition of “host State” to reflect the application of the proposed host State rule to out-of-State State banks that provide services in the host State no matter if they maintain a branch in that State. Under the proposal, “host State” would be amended to “a State, other than a State bank’s home State, in which the State bank maintains a branch or provides services.”

Example 1: State A enacts a law for banks; no federal preemption has been asserted. Is the bank required to follow the law?

Bank	Operations	Current Application 12 CFR Part 331	Proposed Application 12 CFR Part 331
State Bank A	Chartered in State A, operates in State A	Yes	Yes
Out-Of-State National Bank B	Maintains a branch and operates in State A	Yes	Yes
Out-of-State National Bank C	Provides services in State A, but does not maintain a branch	Not addressed	Yes
Out-of-State State Bank D	Chartered in State D, maintains a branch and operates in State A	Yes	Yes
Out-of-State State Bank E	Chartered in State E, provides services in State A	Not addressed	Yes

Example 2: State A enacts a law for banks; the OCC has asserted preemption for application to national banks. Is the bank required to follow the law?

Bank	Operations	Current Application 12 CFR Part 331	Proposed Application 12 CFR Part 331
State Bank A	Chartered in State A, operates in State A	Yes	Yes
Out-Of-State National Bank B	Maintains a branch and operates in State A	No	No
Out-of-State National Bank C	Provides services in State A, but does not maintain a branch	Not addressed*	No
Out-of-State State Bank D	Chartered in State D, maintains a branch and operates in State A	No	No***
Out-of-State State Bank E	Chartered in State E, provides services in State A	Not addressed**	No***

*Not addressed in the current application of 12 CFR Part 331 but may apply based on other federal law.

**Not addressed in the current application of 12 CFR Part 331 but may apply based on an individual state interpretation.

***In all cases, the law of the State bank’s chartering state would apply.

Background

Application of the IFPA. The Illinois Interchange Fee Prohibition Act, enacted by the State of Illinois in 2024, highlighted the potential for disparate treatment between out-of-State State banks operating in a host State based on whether they are operating with or without a branch in the host State.

The IFPA includes provisions that:

1. Prohibit card issuer banks, card networks, acquirer banks, and other participants in a payment card transaction from charging or receiving interchange fees on the portion of the transaction that constitutes a tax or gratuity.
2. Make it unlawful for entities other than the merchant involved in a card transaction to distribute, exchange, transfer, disseminate, or use the associated data, subject to certain exceptions.

In response to the law, the Office of the Comptroller of the Currency (OCC) issued both an interim final order (concluding that federal law preempts the IFPA) and an interim final rule (clarifying national banks' power to charge non-interest charges and fees, including interchange fees) (*see KPMG Regulatory Alert [here](#)*). A district court subsequently determined the OCC's interim final rule expressly conflicts with the IFPA and granted a permanent injunction preventing Illinois from enforcing the IFPA against national banks, federal savings associations, payment card networks, and banks chartered by States other than Illinois "that are subject to Riegle-Neal, 12 U.S.C. § 1831a(j)(1)" (i.e., section 24(j) of the FDI Act).

However, the State of Illinois has taken the position that only State banks with branches in Illinois are covered by the preemption applicable to national banks and out-of-State State banks with branches in Illinois pursuant to 12 CFR 331.3. The FDIC notes that State banks doing business in Illinois that do not maintain a branch in Illinois face legal uncertainty as to the application of the IFPA to their operations.

Scope. If adopted, the proposed rule would apply to all "State banks" as defined in the FDI Act and their customers. The FDIC notes there were 3,449 State banks as of December 31, 2025, of which 3,185 may be affected by the proposed rule upon the effective date of the IFPA. Of those 3,185, the FDIC estimates there are 111 acquirer banks (which process card payments on behalf of a merchant) and 3,183 issuer banks (which provide credit or debit cards to consumers). In the absence of the FDIC's proposed amendments, the acquirer and issuer banks that lack branches in Illinois would be required to update their payment processing systems to comply with the IFPA's requirements, creating inconsistency in the treatment of out-of-State State banks operating in Illinois.

The FDIC also notes that the proposed rule would not:

- Affect the interest rates State banks may charge on loans, which remain governed by section 27 of the FDI Act.
- Constitute an FDIC determination that any particular host State law is preempted by federal law, although preemption of a host State law would be relevant in determining which State's law applies.

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