



May 26, 2026

Submitted via www.regulations.gov

Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street SW
Suite 3E-218
Washington, DC 20219

Re: Docket ID OCC-2026-0430 — OCC Interim Final Rule on “National Bank Non-Interest Charges and Fees”/Docket ID OCC-2026-0431 — OCC Interim Final Order on “Order Preempting the Illinois Interchange Fee Prohibition Act”

Dear Madam or Sir:

The Energy Marketers of America (EMA) submits these comments, strongly opposing the Office of the Comptroller of the Currency's (OCC) Interim Final Rule on National Bank Non-Interest Charges and Fees and the accompanying Interim Final Order on the Illinois Interchange Fee Prohibition Act. EMA respectfully requests the OCC to immediately withdraw both actions.

EMA is a federation of 48 state and regional trade associations that unites thousands of family-owned and operated small businesses across the United States. Our members are independent energy marketers who supply approximately 80 percent of the nation's finished motor and heating fuel products, including gasoline, diesel, biofuels, and heating oil. They own or operate more than 60,000 retail fuel stations and convenience stores while also supplying fuel to another 40,000 locations and delivering heating fuel to millions of homes and businesses. With razor-thin margins and intense local competition, these Main Street entrepreneurs are the backbone of America's fuel distribution network. They provide essential jobs, support local economies, and keep energy prices competitive for families and communities nationwide.

For EMA's members, excessive credit-card swipe fees have become one of the largest operating costs—second only to payroll and often surpassing utility expenses. These fees, imposed by Visa and Mastercard through their duopoly control over interchange rates, drain billions of dollars every year from businesses that cannot pass through the full burden of these fees along without harming customers or losing sales. Nationally, U.S. businesses paid \$200 billion in swipe fees in 2025, and EMA's retailer members alone paid an estimated \$15 billion of that total. These costs have skyrocketed in recent years without any meaningful competitive pressure, directly reducing funds available for employee wages, station upgrades, supply-chain resilience, and affordable fuel pricing. At a time when inflation and affordability remain pressing concerns for consumers and businesses alike, these anticompetitive fees undermine the very operations that keep energy accessible and communities thriving.

The OCC's Interim Final Rule does nothing to ease this burden and instead makes the problem worse. Rather than requiring national banks to set their own fee rates and compete in the marketplace, the rule would explicitly bless the current system in which third-party networks like Visa and Mastercard centrally dictate rates on behalf of the largest banks. This approach extends far beyond credit-card swipe fees to other bank charges, potentially green-lighting collective, third-party fee-setting for ATM fees, annual fees, late fees, and more. If allowed to stand, the rule will only entrench higher costs for merchants and the American consumers we all serve.

Likewise, the OCC's Interim Final Order on the Illinois Interchange Fee Prohibition Act works against the goal of lowering costs. That State law simply prevents banks and card networks from charging swipe fees on the tax and tip portions of transactions—amounts that merchants collect on behalf of governments and employees but never keep. In *Illinois Bankers Association v. Raoul*, the U.S. District Court for the Northern District of Illinois examined this very question and held that the Act's interchange-fee prohibition is not preempted by federal law, precisely because the fees at issue are set by the card networks rather than by the national banks themselves. Although the Seventh Circuit later vacated that decision and remanded the case in light of the OCC's interim actions, the court did so without reaching the merits of the preemption question that the district court had resolved against preemption. The OCC should not use its own contested, hastily issued order to manufacture the very preemption that a federal court, weighing the merits, declined to find—particularly where the agency lacks both the jurisdiction and the policy justification to override a commonsense state protection for small businesses and consumers.

EMA further objects to the rushed process the OCC employed. By issuing the rule and order as interim finals and declaring an immediate effective date before stakeholders had any opportunity to review them, the agency circumvented the notice-and-comment requirements of the Administrative Procedure Act, 5 U.S.C. § 553. The OCC had no "good cause" to bypass that process. The good-cause exception is narrow and is reserved for genuine emergencies; it does not excuse an agency from public participation simply because it prefers a faster path or a particular litigation outcome. By denying the thousands of small businesses EMA represents any meaningful opportunity to be heard before these consequential changes took effect, the OCC undermined both public trust and the procedural safeguards Congress put in place.

In summary, the OCC's actions run counter to the broad national consensus—from President Trump and bipartisan lawmakers to business associations, labor groups, consumer advocates, and tribal nations—that urgent reform is needed to curb excessive swipe fees and restore competition. Instead of advancing that shared objective, these measures would deliver a windfall to Visa, Mastercard, and the nation's largest banks at the direct expense of merchants and consumers. EMA therefore calls on the OCC to withdraw the Interim Final Rule and Interim Final Order.

Sincerely,



Rob Underwood
President
Energy Marketers of America