



**Delaware Bankers Association
Delaware Financial Education Alliance**



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To: DBA and DFEA Members
From: Karyn S.W. Polak
President, CEO, and Treasurer
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Subject: Legislative Update

Our purpose at the DBA/DFEA is to support you so that you are positioned to excel for your clients, employees, communities, and ultimately our neighbors in the State of Delaware and beyond. Advocating for our members is a key strategic priority for us, and sharing this month's Legislative Update is one way in which we execute on that priority. Please reach out and share with us your perspectives on the issues mentioned here. *Which are the key issues for you and your institution? Are there areas of legislative and regulatory activity not mentioned here that we ought to have on our radar screen? What information would be most useful to you?*

Note that there are always developments that occur right after we finalize this report, which we've not attempted to include here.

Thank you for your membership!

1. State Legislative Issues

The second session of the 153rd General Assembly kicked off on Tuesday, January 13, 2026. While opening day is typically quiet—marked by legislators, staffers, and lobbyists reconnecting and discussing priorities for the year—it didn't take long for tensions to surface. A continuing resolution proposed in the Senate sparked a heated exchange among legislators, hopefully not a sign of what's on the horizon this session.

Challenges certainly lie ahead. Projected budget challenges, coupled with anticipated reductions in federal funding, will loom large over legislative discussions. As lawmakers work to address these issues, we anticipate a very busy 2026 legislative session.

The year will culminate in a November election in which 52 of the 61 legislative seats will be contested. Four incumbents have already announced their retirement from the legislature, and we anticipate a few other incumbents may not run for reelection in 2026. To date, we are aware that the following legislators intend to retire: Senator David Sokola (D), Senator Dave Lawson (R), Rep. Charles Postles (R), Rich Collins (R).

OSBC Leadership. The big news at the state regulatory level is that the Governor officially nominated Acting State Bank Commissioner Lisa Collison to become Delaware's next State Bank Commissioner – which would be the first time in Delaware's history that someone rose through the ranks at the OSBC to the top spot. In addition to the Bank Commissioner nomination, the OSBC has been laying the groundwork to hire a special advisor to the Commissioner and an innovation officer to support the future of banking in Delaware.

Modernization of Banking Regulatory Oversight. The DBA is proud to serve as a valuable member of the Governor's working group to modernize Title 5 of the Delaware Banking Code, which includes representatives from the Governor and Lt. Governor's offices and the Secretary of State, as well as Senator Mantzavinos, CAFE, and a few other organizations. The working group has made excellent progress and identified several pieces of potential legislation to support this modernization effort, including definitional changes in the code to include crypto currencies in the definitions of some asset classes. Additionally, legislation is being contemplated on OSBC fees, money transmitters, charter transfers from out of state and fintech options.

New Legislation. Several draft bills have been released already this session:

Computer Technology including Chatbots/AI: This bill is an update to a bill from the first session and remains a challenging issue. The sponsor, to date, has been unwilling to move off of a section that provides for a private right of action, which is a nonstarter for some colleagues in the legislature.

Earned Wage Access: Senator Mantzavinos has long been a supporter of this bill. The bill would be one of the first in the Fintech space for Delaware. The Senator is currently working on another draft of the bill and has been working with the State Bank Commissioner to address concerns. The Senator would like to file this bill in the next month.

Virtual Currency Kiosks: Mike Lawson, CFCI BSAO, Vice President Security & Loss Prevention at Artisans Bank and Chairman of the Delaware Association for Bank Security (DABS), is spearheading an exceptional group of stakeholders including the DBA working on behalf of all those in and traveling through Delaware to combat the consumer protection challenge of virtual currency kiosks (VCKs) – which some like to call “bitcoin ATMs” but which are anything but ATMs in reality. In fact, research shows that some 95% of transactions through VCKs are fraudulent, and a significant majority of the victims are older adults. Delaware State Representative Cyndie Romer is leading the charge in the General Assembly to advance legislation once the working group has determined an approach. Beyond those mentioned above, the working group includes the Delaware Attorney General's Office, AARP of Delaware, the OSBC, and the Delaware Fraud Working Group. We are closely watching activity in other state legislatures on this front and coordinating with our regional peer state bank associations in developing our strategy for Delaware.

Many resources and reference points exist to inform and support advocacy against VCKs, including:

- ✓ FinCEN's [notice](#) regarding the scams perpetrated through VCKs
- ✓ Senator Durbin's [bill \(S.710\)](#) introduced in February 2025 entitled the Crypto ATM Fraud Prevention Act of 2025
- ✓ The National Conference of State Legislature's [commentary](#) on the topic
- ✓ The Conference of State Bank Supervisors' [model Money Transmission Modernization Act](#), which includes a definition of virtual currency that could be helpful to Delaware given it does not today exist within Title 5 of the Delaware Code
- ✓ The American Legislative Exchange Council (ALEC)'s [model law](#) and commentary on VCKs

We continue to work with the bill's sponsor to move this consumer protection legislation forward. There is some concern the fiscal note that could be required on any version of this bill, due to the need for enforcement resources, may hinder its chance of passage.

3. Federal Legislative Issues

The big news this period on the federal legislative front is clear: payments, payments, payments. We continue to educate the public and our legislators that stablecoins are (or ought to be viewed as) payment mechanisms rather than tokenized deposits; that interest rate caps on credit cards would devastate the very people they're intended to benefit (i.e. consumers) and steer them to much more expensive and unregulated delayed payment providers; and that virtual currency kiosks are not, in fact, ATMs and instead are for the most part mechanisms for fraudulent money transfers (not exactly payments, but you get the idea).

Ongoing topics

Stablecoin. The Senate Banking Committee markup of the crypto market structure legislation has been postponed, but our advocacy on this front continues apace. Recall our ask is for Congress to ensure that payment stablecoins remain true payment instruments and are not permitted to provide yield or mimic deposit like products in the comparatively less regulated crypto sector. Coinbase's CEO is apparently no longer hiding the crypto industry's desire to siphon off bank deposits into stablecoin instruments -- you can listen to his most recent comments making this clear [here](#). As we and so many others have noted, we are concerned (among other things in this space) that the permissibility of paying interest or rewards with respect to stablecoins will lead to:

- ✓ Deposit flight (and therefore a material contraction in lending capabilities),
- ✓ Implications for the Treasuries market and monetary policy from the reserves requirements, and
- ✓ Fraud and market stability fears (will stablecoin issuers be considered Too Big To Fail? Or will they fail and pull down the rest of the economy with them?).

With respect to the framework for stablecoin issuance generally, the FDIC in December issued a [notice of proposed rulemaking](#) on a process for banks and savings institutions to seek agency approval to issue stablecoins through a subsidiary. As a reminder, federal regulations implementing the GENIUS Act are theoretically due by July 18, 2026, and any states that wish to seek certification for a federal-equivalent regulatory scheme must apply by January 18, 2028. We understand that the

Conference of State Bank Supervisors (CSBS) is working on model legislation to offer states that wish to seek certification a simpler pathway to adoption and therefore oversight of stablecoin issuers in their home state.

Credit and Debit Card Matters. Two long-standing areas of contention for the credit card industry – rate caps and routing restrictions – flared up in the last month and have gained steam, though by the time you read this update, it may be outdated.

Rate Caps: There was a flurry of industry activity following the President’s social media post proposing a one-year, 10% cap on credit card interest rates. While the proposed rate cap aims to lower consumer costs, existing and new data demonstrates that it would instead undermine affordability by effectively eliminating the credit card as a spending tool and vital source of liquidity for tens of millions of Americans.

Advocacy has been fierce across our industry, with multitudes of other industries supporting our position strongly opposing the cap. Among the findings in [ABA’s analysis](#) of impacts:

- ✓ 74%–85% of open credit card accounts nationwide would be closed or have their credit lines drastically reduced.
- ✓ At least 137 million cardholders – and up to 159 million – would no longer be able to use their cards.
- ✓ State-by-state analyses are consistent with the national data, indicating the pain from price caps would be felt in every corner of the country.

Some valuable resources for your use in advocating against this proposal are below:

- ✓ [Grassroots advocacy](#) link
- ✓ ABA’s [press release](#), rate cap impacts [brief](#) and [state-by-state](#) analysis.

Please share with us any additional direct and indirect impact categories you can think of aside from this top-line impact on credit access, so that we can provide additional context and support for pushing back.

Routing Restrictions: The Durbin-Marshall Credit Card Mandate (the Credit Card Competition Act or CCCA), which expands on the routing requirements imposed by the original Durbin amendment (enacted as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203)) on credit cards issued in the United States, may be attached to the crypto market structure bill the Senate is seeking to advance. In the words of the ABA’s January 26, 2026 letter to Members of Congress, we believe “it would harm consumers, small businesses, and banks alike by reducing card choice, increasing fraud risks, reducing rewards, increasing the cost of allocating credit to borrowers, and creating economic challenges for smaller financial institutions.” There are some astounding statistics quoted in that letter, which I won’t repeat here, but I encourage you to check it out – and pass it along.

Credit Card Rewards: In a less time-sensitive, highly-charged context, the ABA asked the CFPB in a [letter](#) to Acting Director Russ Vought to take down a circular it issued last year for law enforcement claiming that credit card issuers can violate the law if they devalue the rewards that customers earned with their cards or inhibit those same customers from redeeming promised rewards.

Debit Cards and Interchange: And debit cards are back in this mix as well, with a recent court ruling imposing a new interpretation of the Federal Reserve’s standard for setting debit card interchange fees. The original lawsuit was brought by a group of North Dakota retailer trade associations and truck stop Corner Post, who alleged the Fed exceeded its statutory authority to set interchange fees that are “reasonable and proportional to the cost incurred by the issuer with respect to the transaction.” U.S. District Court Judge Daniel Traynor sided with the plaintiffs in a ruling last year, but a federal judge in Kentucky came to the opposite conclusion in a similar case, ruling that Regulation II, the regulation at the center of both lawsuits, is not contrary to law, nor is it arbitrary and capricious. The Fed appealed Traynor’s decision, and the ABA and other associations filed an amicus brief asking the appeals court to reverse Traynor’s ruling, noting that debit card issuers have long relied on Reg II and the understanding it reflects that the interchange fee cap should be “reasonable and proportional” to their costs.

Broader Industry Legislative Topics

Artificial Intelligence (AI). The Philadelphia Federal Reserve Bank recently issued a fascinating [report](#) about the potential impacts on our economy of generative AI. Its research suggests that “among Third District metropolitan areas, the Philadelphia-Camden-Wilmington labor market is among the most exposed to generative AI, with nearly 25% of jobs exposed, a level matched or exceeded only by the Trenton-Princeton and State College markets. Sectors long central to Delaware’s economy, from business and financial services to tech and administrative support, are especially affected. That means the same industries people have counted on for decades are now facing one of the biggest transformations in a generation.” The ABA has offered a [list of principles](#) to guide any legislation relating to artificial intelligence in financial services, including the desire for comprehensive laws establishing an AI risk management framework, though strongly arguing for a framework with strong preemption of state requirements, given the fact that banks already are subject to an extensive compliance regime covering nearly all risks associated with AI, including fair lending and cybersecurity.

DIDMCA. One national issue that has important implications for Delaware is the 10th Circuit Court decision regarding Colorado’s opt-out from The Depository Institutions and Deregulation and Monetary Control Act of 1980 (DIDMCA), the impetus for Delaware’s Financial Center Development Act (FCDA), which attracted out-of-state banks and credit card companies to the state and launched our pre-eminence in the industry. As we noted previously, in 2023, Colorado opted out of DIDMCA, claiming it could therefore impose its usury laws on other states’ state-chartered banks when lending to Colorado residents. Industry groups fighting this interpretation initially won a preliminary injunction, but the 10th Circuit overruled that lower-court decision.

This latest ruling puts at significant risk the rate exportation rights that state-chartered banks have enjoyed for 45 years. Many influential parties filed *amicus* briefs in favor of our position on the ruling, including the [OCC](#) itself, following on Comptroller Gould’s scathing [commentary](#) including the statement that, “[The court’s decision] is fundamentally inconsistent with Congress’s efforts to create competitive equality between state and federally chartered banks. Courts or, if necessary, Congress should remedy this outcome.” In addition, the attorneys general of 20 states filed an [amicus brief](#) following a bid by the National Association of Industrial Bankers, the American Financial Services Association and the American Fintech Council for a [rehearing en banc](#) of the decision.

Preemption. Beyond DIDMCA, the OCC in late December [proposed](#) two rules to clarify that national banks are exempt from state laws regulating real estate escrow accounts – permitting them to establish or maintain real estate lending escrow accounts and to exercise flexibility in making

business judgment as to the terms and conditions of such accounts, including whether and to what extent to offer any compensation paid to customers or to assess any related fees; and preempting state laws that eliminate national banks' and federal savings associations' flexibility to decide whether and to what extent to pay interest or other compensation on funds placed in real estate escrow accounts or assess fees in connection with such accounts.

The proposal arose in light of the litigation brought by Flagstar Bank in California that challenges the state's law, with a federal appeals court ruling earlier this year that the National Bank Act does not preempt the state law. The American Bankers Association [filed a coalition amicus brief](#) in the case urging the court to reconsider the decision.

Debanking. In December, the OCC issued its [preliminary findings](#) from its review of large banks' "debanking" activities, following the President's August 2025 Executive Order (EO) 14331, "Guaranteeing Fair Banking For All Americans."

Credit Unions. In early December, the Taxpayers Protection Alliance and 11 other organizations sent a [letter](#) to Congress calling for oversight hearings on the credit union industry. Likewise, Senators Warren, Booker, and Blumenthal sent [letters](#) to 21 credit unions requesting information on their fee practices. The American Prospect also published an article titled "[Credit Unions Go Large and Go Rogue](#)."

Progress highlights

Phasing out the penny. At last, the industry, retailers across the country, and others who've suffered from the penny shortage resulting from the abrupt termination of penny production have been heard. The Federal Reserve announced January 8th that it would resume accepting penny deposits at coin distribution locations beginning the week following. Also the Treasury Department issued welcome [guidance](#) for businesses and individuals on how the end of penny production will affect cash payments.

ACRE. Since the enactment of the Access to Credit for our Rural Economy Act (ACRE) via the One Big Beautiful Bill Act, the Internal Revenue Service has issued [interim guidance](#) with respect to ACRE that defines key terms from the law, establishes standards for determining whether a loan is secured by rural or agricultural property, and provides rules regarding refinancings. In a [letter](#) last week, ABA urged the IRS to implement the new rural lending tax benefit with broad, practical eligibility rules aligned with congressional intent and Farm Credit standards so banks can effectively support diverse agricultural and rural communities.

4. Federal Regulatory Issues

Regulatory oversight principles and rules, including approaches to chartering of financial institutions continue to shift, while the tension between federal and state control continues.

Supervision. Changes, proposed changes, and commentary regarding supervisory thresholds and approaches to different categories of institutions, like large banks versus community banks, have come out in volume over the last two months.

FDIC: In late November 2025, the FDIC published a [final rule](#) that took effect January 1, 2026 modifying the insured depository institution resolution planning requirements, or IDI rule. The rule makes updates for cumulative inflation since last adjustment and establishes automatic adjustments

every two years based on the Consumer Price Index, with earlier adjustment permitted if the cumulative change in CPI exceeds 8% since the most recent adjustment.

Interestingly, just last week in a [speech](#) at the other ABA (the American Bar Association), the OCC Comptroller Jonathan Gould said he sees no benefit in the FDIC continuing to require filings from large banks that detail their suggested orderly resolution in case of a bank failure, known as CIDI plans. He also suggested dialing back the scope of resolution plans for the largest banks.

In separate news, the FDIC Ombudsman's Office notified the DBA of its updated outreach approach for members given government travel restrictions. Currently, the Office has paused in-person Ombudsman outreach meetings with bankers, but outreach will continue through more frequent email and phone communications, particularly before and after examinations. The Ombudsman serves as a confidential, independent, and impartial resource for bankers experiencing challenges related to FDIC supervision, examinations, or applications and encourages early engagement when bankers have concerns about fairness, process, communication, or understanding supervisory expectations. DBA is proud to serve as an outlet for concerns you may wish for us to share on a no-name or group summary basis with our Regional Ombudsman, Jennifer Conboy Molony (JConboyMolony@fdic.gov, (917) 320-2532).

OCC: In December, the OCC issued proposed guidance in the form of its [simplified strategic plan](#) with respect to the Community Reinvestment Act (CRA) to reduce the regulatory burden on community banks, building on the reforms it communicated earlier in the fourth quarter of 2025. The OCC suggested that the plan enables a bank to tailor its CRA examination based on the needs of its community and the bank's own capacity and constraints, product offerings, and business strategy. Comments on the [proposal](#) are due by March 2, 2026.

Also due by March 2, 2026 are comments on the heightened standards revisions the OCC [proposed](#) in late December. This proposal would increase the average total consolidated assets threshold for applying the heightened standards from \$50 billion to \$700 billion. This would have the effect of decreasing the number of organizations subject to the heightened standards from 31 to five.

Federal Reserve Bank: During a speech in late November, Federal Reserve Governor Stephen Miran [outlined](#) several principles guiding his approach to bank regulation, including that policymakers should always consider the potential costs and benefits of any regulation and resist the urge to overreact in the wake of crisis; the Federal Reserve should aim for the smallest footprint it can manage; and transparency is a virtue, as is keeping an open mind.

Also, Federal Reserve Vice Chair for Supervision Miki Bowman signaled in a [speech](#) at a bank presidents event at the California Bankers Association that the agency is considering changes to its rules governing the sharing of confidential supervisory information. The premise of the changes is to help banks better coordinate fraud prevention efforts and mitigate the potential for supervisory abuse. The speech provides a useful overview of her perspectives and, in that respect at least, the likely priorities for the Fed this year.

Financial Stability Oversight Council (FSOC): U.S. Treasury Secretary Scott Bessent, in his [Letter from the Chairman](#) in the FSOC Annual Report, said that FSOC will take an expanded view of the term "financial stability" moving forward by examining whether regulation weakens economic growth and what can be done to strengthen the nation's economic security.

Leverage Ratios: In December, the banking agencies issued a final rule that approved changes to the enhanced supplementary leverage ratio, or eSLR, standards for the largest banks as part of reforms being pursued jointly by federal banking agencies. [The final rule](#) replaces the current 2% eSLR buffer for global systemically important banks and their subsidiaries with a buffer equal to half of the GSIB's Method 1 surcharge. However, in a change to the rule as first proposed, the buffer would be capped at 1% for subsidiary banks. The rule was issued jointly with the Federal Reserve and the OCC and takes effect April 1, 2026, with the option for banks to start using it as early as January.

The banking agencies also published a [notice of proposed rulemaking](#) that would lower the community bank leverage ratio (CBLR) requirement for certain depository institutions and depository institution holding companies from 9% to 8%, which would allow an additional 475 community banks to use the framework if they choose to do so, according to [an FDIC board memo](#). It would also expand the time banks can remain in the CBLR framework without meeting the qualifying criteria, from two quarters to four quarters.

Congressional Commentary: Given the extent of the above changes and proposals, it almost feels like piling on that the Republican members of the House Financial Services Committee (HFSC) and the House Financial Institutions Subcommittee also expressed urgency towards tailored regulation. The Republican members of the HFSC sent a [joint letter](#) to urge the banking agencies to tailor regulation for regional and midsize banks based on actual risk rather than the “one-size-fits-all” approach. They also urged regulators to revisit enhanced prudential standards, or EPS, for Category II, Category III and Category IV banks, which are generally between \$100 billion to more than \$700 billion in size. Meanwhile the House Financial Institutions Subcommittee led by Chairman Andy Barr (R-Ky.) held a [hearing](#) in December “to examine the bank capital framework in the United States, evaluate how regulatory capital requirements influence financial institutions of all sizes and their customers, and promote the development of a more transparent, risk-aligned capital regime.”

5. Executive Administration Issues

Bank and Trust Charters. As with supervision matters, on the issue of existing and potentially enhanced charters for financial institutions, in the last two months we've seen changes, proposed changes, and commentary. An interesting overview is [here](#).

OCC: Likely in response to the request by certain FinTech companies for a national trust charter, the OCC is [proposing](#) to amend its chartering regulations to clarify that national banks limited to the operations of trust companies may engage in nonfiduciary activities. We have joined discussions within the ABA on a draft comment letter in response.

The OCC in December [conditionally approved](#) applications for de novo national trust charters for First National Digital Currency Bank and Ripple National Trust Bank and for BitGo Bank & Trust, Fidelity Digital Assets and Paxos Trust Company to convert from a state trust company to a national trust charter. We, along with the ABA and our peer state bank associations, objected to this approach, at least until greater clarity on the intended activities of those entities was offered. Even the National Community Reinvestment Coalition (NCRC) [weighed in](#) with strong objections given the implications to low- and moderate-income communities. Nevertheless, OCC Commissioner Gould – [speaking at a Blockchain Association conference](#) – dismissed these concerns and said his agency has received 14 de novo charter applications since the start of the year, both from entities engaged in traditional banking activities and in novel or digital asset activities.

FDIC: The FDIC earlier this month [approved](#) applications for deposit insurance from Ford Motor Company to establish Ford Credit Bank and General Motors Company to establish GM Financial Bank, both of which will be Utah-chartered industrial banks. The FDIC also [approved](#) a deposit insurance application to establish Erebor Bank, N.A., a newly chartered digital national bank to be headquartered in Columbus, Ohio. [PayPal](#) has applied to Utah Department of Financial Institutions and the FDIC to establish PayPal Bank, a proposed Utah-chartered industrial loan company (ILC).

Consumer Protection. In a seemingly sweeping and unprecedented development that may, in the end, turn out to have a narrow and precise focus, early this month the President [announced](#) that he is establishing a new Department of Justice (DOJ) Division for National Fraud Enforcement “to combat the rampant and pervasive problem of fraud in the United States.” A new Assistant Attorney General would head the Department and would report to the President and Vice President rather than the U.S. Attorney General who heads the DOJ. The majority of the White House’s Fact Sheet on this topic, though, focuses on Minnesota and the investigations in which the DOJ is already involved concerning “multiple active, ongoing, and extensive investigations into the fraudulent activity that has occurred in various Minnesota programs.”

Trump Accounts. As part of the OBBBA, the [Working Families Tax Cuts](#) allows parents, guardians and other authorized individuals to establish a new type of individual retirement account for their children, called [Trump Accounts](#), for a child who has not turned age 18 before the end of the calendar year in which the election is made and has a valid Social Security number. The account features a pilot program contribution of \$1,000 for children born between Jan. 1, 2025, and Dec. 31, 2028, and who are U.S. citizens with a valid Social Security number. The IRS has posted a draft version of [Form 4547, Trump Account Election\(s\)](#), that will be used to establish a Trump Account and to enroll in the pilot program, which is intended to launch this July 5, 2026.
