



**Delaware Bankers Association
Delaware Financial Education Alliance**



8 W. LOOCKERMAN STREET • SUITE 200 • P.O. BOX 781 • DOVER, DE 19903-0781
(302) 678-8600 • www.debankers.com

MARGARET CREGAN
Chief Administrative Officer

RENEE L. DUNCAN
Member Support Manager & Accounting Assistant

GREGORY KOSELUK
SVP Marketing & Public Relations

DAVID MENCH
Director of Government Affairs

KARYN S. W. POLAK
President, CEO & Treasurer

CORINNE STAYTON
Director of Events/Event Technologist

To: DBA and DFEA Members
From: Karyn S.W. Polak
President, CEO & Treasurer
Date: October 7, 2025
Subject: Legislative Update Excerpt from
President's Report for the October 3, 2025 Board Meeting

Our purpose at the DBA/DFEA is to support you so that you are positioned to excel, for your clients, employees, communities, and ultimately the State of Delaware and beyond. Advocating for our members is a key strategic priority for us. This excerpt from my President's Report to the Board for our October meeting is the legislative and regulatory update for the period between our last board meeting on June 24th and this one. (Note that there are always developments that occur right after we finalize this report, which we've not attempted to include here.)

Going forward, we will add to our advocacy activity by sharing this content each month with all our members. 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?

Thank you for your membership!

1. State Legislative Issues

The 2nd session of the 153rd General Assembly will begin on Tuesday, January 13, 2026.

Following the close of the 1st session in the early morning of July 1st, the legislature held special sessions and an extraordinary session. The special session was called by the House and Senate leadership, which was precipitated by fervent opposition to the process and outcome of the property tax reassessment. When the reassessment process started several years ago, it was positioned as revenue net neutral issue. What wasn't understood was a little-known provision in the

reassessment law that allowed school districts to increase taxes up to 10%, angering residents who felt misled. The House and Senate passed several bills and resolutions addressing some of the concerns, and the legislature established a joint House and Senate committee to immediately review the recent statewide property reassessment. This issue remains the subject of continued debate and changing dynamics.

The Governor also called an Extraordinary Session on September 22nd to convene the Senate for purposes of confirming judicial, advisory and other nominees.

Key wins

Following the passage of HB 203 (Equity and Inclusion in Financial Literacy), the bill was signed in a private ceremony due to timing requirements. A public ceremonial signing event is scheduled for Thursday, October 17, 2025 at Delaware State University, and the DBA/DFA will certainly be in attendance. Additionally, the DBA has been working with the bill's primary sponsor and other stakeholders to find ways to celebrate this momentous occasion early in 2026.

Challenges and risks

OSBC Commissioner retirement. The Office of the State Bank Commissioner's leader, Commissioner Robert A. Glen, abruptly announced to the Delaware Council on Banking his retirement just days before its effective date of June 30, 2025. This transition created a unique opportunity for the DBA to share with the Governor's Office, the Office of the Secretary of State, and Senior Banking Committee members the DBA's and its members' perspectives regarding the future of banking and role of the OSBC in that future, including the need for modernization of the Office.

We convened a cross-section of members as an advisory group to gather our thoughts on this subject, including some past concerns and experiences the industry has had with the OSBC that contribute to or detract from the economic vitality, leadership and reputation, and strength of the State of Delaware. With a summary from this discussion in hand, David and I have been socializing our views. We believe the Governor does desire to hire someone as Commissioner who would be equipped to consider the many unique structures and possibilities for expansion of its purview as well as be responsive to and transparent with those institutions over which it has regulatory oversight responsibilities. We will discuss this topic further at our board meeting and as the hiring process proceeds.

Competition for Delaware benchmark status. While we might have said some of the noise from the last Tesla court decision had died down following the passage of SB21, it was only a brief respite. The Delaware Supreme Court is scheduled to hear Musk's appeal on October 15 in Dover, and the justices will hear the Senate Bill 21 constitutionality claim on November 5. Once again this topic is gaining plenty of media attention, including in a Spotlight Delaware [article](#) and an Odd Lots [podcast](#).

Events

In early August, I attended a fundraiser for Rep. McBride that was sufficiently intimate to allow for a lengthy conversation with our Representative, on topics such as bipartisan legislation, the Representative's interest in financial industry matters, and our role as an industry in advancing economic development and inclusion in Delaware. David and I attended a Philadelphia Fed housing event at which Rep. McBride was also present, and she and I toured the new seniors development together. Thanks to David, we have meetings scheduled with Sen. Coons and the Secretary of State in late September and Rep. McBride as well as the Governor in early October.

2. Federal Legislative Issues

This meeting's federal legislative report is more heavily weighted on the "challenges and risks" side than the "key wins" side due to the continued barrage of Executive Orders, structural and perspective changes within our various regulatory bodies, and new legislative proposals from Congress and states other than Delaware that influence what happens here. Please reach out to us if you have questions on any of the items described below or want to call out additional items on your radar screen.

Note that we have shifted our 2026 Washington Visit from March to January: January 22-23, 2026. We have asked ABA representatives to join us at our December meeting so that we can discuss and strategize at length about the agenda and questions for regulators.

Key wins

Stablecoin. I suppose we ought to call the passage of reconciled stablecoin legislation, the Guiding and Establishing National Innovation for U.S. Stablecoins Act, or "[GENIUS Act](#)", a key win. Thanks to the extensive advocacy of the DBA, ABA, and our peer state associations, the Act passed without many of the least industry-favorable provisions and contains many of our most sought-after enhancements following a highly challenging negotiation process between the parties and between the House and Senate. That said, the industry has identified at least one key loophole that we feel must be closed: the possibility of issuer affiliates offering interest or rewards to incentivize stablecoins over liquid deposits.

As we noted in our email to Sens. Coons and Blunt Rochester, we support the GENIUS Act's prohibition against payment stablecoin issuers paying interest or yield on payment stablecoins, which appropriately reinforces stablecoins as a payment mechanism—not a store of value. However, this restriction is easily bypassed when exchanges or other affiliates offer yield or rewards to stablecoin holders, undermining the law and distorting market incentives. [Brookings](#) recently published an article calling out the severe implications for our economy of allowing this loophole to stand, and the ABA has created an [action alert](#) for those industry individuals who would like to express their views to their senators directly.

We understood that there was little appetite in Congress to make revisions, additions, or extensions to the Act, at least until Treasury issued a [request for public comment](#) related to its implementation of the Act. Comments will be open for 30 days after publication in the Federal Register. Treasury added that this notice builds on the request for comment on "Innovative Methods to Detect Illicit Activity Involving Digital Assets" issued on Aug. 18, which remains open for comment until Oct. 17.

Moreover, a group of Democratic Senators including our Sen. Blunt Rochester issued a [statement](#) this month with their proposed framework for, in their words, "a framework for a market structure bill that would regulate digital asset markets in the U.S., ensure responsible innovation, and create a safe and level playing field for all market participants." Embedded in the full framework is a view that market structure legislation should "[p]reserve the intent of the GENIUS Act prohibition on interest or yield paid by stablecoin issuers, including indirectly or through affiliates."

UDAP. Another item takes the key win qualification in reverse: it's a loss that could also be seen as a win. In mid-September, the 8th Circuit Court of Appeals handed down its decision in the ABA's lawsuit against the FDIC, which argued that the FDIC's FIL 40 (replaced by FIL 32) were issued as guidance documents regarding deceptive UDAP violations but operated in fact as binding rules because they contained new disclosure requirements and allowed the FDIC to cite banks with

deceptive UDAP violations for not including those new items. While the 8th Circuit ruled against the ABA, preventing it from arguing the merits of the case, simply filing the lawsuit prompted the FDIC to change its enforcement position on this issue. Going forward the FDIC will no longer examine banks for this issue or cite banks for the UDAP violation described in the FILs. The agency went from a very aggressive enforcement position on this issue to no enforcement whatsoever, basically overnight, and the FDIC's statements in court should prevent the agency from changing back to its aggressive enforcement position in the future.

Progress highlights

Among eleven bills it considered, the House Financial Services Committee recently advanced [four bills](#) supported by ABA covering topics ranging from stress testing to community banks: the Stress Testing Accountability and Transparency Act (H.R. 5270), The Community Bank Leverage Improvement and Flexibility for Transparency [LIFT] Act (H.R. 5276), The Merchant Banking Modernization Act (H.R. 5291), and The Bank Competition Modernization Act (H.R. 5262).

CFPB Rule 1071. The federal government issued a rule last year that requires lenders to collect and report information about their small business lending to the Consumer Financial Protection Bureau (CFPB). Although the data is intended to facilitate enforcement of fair lending laws and to identify community development needs and opportunities, it raises privacy concerns for lenders and small businesses alike. The rule requires lenders to collect 81 data points about small business loan applicants (defined as a business with \$5 million or less in gross annual revenues in the preceding fiscal year). The ABA created a [1071 toolkit](#) to explain the rule's impact and provide resources such as an explainer video, draft social media posts, and a sample letter bankers can send to their customers.

CFPB Rule 1033. In other CFPB news, the federal court hearing the lawsuit challenging the CFPB's 2024 issuance of a final rule to implement Section 1033 of the Dodd-Frank Act granted a stay in the lawsuit to allow the CFPB time to issue new rulemaking. Section 1033 requires financial institutions to make a consumer's financial information available in electronic form.

In late July, the ABA, Bank Policy Institute, America's Credit Unions, Consumer Bankers Association and the Independent Community Bankers of America issued a [statement](#) in response to the falsehoods contained in a letter from a group of fintech and retail organizations regarding the CFPB's Section 1033 rulemaking. The CFPB has now issued a [request](#) for comments, due October 21, 2025, and the ABA has put out an [action alert](#) encouraging financial institutions to submit comments.

Challenges and risks

Debanking. As I mentioned in a note to the board earlier this month, there has been a lot of discussion not only in the industry but in the media and in the halls of law firms across the country about the President's Executive Order (EO) titled "[Guaranteeing Fair Banking for All Americans](#)" (which the industry would summarize as the "debanking" EO). The ABA held a webinar on this topic with David Monterio, a partner with Sidley Austin LLP, who shared this [article](#). The ABA and Alliance have had several discussions about the SBA's letter in this regard, which it sent to approximately 5,000 banks in early September. The OCC also issued two bulletins for financial institutions "to eliminate politicized or unlawful debanking in the federal banking system." [The first bulletin](#) seeks to remind banks of their legal obligations to protect their customers' financial records. [The second bulletin](#) clarifies how the agency considers politicized or unlawful debanking in licensing applications filed by banks and banks' records of performance under the Community

Reinvestment Act. There will most likely be more debate and more developments on this front in the months ahead.

Interchange Fees. A federal court in August [invalidated](#) Regulation II's standard for setting debit interchange fees, finding that it permitted interchange fees at levels higher than federal statute allows and violated congressional intent. However, the court temporarily stayed its action pending an anticipated appeal by the Federal Reserve. The finding isn't favorable to the industry but the appeal may yet yield a better result. For a smile, enjoy this quote from the judge about the Durbin Amendment at issue: "When one wonders if studying grammar and English's oddities is worthwhile, this case answers with a resounding 'yes,'" he wrote. "It exemplifies how precise grammar and syntax might have avoided over a decade of legal battles."

Data privacy. The House Energy and Commerce Committee formed a Data Privacy Working Group to explore options for a possible national data privacy framework for all types of entities. [In a letter to the committee](#), the ABA and six other associations noted that the Gramm-Leach-Bliley Act of 1999 (GLBA) already governs the collection, use and sharing of consumer personal information by financial institutions. They requested that any federal data privacy law avoid unintended consequences for banks and credit unions by exempting businesses already subject to the requirements of the GLBA.

3. Federal Regulatory/Executive Administration Issues

For this reporting period there are no material progress highlights or key milestones and wins to share from the federal regulatory or executive administration side. There are, however, two federal items with specific potential impact on Delaware that warrant a separate call-out, as well as some notable organizational and supervisory changes from our federal regulators.

Delaware-specific concerns

Nontraditional entities and regulatory oversight. In July several trade associations including the ABA submitted a [comment letter](#) to the OCC regarding Circle and [Ripple's](#) application for a national trust charter, suggesting that consideration of the applications should be postponed until more information is made public. In August, [Paxos Trust Company](#), the cryptocurrency firm behind PayPal's stablecoin, joined the other crypto companies applying for this charter. According to Reuters, Paxos previously applied for a national trust bank charter in 2020, received preliminary conditional approval from the OCC in 2021, and then after the application stalled, it expired in 2023. Crypto platform Anchorage Digital is currently the only digital asset company with a national trust bank charter. If you're interested to understand Circle's reasoning behind its application for such a charter, check out this Odd Lots [podcast](#) interviewing the Circle CEO.¹

Separately, the ABA and the Consumer Bankers Association recently sent a [letter](#) to the Consumer Financial Protection Bureau (CFPB) urging it not to abandon or limit its responsibility to supervise nonbanks that pose an immediate risk of harm to consumers. As we know, this issue of nontraditional entities and leveling (or not) the regulatory playing field with traditional institutions will continue to be a challenge for the industry and weight on our regulators to stay in the game, including locally as we seek to influence and see what evolves with our OSBC transition.

¹ Rest assured I receive no revenue share or other benefits from any subscriptions to this particular podcast (or any other). It just happens to be a sometimes-interesting deep dive by market-focused hosts I came across.

Dexit controversy. Another potential challenge to Delaware's standing as the premier state for businesses to incorporate is coming from an unusual source: the Securities and Exchange Commission (SEC). Late this month the SEC issued a policy statement that it will no longer object to the inclusion of a mandatory arbitration provision in a company's bylaws or charter. This policy is contrary to decades of practice where SEC Staff would not declare effective registration statements of companies that had mandatory arbitration provisions in their organizational documents. It's also contrary to Delaware law, which does not permit a company incorporated in the state to require arbitration as a method for shareholders to seek redress.

Why does this conflict matter? If companies incorporated in more permissive states like Nevada or Texas adopt issuer-investor mandatory arbitration provisions, securities class litigation could become impossible for shareholders in those states. Delaware corporations could then be uniquely vulnerable to securities class action risk. As [one law firm](#) put it, "it is reasonable to think that, on the margins, such a dichotomy may accelerate the 'Dexit' phenomenon of companies looking to incorporate or reincorporate outside of Delaware".

Challenges and risks

Phasing out the penny. As our bank members surely already know, President Trump in February ordered the U.S. Treasury Department to stop penny production, saying it is a waste of government resources, and lawmakers in both chambers of Congress have put forth bills to end penny production. While the move seems quite logical (and follows many other countries' similar moves), we are aware that the dwindling stock of pennies in circulation means banks need to be mindfully managing their supply; considering customer disclosures to manage expectations; and consider changes to cash-management practices accordingly. The ABA has put out [talking points](#) on this topic.

FDIC Regulatory Thresholds. We joined the ABA in its letter to the FDIC to support – with caveats – the FDIC's proposal to modernize the framework for adjusting and indexing certain regulatory thresholds. The proposal would amend certain regulatory thresholds to reflect inflation from the date of initial implementation, or the most recent adjustment, and provide for future adjustments pursuant to an indexing methodology. Our advocacy letter urges the FDIC to:

- Index asset- and activity-based thresholds to nominal GDP,
- Consider the base effects of the initial adjustment, and
- Adopt a transition mechanism to smooth the transition runway when a threshold is crossed.

OCC. In mid-September (for the second time this year), the Office of the Comptroller of the Currency (OCC) announced a new organizational framework for bank supervision and updates to the structure of its Office of the Chief National Bank Examiner. Effective October 1, three distinct lines of business will replace the Bank Supervision and Examination group: Large and Global Financial Institutions, Regional and Midsize Financial Institutions, and Community Banks. Each unit will be led by a Senior Deputy Comptroller who will report to the Comptroller of the Currency.

The OCC's current Senior Deputy Comptroller for Bank Supervision and Examination, Greg Coleman, will serve as the Senior Deputy Comptroller for Large and Global Financial Institutions. This group will include financial institutions with assets of over \$500 billion and those institutions that have a foreign parent. The Regional and Midsize Financial Institutions group will supervise institutions between \$30 and \$500 billion in asset size and the Community Bank group will supervise institutions with up to \$30 billion in assets. Acting Senior Deputy Comptrollers for these new lines of business will be selected in early October.

The OCC also announced a [third outreach](#) to the industry for comments on their ten-year Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) review. Federal bank regulatory agencies will hold a hybrid public outreach meeting on October 30, 2025, in Kansas City, Missouri, an opportunity for interested stakeholders to present their views on the regulatory categories listed in any of the four [Federal Register notices](#): Applications and Reporting; Powers and Activities; International Operations; Consumer Protection; Directors, Officers and Employees; Money Laundering; Rules of Procedure; Safety and Soundness; Securities; Banking Operations; Capital; and the Community Reinvestment Act.

FDIC. The FDIC board has proposed rulemaking to eliminate its Supervision Appeals Review Committee (SARC) and replace it with an independent Office of Supervisory Appeals (OSA). The agency eliminated the OSA in 2022 – not long after the office was formed as a replacement for SARC, which the ABA and others said was an ineffective vehicle for banks to challenge supervisory findings. The [ABA has said](#) it supports the creation of an independent office as the move would greatly strengthen both the credibility and efficiency of supervisory appeals and ensure due process for banks.

Federal Reserve. House Financial Services Committee Chairman French Hill recently announced the [introduction of legislation](#) to end the Federal Reserve's dual mandate "and ensure the central bank focuses exclusively on containing inflation."
