To: DBA and DFEA Members

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

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!

STATE LEGISLATIVE ISSUES

Interchange

HB315 Interchange. As we hit the final stretch of the 2nd session of the 153rd General Assembly (10 legislative days remaining), talk of HB 315 is almost non-existent, but the team on the ground remains ever vigilant. Recent developments out of the Office of the Comptroller of the Currency (OCC), National Credit Union Administration (NCUA), and Colorado (discussed below) have provided more reason for HB315 to never see the House floor.

Illinois Interchange Fee Prohibition Act (IFPA).[1] Helping our case somewhat on HB315 is the OCC's interim final rule and interim final order related to preemption of the IFPA, which kicked off the efforts across the country to eliminate interchange on taxes and/or tips. The OCC's interim final order confirms that federal law preempts the IFPA, expressly providing that national banks and federal thrifts are neither subject to nor required to comply with this state law. The NCUA released and published its interim final rule declaring the IFPA preempted by Federal Credit Union Law. We provided a comment letter in support of the OCC's rule and order. Of course, this does not address state-chartered banks.

We also signed on to a joint trades *amicus* brief in favor of the plaintiffs' attempt to invalidate the IFPA, which was joined by all of our peer state bank associations, the American Bankers Association (ABA), the Bank Policy Institute, the Consumer Bankers Association, and America's Credit Unions. Others who filed *amicus* briefs included the OCC and FDIC, the State of Utah and 20 other state Attorneys General including Iowa (which itself is an opt-out state), and the U.S. Chamber of Commerce. Thankfully, regardless of the outcome of this litigation, the Illinois General Assembly voted to delay implementation of the IFPA for another year, while Judge Kendall issued a

[1] Admittedly I waiver each month between treating interchange challenges such as Illinois and Colorado as State or Federal. Its connection to Delaware's HB315 for now lands it on the State side.

permanent injunction blocking the interchange fee prohibition for national banks, federal savings associations, out-of-state state-chartered banks protected by federal law, and payment card networks. Plaintiffs in the case will return to the Seventh Circuit and defend this favorable ruling while continuing to seek broader relief for entities not covered by Judge Kendall's ruling, such as state-chartered savings banks and state-chartered savings associations located outside Illinois.

We should note too that this week U.S. District Judge Brian Cogan granted preliminary approval to Visa and Mastercard's revised $38 billion swipe fee settlement with merchants. Among other elements of the settlement, Visa and Mastercard agreed to lower swipe (aka interchange) fees by 0.1 percentage point for five years, while standard consumer rates would be lowered to no more than 1.25% for eight years. Merchants would also get more options to impose surcharges on customers and could choose whether to accept categories of cards including commercial cards, premium consumer cards — including many rewards cards — and standard consumer cards.

DIDMCA. The court challenge to Colorado's attempt to opt out[2] from The Depository Institutions and Deregulation and Monetary Control Act of 1980 (DIDMCA) was met this month with the Colorado Governor Polis' veto of its recently passed interchange legislation. The ABA filed an *amicus* brief in the litigation following the Tenth Circuit's decision to rehear the case.

Congress' attempt to address this concern from the federal level with Congressman Warren Davidson (OH-08) and Senator Bernie Moreno (R-Ohio)'s *American Lending Fairness Act of 2026* is now, as we reported last month, bipartisan thanks to Delaware's Representative Sarah McBride's agreement to co-sponsor the bill and successful recruitment of Democrat Rep. Horsford to join in the effort.

Modernization/Innovation

Modernization of Delaware Banking. As we previously reported, Senator Mantzavinos, in conjunction with the Governor's office, the Delaware Bankers, and the University of Delaware worked closely together on the modernization of Title V of the Delaware Banking Code.

Title V and Stablecoins. As we noted last month, SB16 on Title V and SB19 on stablecoins both passed unanimously out of the Senate in late April, and on May 5 were released out of the House Banking Committee. Each now awaits a House Appropriations Committee hearing due to the bills' having a fiscal note (meaning that they require state funding).

Money Transmitters. Relatedly, SB18, The Money Transmission Act, would allow the State Bank Commissioner to coordinate with other states in the licensing and supervision of money transmitters, utilizing the Nationwide Multistate Licensing System (NMLS). The Act establishes new safety and soundness standards, including a tiered net worth requirement based on total assets, and updates surety bond requirements scaled to a licensee's average daily money transmission liability. As reported last month, SB18 passed unanimously in the Senate.

Family Trusts. A Family Trust bill was filed May 19, easily passed out of the Senate Banking Committee on May 20, and passed the Senate unanimously June 9. The bill contemplates and permits Delaware-based banks and trust companies to provide services and office space to family trust

[2] 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. DIDMCA was 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.

companies, and we expect that to happen to the extent that families may not want to lease their own space and/or fully staff their family trust companies themselves. This bill should be beneficial to Delaware and keep the state competitive; more than twenty states (including TN, FL, SD, WY, NV, OH) now permit the formation of family trust companies via specialized statutes. The Delaware bill has now been assigned to the House Banking Committee.

Innovation. There certainly is competition for Delaware and other states in seeking to be a hub for financial services innovation and encourage new and innovative types of bank and trust charters. We noted last month that in Delaware, Rep. Bush introduced HB211, which creates a tax credit that accelerators may apply for to incentivize the creation of industry and innovative businesses in Delaware. The program would be administered by the Division of Revenue, and some say it would create a predictable, repeatable, and sustainable source of revenue to support innovation in Delaware. As of publication, this bill is still awaiting a hearing in the House Banking Committee.

Other Active Legislation

Privacy. Rep. Krista Griffith's HB380 privacy bill passed out of the Technology and Telecommunications Committee and passed the House along party lines. It will be heard in the Senate Banking committee on June 10. As mentioned previously, the bill keeps intact the Gramm-Leach-Bliley exemption for federal and state regulated financial institutions and introduces contracting and due diligence requirements when businesses sell or disclose personal data to third parties. The exemption does not include unregulated non-bank financial institutions (NBFIs).

Computer Technology including Chatbots/Artificial Intelligence (AI): HB306 was filed in March, still including the Private Right of Action (PRA), which was an issue for many. The bill is likely going to receive a hearing in the Senate Banking Committee the week of June 15. The on-the-ground team representing a myriad of industries including ours is currently working to get the bill tabled there unless and until there is an agreement on an amendment to address the PRA.

Virtual Currency Kiosks (VCKs): The working group of stakeholders led by Mike Lawson, CFCI BSAO, Vice President Security & Loss Prevention at Artisans Bank and Chairman of the Delaware Association for Bank Security (DABS), and including the DBA, the Delaware Attorney General's Office, AARP of Delaware, the OSBC, and the Delaware Fraud Working Group,– changed drafting direction and decided to propose a complete ban of VCKs via HB441. Delaware State Representative Cyndie Romer, working diligently with the Attorney General's office, ultimately decided that the complexity and expense of crafting appropriate guardrails would be too costly and would prevent the group from moving forward quickly to protect customers. HB 441 was heard in the House Banking Committee on June 9, with all working group members including the DBA testifying on behalf of the bill. Unfortunately there were not enough Committee members present to vote it out of the House Banking Committee. The Chairman Rep. Bill Bush will walk the bill by absent members and expects it to be released from the Committee shortly.

Fair Housing and Disparate Impact: HB451 This Bill was filed June 4 and clarifies that Delaware's Fair Housing Act prohibits housing practices that have a discriminatory effect, commonly known as "disparate impact," even in the absence of discriminatory intent. The Act codifies a burden-shifting framework consistent with federal fair housing jurisprudence and regulations and with laws adopted in other states, including California and Massachusetts. Under this framework:

1. A complainant must show that a housing policy or practice causes or predictably will cause a discriminatory effect on a protected class.
2. A respondent may defend the practice by demonstrating that it is necessary to achieve a substantial, legitimate, nondiscriminatory interest.
3. A complainant may still prevail by showing that the interest could be served by a less discriminatory alternative.

This Act is intended to be interpreted consistently with, but not limited by, the federal Fair Housing Act and to provide equal or greater protection under Delaware law. We welcome your feedback on the bill.

Pending/Inactive Legislation

Earned Wage Access: SB137 Senator Mantzavinos' proposed legislation on this topic – introduced last year – would be one of the first in the fintech space for Delaware. The Senator has indicated he no longer plans to pursue SB 137 in the current legislative session.

Short Term Lending and Trade Practices. Rep. Hilovsky is working on a draft bill that would cap interest rates on short term loans of less than $5,000 with durations of two years or less. While the bill targets so-called "Pay Day Lenders," members have expressed concerns this type of legislation would lead to further rate cap legislation and therefore are opposed. The DBA, along with the State Bank Commissioner, met with Rep. Hilovsky on May 28 and discussed his goals and our concerns about this bill. The OSBC offered to complete its research on the payday lending industry and suggest additional regulatory guidelines to be considered in lieu of a rate cap. Rep. Hilovsky agreed to consider this alternate approach, and as of this date, no rate cap bill has been filed.

FEDERAL ISSUES

The Federal Administration, Congress, and bank regulators continue to discuss, propose, and direct significant changes to the framework of financial industry standards and oversight.

Executive/Regulatory

Innovation. The Administration issued an executive order on nonbanks, seeking to streamline regulations and promote collaboration among all parties in the financial system, according to a White House fact sheet. The Executive Order on nonbanks also directs regulators to review existing guidance and regulations to identify what can be done "to facilitate innovation and greater competition in the provision of financial services, while maintaining safety and soundness."

The Order directs each federal financial regulator (defined to include CFPB, SEC, NCUA, CFTC, FDIC and OCC, notably excluding the Fed) to conduct a wide-ranging, 90-day review to identify rules, guidance, chartering, etc. that could be updated to help fintechs. Each regulator has another 90 days to work with the NEC Director to "encourage innovation" consistent with the findings of the review, and the Fed owes the NEC Director a report within 120 days.

The first section may very well encourage more creative chartering from the OCC and a more fintech-friendly 1033 rule from the CFPB. The order somewhat oddly also includes deposit insurance on the list of items that may need to be streamlined to be made more available to fintechs.

Payment Rails and Accounts. The same Executive Order on innovation also asks the Federal Reserve to evaluate the regulatory and policy frameworks governing access to Reserve Bank payment accounts and payment services by uninsured depository institutions and nonbanks, and to report on what it can do to extend that access to those institutions. Relatedly, the Federal Reserve issued a

formal proposal to create so-called "skinny" master accounts for payment services, with an eye to allowing certain financial institutions to use them for the limited purpose of clearing and settling payments. Davis Polk & Wardwell put out a useful visual explainer covering the Executive Order and the Fed's proposal.

Meanwhile, in perhaps the most concrete and potentially game-changing step in the financial blockchain world, the Clearing House has announced that a coalition of global banks will provide the rails for tokenized deposits. According to the press release, the initiative will modernize money movement across emerging chain networks and will be operated by The Clearing House, a U.S.-based payments company that provides critical payment networks and is owned by 25 of the nation's largest financial institutions. We're proud to say that many of our member banks are participating in this effort.

AI and Cybersecurity. In early June, the Administration issued an executive order on AI directing federal agencies to identify the most advanced AI systems, known as frontier models, and to develop a voluntary framework in which developers can submit their AI models for review up to 30 days before release to other parties. The Executive Order also directs federal agencies to take steps to counter the potential cybersecurity threats posed by artificial intelligence, including by giving community banks the tools they need to protect themselves. The order also calls for the establishment of an "AI cybersecurity clearinghouse" that would coordinate scanning for software vulnerabilities and the distribution of vulnerability patches.

Days after the Administration's Executive Order, Reps. Jay Obernolte (R-Calif.) and Lori Trahan (D-Mass.) proposed The Great American AI Act, which would create new requirements for AI developers to publish frontier AI frameworks outlining catastrophic-risk mitigation, security procedures and model deployment safeguards and to be audited by independent verification organizations that the Department of Commerce would oversee. Among its provisions, the bill would double the fines for federal mail fraud, wire fraud, bank fraud and money laundering when AI is used.

CFPB Regulation B and Disparate Impact. We previously reported that the Consumer Financial Protection Bureau (CFPB) sought to remove disparate impact as a prohibited practice from Regulation B, which implements the Equal Credit Opportunity Act. Consumer groups National Fair Housing Alliance and Rise Economy and the fair lending compliance firms BLDS and SolasAI have jointly filed a lawsuit in the U.S. District Court for D.C. to prevent the removal of disparate impact, arguing that the new rule would make it much harder to challenge banks and lenders for policies that unfairly hurt Black communities, women, immigrants and other historically disadvantaged communities.

Federal Grantmaking. The Administration is proposing new rules to govern grantmaking by federal agencies, including the Treasury Department, Small Business Administration, and Department of Housing and Urban Development. Among the proposed changes, the rule would emphasize the need for "merit-based selection" of award recipients, clarify the ability of agencies to terminate discretionary awards "inconsistent with program goals or agency priorities," and direct federal agencies to exercise "appropriate monitoring and oversight" of recipients. The proposed rulemaking by the Office of Management and Budget is open for comment until July 13th.

Community Reinvestment Act (CRA) and other bank regulatory "vibes". At a June hearing before the House Financial Services Committee, top banking regulators suggested that a decision on whether to press forward on CRA reform may come soon. The Bank Policy Institute put out its highlights from this hearing, which extend beyond CRA. And the OCC offered highlights from Comptroller Gould's testimony at the hearing, suggesting the notable topics included risk tolerance, de novo bank formation, supervision, responsible innovation, and debanking.

Reputational Risk. The FDIC, Federal Reserve and OCC announced that they have jointly updated several interagency documents to remove reference to reputational risk as part of a broader push to prevent alleged debanking.

Anti-money laundering in real estate. A federal court has vacated the Financial Crimes Enforcement Network (FinCEN)'s new anti-money laundering reporting requirements for residential real estate transfers. As a result, reporting requirements are suspended while the agency appeals the decision.

Regulatory/Legislative

Stablecoins. Virtual currencies, especially stablecoin and the GENIUS and Clarity Acts, remain top of mind for the regulators at the federal and state level. The Senate Banking Committee voted to approve the long-awaited Clarity Act establishing a regulatory framework around digital assets, but the bill still has quite a long road to becoming law. It must be merged with parallel legislation from the Senate Agriculture Committee, find 60 votes on the Senate floor, and then be reconciled with a very different House bill.

As we in the industry continue to press for better protections against the offering of interest and/or rewards on stablecoins, which would threaten bank deposits and therefore also community lending, among other negative consequences, the resources available for making our case to regulators, legislators, and our networks deepens.

The ABA has an updated grassroots "Protect Local Lending" toolkit available, in segmented digital documents for easier use:

- Banker Toolkit
- Customer Toolkit
- Main Street Toolkit (local businesses/associations)

The ABA also is maintaining a list of national and state associations across industries that support our position. Most valuably, the ABA's phenomenal Kirsten Sutton (who sadly is leaving the ABA soon although staying in the industry) offered exceptional talking points for your advocacy, which I'm replicating here given their importance.

1. *The legislative fix banks are asking for is specific, surgical, and feasible—this is a technical drafting problem that can be easily fixed.*

   ✓ The banking industry does not oppose digital assets or stablecoins as a payment tool. The fix banks are calling for identifies precise, correctable drafting problems. Senators who want to support responsible innovation have a clear path: fix the text, close the loophole, and let stablecoins function as the payment tools their proponents claim they are, not as unregulated deposit substitutes that hollow out Main Street lending.

2. *The Clarity loophole could gut community lending, especially for those who need it most*

   ✓ The GENIUS Act prohibited stablecoin issuers from paying interest, but the current Clarity Act language contains exceptions that allow exchanges and affiliates to route yield to holders indirectly, effectively doing an end run around that prohibition. The stakes are concrete: the Treasury Department has estimated up to $6.6 trillion in bank deposits could be at risk of leaving the regulated banking space, which would reduce available credit for consumers, small businesses, and agricultural lending. Those lost deposits aren't abstractions. They are mortgages, small business lines of credit, and farm operating loans that simply don't get made. The communities most dependent on community bank credit — rural areas, lower-income neighborhoods, communities of color — bear the greatest exposure.

3. *Unregulated tech companies would capture capital that belongs in communities*

   ✓ Stablecoin issuers and crypto exchanges are not banks. They are not subject to CRA obligations, FDIC insurance requirements, or prudential supervision. When deposits migrate to yield-bearing stablecoins, that capital flows to tech companies and offshore platforms. These entities have zero obligation to lend that money back to the people and places that need it. Community banks, by contrast, are embedded in the towns they serve, required to reinvest in them, and accountable to regulators. Allowing the loophole to persist is a deliberate policy choice to redirect capital away from regulated, accountable institutions toward unregulated ones.

4. *Consumer protection is undermined when stablecoins masquerade as savings accounts*

   ✓ Interest-like rewards make stablecoin balances resemble a savings account, potentially blurring critical distinctions for consumers. Unlike bank deposits, stablecoin balances carry no FDIC insurance, and no prudential oversight. Closing this loophole is fundamentally a consumer protection issue: people deserve to know exactly what protections they do — and don't — have.

Please let us know if you need additional support for your advocacy on this front.

Legislative

The House recently passed three banking-related bills:

- The American Access to Banking Act (H.R. 4544), which would require financial regulators to review and streamline the application process for the formation of de novo depository institutions or credit unions.
- The Keeping Deposits Local Act (H.R. 3234), which would increase the amount insured depository institutions may accept as reciprocal deposits.
- The Community Bank Deposit Access Act (H.R. 5317), which would change the treatment of certain types of deposits so they are no longer classified as brokered deposits.

Housing. The House also passed The 21st Century ROAD to Housing Act (H.R. 6644), which would reward communities that build more housing supply, ease environmental review of new construction, rethink regulations that hamper additional lending for small-dollar mortgages, and expand tenant assistance and protections. This Act now passes (back) to the Senate to be reconciled before submission to the President.