

November 9, 2023

To: Chief Executive Officers of All National Banks and Federal Savings Associations

Subject: Uniform federal banking standards

National banks and federal savings associations (FSAs) are subject to a robust federal framework of regulation and supervision, which is designed to ensure that these institutions operate in a safe and sound manner, treat customers fairly, provide fair access to financial services, and comply with applicable law. The OCC is aware that some states have passed laws or taken other actions that purport to apply to national banks and FSAs. The OCC is carefully monitoring the proliferation of competing and potentially inconsistent requirements. We are concerned about their impact on the ability of national banks and FSAs to provide banking services consistent with safety, soundness, and the fair treatment of customers.

As provided for in the Supremacy Clause of the U.S. Constitution, federal law preempts state laws that conflict with the exercise by national banks and FSAs of their federally authorized powers.¹ OCC regulations provide examples of the types of state laws that do not apply to national banks and FSAs.² In addition, the OCC has exclusive visitorial authority with respect to national banks and FSAs.³

The OCC is committed to preserving the legal framework for preemption established by Congress, including in the Dodd-Frank Wall Street Reform and Consumer Protection Act.

¹ See *Barnett Bank of Marion County, N.A. v. Nelson*, 517 U.S. 25 (1996). See also *Easton v. Iowa*, 188 U.S. 220, 229 (1903) (stating that federal banking law “has in view the erection of a system extending throughout the country, and independent, so far as powers conferred are concerned, of state legislation which, if permitted to be applicable, might impose limitations and restrictions as various and as numerous as the States”).

² See 12 CFR 7.4007, 7.4008, 7.4010, 34.4, and 34.6. These OCC regulations also address the types of state laws that generally do apply to national banks and FSAs such as those addressing contracts, torts, criminal law, and zoning.

³ See, e.g., 12 USC 484, 1463(a)(1), and 1464(a)(1); 12 CFR 7.4000. For example, to the extent that state laws purport to impose requirements such as attestation or reporting on national banks or FSAs, these laws may be inconsistent with the OCC’s exclusive visitorial authority under federal law.

National banks and FSAs should be aware that each state action presents unique considerations, and the OCC encourages banks with questions to consult with legal counsel.

Please contact your supervisory office for additional information or if you have any questions.

Sincerely,

Benjamin W. McDonough
Senior Deputy Comptroller and Chief Counsel