November 11, 2026

Jennifer M. Jones
Deputy Executive Secretary
Attention: Comments—RIN 3064-AG34
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: State Bank Parity, RIN 3064-AG34

Notice of proposed rulemaking, 91 Fed. Reg. 60018 (Sept. 22, 2026)

Comments of the Southwest Public Policy Institute and the undersigned organizations

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Dear Ms. Jones:

The undersigned organizations write in support of the Federal Deposit Insurance Corporation's proposed State Bank Parity rule, and we urge the FDIC to finalize it as proposed.[1] The rule would apply a host state's laws to the services an out-of-state state bank provides in the host state to the same extent those laws apply to an out-of-state national bank, regardless of whether the state bank has a branch in the host state. Where the host state's law does not apply, the law of the bank's chartering state would. That is the parity Congress promised state-chartered banks, and the rule would protect the dual banking system from state laws that national banks need not follow.

Congress wrote section 24(j) to deliver parity

Section 24(j) of the Federal Deposit Insurance Act provides that a host state's laws apply to a branch of an out-of-state state bank to the same extent they apply to a branch of an out-of-state national bank.[2] Congress added it in 1994 and amended it

1 State Bank Parity, 91 Fed. Reg. 60018 (proposed Sept. 22, 2026) (to be codified at 12 C.F.R. pt. 331).
2 12 U.S.C. § 1831a(j)(1).

in 1997 to make its purpose plain.[3] The 1997 bill's sponsor, Rep. Marge Roukema, said that "[t]he essence of this legislation is to provide parity between State-chartered banks and national banks."[4] The Independent Bankers Association of America, speaking for the community banks the law would most affect, told Congress that under the bill "state chartered banks will operate under the laws of their chartering state wherever they do business, up to the powers of national banks."[5]

The words that matter are "wherever they do business." The statute speaks of branches because, in 1994 and 1997, banking was done at branches, and a branch was where a state could treat an out-of-state bank differently. As the FDIC observes, a state bank would either lose parity or be pushed into "the costly and counterintuitive exercise of establishing branches in host States in order to gain protection from host States' laws, something not required of national banks."[6] Congress did not create parity so that state banks would have to build what national banks need not.

The text and structure of section 24(j) lead to the same place. The provision governs a state bank's branches in a host state and, where host-state law does not apply to a branch, applies the law of the bank's home state.[7] It does not say what law governs a state bank that serves a state's residents without a branch there, as the FDIC acknowledges.[8] Section 24(j) measures a state bank's treatment by a national bank's, and a national bank's protection from host-state law does not depend on a branch. Reading that silence to give a host state more power over a bank with no branch in the state than over one with a branch would invert the comparison Congress wrote. The FDIC has general authority to issue rules carrying out the Act,[9] but that authority does not settle what section 24(j) means; a reviewing court will decide the statute's best reading for itself.[10] We therefore encourage the FDIC to set out this textual and structural analysis fully in the final rule.

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3 Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, Pub. L. No. 103-328, 108 Stat. 2338; Riegle-Neal Amendments Act of 1997, Pub. L. No. 105-24, 111 Stat. 238.

4 143 Cong. Rec. H3088–89 (daily ed. May 21, 1997) (statement of Rep. Roukema), *quoted in* State Bank Parity, 91 Fed. Reg. at 60020 n.16.

5 143 Cong. Rec. H3090 (daily ed. May 21, 1997) (letter from the Independent Bankers Association of America), *quoted in* State Bank Parity, 91 Fed. Reg. at 60020 n.16.

6 State Bank Parity, 91 Fed. Reg. at 60020.

7 12 U.S.C. § 1831a(j)(1).

8 State Bank Parity, 91 Fed. Reg. at 60020.

9 12 U.S.C. §§ 1819(a)(Tenth), 1820(g); State Bank Parity, 91 Fed. Reg. at 60019–20.

10 *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412 (2024).

Banking no longer runs through branches

Banking has changed in the three decades since. Customers open accounts, borrow, pay by card and move money online and on their phones, often with banks that have no branch in their state. Many state banks now serve customers in states where they have no branch, and some keep no branches at all.[11]

Parity granted only through a branch would penalize the banks that have adopted the channels consumers prefer, and it would tilt charter choice toward the national charter for reasons unrelated to safety, soundness or supervision. The FDIC's own analysis warns that the present uncertainty creates a competitive imbalance "that may incentivize State-chartered banks to convert to Federal charters."[12] A customer who chooses a state bank's card, account or loan should not lose it, or pay more for it, because of the charter the bank holds.

Illinois shows the cost of the gap

Illinois's Interchange Fee Prohibition Act bars interchange fees on the tax and gratuity portions of card transactions, restricts the use of transaction data and carries a civil penalty of $1,000 per electronic payment transaction.[13] After the Comptroller of the Currency concluded that federal law preempts the act as to national banks, a federal court permanently barred Illinois from enforcing its interchange prohibition against national banks, federal savings associations, card networks and out-of-state banks "that are subject to Riegle-Neal."[14] Illinois's Attorney General has argued that section 24(j) protects only the branches of out-of-state state banks "physically located" in Illinois,[15] and in October he appealed the injunction to the Seventh Circuit.[16] Until the FDIC acts, a state bank serving Illinois customers from another state cannot tell which side of that line it is on.

The FDIC's figures show the cost of that uncertainty. It counts 3,185 state banks that the Illinois law may reach, 2,236 of them small banks, and estimates that the

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11 State Bank Parity, 91 Fed. Reg. at 60020.

12 State Bank Parity, 91 Fed. Reg. at 60024.

13 Interchange Fee Prohibition Act, 815 Ill. Comp. Stat. 151/150-1 et seq. (effective July 1, 2027); State Bank Parity, 91 Fed. Reg. at 60019 & nn.2, 9.

14 *Ill. Bankers Ass'n v. Raoul*, No. 24-cv-07307, 2026 WL 1534350, at *12 (N.D. Ill. June 1, 2026); *see* National Bank Non-Interest Charges and Fees, 91 Fed. Reg. 22989 (Apr. 29, 2026) (interim final rule); 91 Fed. Reg. 23150 (Apr. 29, 2026) (interim final order); *see also* Mem. Op. & Order at 12, *Raoul*, No. 24-cv-07307 (N.D. Ill. Sept. 22, 2026), ECF No. 240 (extending the injunction to federal credit unions).

15 State Bank Parity, 91 Fed. Reg. at 60019 & n.8 (citing Def.'s Mem. Opp'n to Pls.' Mot. Summ. J., *Raoul*, 2025 WL 2223714 (N.D. Ill. Apr. 23, 2025)).

16 *Illinois AG Files Appeal in IFPA Litigation*, America's Credit Unions (Oct. 14, 2026), https://www.americascreditunions.org/news-media/news/illinois-ag-files-appeal-ifpa-litigation.

rule would spare those banks about $308 million in one-time system upgrades and about $6.7 million a year in manual documentation costs. By the FDIC's estimate, the law would shift about $2.28 million a year in interchange from banks to merchants, a sum it treats as a transfer rather than a cost.[17] Annualized over five years at a 7 percent discount rate, the compliance costs the rule would avoid come to about $77 million a year, more than 30 times that transfer.[18] Some banks may instead reject card transactions in Illinois altogether, a step the FDIC warns "would cause substantial disruption and confusion for both merchants and consumers."[19]

Illinois will not be the last. Eleven other states have begun pursuing similar laws.[20] Without the rule, a state bank's exposure to each would depend on where it happens to keep its branches, and the resulting patchwork would weigh most heavily on community banks, which have the least capacity to track a different rule in every state, and on the consumers and small businesses they serve.

The rule is narrow

The proposal would not determine that any host-state law is preempted. It is the state-bank complement to the Comptroller's preemption determinations: it settles only which state's law applies when host-state law does not apply to comparable operations of an out-of-state national bank. Host-state laws on community reinvestment, consumer protection, fair lending and intrastate branching would continue to apply to state banks to the same extent they apply to national banks, as the statute and the proposed rule both provide.[21] It imposes no new reporting or recordkeeping requirements, and the FDIC expects it to be a deregulatory action under Executive Order 14192.[22]

Responses to the FDIC's questions

Alternatives. The alternatives are the status quo, in which protection depends on a branch, and the FDIC's 2005 proposal, which reached only activities at interstate branches and was never finalized.[23] Either would leave branchless state banks exposed to the uncertainty this rule exists to resolve. If the FDIC chooses to define "provides services," the definition should not turn on the channel through which a

17 State Bank Parity, 91 Fed. Reg. at 60021–24.

18 State Bank Parity, 91 Fed. Reg. at 60022 ($72 million at a 3 percent discount rate), 60023; *see also* Gregory A. Schroeder, *Parity Should Not Depend on a Branch* (Southwest Public Policy Institute Policy Brief, Oct. 22, 2026), https://southwestpolicy.com/parity-should-not-depend-on-a-branch/.

19 State Bank Parity, 91 Fed. Reg. at 60019.

20 *Raoul*, 2026 WL 1534350, at *1, *cited in* State Bank Parity, 91 Fed. Reg. at 60019 n.11.

21 12 U.S.C. § 1831a(j)(1); State Bank Parity, 91 Fed. Reg. at 60021, 60025 (proposed 12 C.F.R. § 331.3).

22 State Bank Parity, 91 Fed. Reg. at 60023, 60025.

23 70 Fed. Reg. 60019 (proposed Oct. 14, 2005); State Bank Parity, 91 Fed. Reg. at 60020.

service is delivered, so that parity follows the customer rather than the method of delivery.

Settled applications of host-state law. Because the rule ties a state bank's treatment to a national bank's, a host-state law that applies to national banks would continue to apply to state banks. The rule changes the outcome only where a host-state law does not apply to national banks, which is the case parity exists for.

Section 27. The preamble and section 111 of the Riegle-Neal Act already make clear that the rule leaves section 27 and the interest-rate provisions of part 331 undisturbed, and we see no need for a change.[24] If the FDIC wishes to remove any doubt, a sentence in final § 331.3 saying so would not alter how the rule works.

For these reasons, the undersigned organizations urge the FDIC to finalize the State Bank Parity rule as proposed and well before the Illinois law takes effect on July 1, 2027, so that banks know whether they must rebuild their payment systems. Applying the same host-state-law test to comparable interstate banking services, including services provided without a branch, would advance Riegle-Neal's parity objective.

Sincerely,

Patrick M. Brenner
President and CEO
Southwest Public Policy Institute

Gregory A. Schroeder
Executive Vice President
Southwest Public Policy Institute

Phil Kerpen
President
American Commitment

Tirzah Duren
President & CEO
American Consumer Institute

Aiden Buzzetti
Founder & President
Bull Moose Project

Jeff Mazzella
President
Center for Individual Freedom

John Berlau
Senior Fellow &
Director of Finance Policy
Competitive Enterprise Institute

Gerard Scimeca
Chairman
Consumer Action for a Strong Economy

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24 12 U.S.C. § 1831d; Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 § 111, 12 U.S.C. § 1811 note; State Bank Parity, 91 Fed. Reg. at 60020–21.

Yael Ossowski
Deputy Director
Consumer Choice Center

Raquel M. Mitchell
Vice President
Families for America

Tom Giovanetti
President
Institute for Policy Innovation

Matt Gagnon
CEO
Maine Policy Institute

Brandon Arnold
Executive Vice President
National Taxpayers Union

Caroline Melear
Policy Director,
Finance and Insurance
R Street Institute

David Williams
President
Taxpayers Protection Alliance

Thomas W. Miller Jr.*
Co-Founder and Co-Director
Institute for Consumer
Financial Choice
Jack R. Lee Chair of Financial
Institutions and Consumer Finance
Mississippi State University
College of Business

Kent Kaiser
Secretary/Treasurer
Domestic Policy Caucus

Patrice Onwuka
Vice President of Economic Policy
Independent Women

Shaun Kenney
President and CEO
Jefferson Forum

Charles Sauer
President
Market Institute

Eric Ventimiglia
Executive Director
Pinpoint Policy Institute

Karen Kerrigan
President & CEO
Small Business &
Entrepreneurship Council

Ashley Baker
Executive Director
The Committee for Justice

Todd J. Zywicki*
Co-Founder and Co-Director
Institute for Consumer
Financial Choice
George Mason University
Foundation Professor of Law
Antonin Scalia Law School

*Affiliations listed for identification purposes only.