DREHER TOMKIES LLP ALERT

FOR CLIENTS AND FRIENDS OF DREHER TOMKIES LLP

February 26, 2026

DISTRICT COURT ISSUES SPLIT DECISION ON ILLINOIS INTERCHANGE ACT; PLAINTIFFS APPEAL

On Feb. 10, U.S. District Judge Virginia Kendall issued a split decision regarding the Illinois Interchange Fee Prohibition Act (IFPA). *Illinois Bankers Association v. Raoul*, __ F.Supp.3d __, 2026 WL 371196 (N.D. Ill., Feb. 10, 2026). The IFPA is scheduled to become effective July 1, 2026, and would ban financial institutions, including payment networks and other entities, from (i) charging or receiving interchange fees in Illinois on the portion of a debit or credit card transaction attributable to tax or gratuity (Interchange Fee Provision) and (ii) using data generated in connection with credit card transactions for anything more than completion of the transaction (Data Use Provision). *See* our ALERTS of June 5, 2025 and June 17, 2025. The district court earlier granted injunctive relief from the law to banks, savings associations, and out-of-state state-chartered banks on both points, but in reviewing requests for permanent injunctive relief, denied relief on the Interchange Fee Provision while granting relief on the Data Use Provision.

In a "close case," Judge Kendall upheld the Interchange Fee Provision, rejecting plaintiffs' arguments that the National Bank Act preempted the Interchange Fee Provision, in part because payment networks set fees, not banks. "[W]hile [federal preemption of non-interest charges and fees] definitively protects national banks from intrusion into the fees they charge on their ATMs and savings account services, it is hard to square [that preemption] with a state law that impacts a fee that those same banks do not set and that are not keyed to their particular services," Judge Kendall wrote, ultimately concluding that the IFPA's Interchange Fee Provision does not violate the rights of national banks (or other institutions by extension) under the *Barnett Bank* standard.

Judge Kendall recognized that federal law gives financial institutions broad power to engage in data processing in ruling that the Data Use Provision is preempted.

The Office of the Comptroller of the Currency (OCC) filed an amicus brief in the case.

Plaintiffs promptly filed a notice of appeal with the U.S Court of Appeals for the Seventh Circuit on February 13th. The appeal seeks a declaratory judgment that the IFPA is contrary to federal law, as well as an injunction prohibiting state officials from applying or enforcing the Act.

We will continue to monitor the status of this litigation and emerging interchange bills in other states and report on further developments. ❑

✧ *Mike Tomkies, Elizabeth Anstaett and Mercedes Ramsey*

OCC ISSUES GENIUS ACT PROPOSAL; FDIC EXTENDS SEPARATE PROPOSAL

The OCC has issued a notice of proposed rulemaking to implement the Guiding and Establishing National Innovation for U.S. Stablecoins (GENIUS) Act. See OCC News Release 2026-9 (Feb. 25, 2026). The proposed rule addresses all of the regulations that the OCC is required to promulgate under the GENIUS Act other than those related to the Bank Secrecy Act, Anti-Money Laundering, and Office of Foreign Asset Control sanctions. The OCC says that these remaining rules will be addressed in a separate rulemaking in coordination with the Department of Treasury.

Comments on the OCC proposal are due 60 days from the date of publication in the *Federal Register*.

On December 16, 2025, the Federal Deposit Insurance Corporation (FDIC) approved a notice of proposed rulemaking that would implement the application provisions of the GENIUS Act. The comment period for this proposal has been extended to May 18, 2026. The FDIC expects to issue a proposed rule to implement the GENIUS Act's prudential requirements for FDIC-supervised payment stablecoin issuers in the near future.

See our ALERT of Dec. 19, 2025. We will continue to monitor the status of these and other developments affecting the regulation of digital assets and report on further developments. ❑

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