DREHER TOMKIES LLP

ALERT

FOR CLIENTS AND FRIENDS OF DREHER TOMKIES LLP

**September 18, 2026**

## FDIC PROPOSES RULE TO ESTABLISH PARITY BETWEEN OUT-OF-STATE STATE BANKS AND NATIONAL BANKS

The Board of Directors of the FDIC approved a proposed rule to recognize parity between out-of-state state banks and national banks concerning the application of host state laws when state banks provide services outside of their chartering state. Under the proposed rule, when host state laws do not apply to a national bank, those laws would similarly not apply to an out-of-state state bank providing services in the host state with or without a branch.

The proposed rule provides:

> For purposes of section 24(j) of the Federal Deposit Insurance Act, the laws of a host State, including laws regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches, shall apply to any branch in the host State of, or any services provided in the host State by, an out-of-State State bank to the same extent as such State laws apply to a branch in the host State of, or any services provided in the host State by, an out-of-State national bank. To the extent a host State's law is inapplicable to an out-of-State State bank in such host State pursuant to section 24(j) of the Federal Deposit Insurance Act, the home State's law shall apply.

In the explanatory material released with the proposed rule the FDIC states that the proposed rule supports the dual banking system. The FDIC cited to recent litigation involving an Illinois law concerning payment card transactions that created uncertainty as to the application of the laws of states to state-chartered banks and created a competitive imbalance between national and state banks. *See, e.g.*, our Alert of June 8, 2026.

The FDIC explained that the Federal Deposit Insurance Act (FDIA) gives the FDIC the authority to issue the proposed rule. Section 24(j) of the FDIA expressly addresses the application of host state laws to out-of-state state banks that have branched into a host State.

The FDIC explained that the proposed rule provides that for purposes of Section 24(j) of the FDIA, the laws of a host state, including laws regarding community reinvestment, consumer protection, fair lending, and establishment of intrastate branches, will apply to any branch in the host state of, or any services provided in the host state by, an out-of-state state bank to the same extent as such state laws apply to a branch in the host state of, or any services provided in the host state by, an out-of-state national bank. Accordingly, host state laws inapplicable to branches of out-of-state national banks or to services provided by out-of-state national banks would not apply to branches of out-of-state state banks or to services provided by an out-of-state state bank in the host state without a branch. In situation in which the host state law does not apply, the law of the state bank's chartering state would apply. The proposed rule also includes a conforming edit to the current definition of "host state" to reflect that a host state would be a state, other than a state bank's home state, in which the state bank maintains a branch or provides services.

The FDIC explained that proposed rule would apply to all "state banks," as defined in the FDIA. According to the FDIC, as of the quarter ending December 31, 2025, there were 3,449 state banks.

The proposed rule would not affect the interest rates state banks are permitted to charge with respect to any of their loans, which are governed by other parts of the FDIA.

Comments on the proposed rule will be due no later than 60 days after the proposed rule is published in the Federal Register.

If adopted, the rule would make loan programs that involve a state bank operating in many states easier to operate. Many fintech programs involve state banks.

We will continue to follow this and other proposed and adopted bank regulations impacting financial services. Please let us know if you have questions. ❑

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