



January 28, 2026

Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street SW, Suite 3E-218
Washington, DC 20219

Re: Preemption Determination: State Interest-on-Escrow Laws; Docket ID OCC-2025-0735

To Whom It May Concern:

The Housing Policy Council¹ (HPC) appreciates the opportunity to respond to the Office of the Comptroller of the Currency's (OCC) proposed preemption determination regarding state interest-on-escrow laws. HPC strongly supports OCC's proposed preemption determination addressing state interest on escrow laws. We respectfully request that the OCC finalize the preemption determination as proposed and consider expansion to substantively equivalent statutes, including U.S. Virgin Islands and Guam's interest-on-escrow laws and California's hazard insurance proceeds law.

We appreciate and agree with the OCC's recognition that state interest-on-escrow laws prevent or significantly interfere (see *Barnett Bank v. Nelson*; *Cantero v. Bank of America*) with this federal power; these laws contradict the federally granted flexibility to exercise business judgment over escrow account terms and conditions (see *Fidelity Federal v. de la Cuesta*; *Franklin v. New York*), and interfere with a national bank's efficiency and effectiveness in managing its mortgage business across the entire country. We concur with the OCC that the New York interest-on-escrow law, as well as the other state laws identified by the OCC as substantially similar, directly conflict with a national bank's exercise of federally authorized powers.

Compliance with these interest-on-escrow laws would prevent a national bank from exercising federally-granted discretion regarding the payment of interest-on-escrow and the

¹ The Housing Policy Council is a trade association comprised of the leading national mortgage lenders and servicers; mortgage, hazard, and title insurers; and technology and data companies. Our interest is in the safety and soundness of the housing finance system, the equitable and consistent regulatory treatment of all market participants, and the promotion of lending practices that create sustainable homeownership opportunities in support of vibrant communities and long-term wealth-building for families. For more information, visit www.housingpolicycouncil.org.

assessment of related fees. Moreover, these state laws interfere with national banks' ability to efficiently and effectively exercise their real estate and related escrow powers and to defray costs.

We concur with the OCC's list of 11 states in addition to New York that have interest-on-escrow laws that purport to apply to national banks. In addition to that list, we ask the OCC to consider the U.S. Virgin Island's interest-on-escrow law (V.I. Code tit. 9, § 67). We acknowledge that the law does not apply to national banks, as they are explicitly excluded from the definition of "bank" (see V.I. Code tit. 9, § 1). However, since federal savings associations are not explicitly exempted from that definition, it is plausible that the territory's interest-on-escrow law applies to such institutions. Therefore, we ask the OCC to include this law in the list of laws preempted under this determination.

Additionally, we ask the OCC to consider Guam's interest-on-escrow law (11 GCA. § 106103). That law is similar to New York's. However, 11 G.C.A. § 100104(b) provides that all national banks authorized to transact business in Guam, "to the extent that the provisions of [the Guam Banking Code] are not inconsistent with and do not infringe paramount Federal laws governing national banking associations, shall hereafter be operated in accordance with the provisions of [the Guam Banking Code]." Based on that language and the OCC's concurrent proposal, we believe the most reasonable reading is that the Guam interest-on-escrow law does not apply to national banks. We ask OCC to confirm that understanding and, out of an abundance of caution, to include Guam within the determination's coverage of "substantively equivalent" laws applicable to territories and municipal ordinances.

We also ask the OCC to consider California's new law regarding hazard insurance proceeds. Under that law (Cal. Civ. Code § 2954.85), a financial institution that holds hazard insurance proceeds in a loss draft account pending property rebuilding or repair shall pay interest on those funds at a rate of at least two percent per year, and the institution cannot impose a fee or charge in connection with the maintenance or disbursement of the proceeds that will result in an interest rate less than that. While specific to hazard insurance proceeds, the parameters, including requirements and prohibitions, are substantially similar to New York's interest-on-escrow law. Although Cal. Civ. Code § 2954.85 addresses loss draft proceeds rather than traditional escrow balances, it mandates minimum interest and restricts fees in substantially similar fashion. We request confirmation that the preemption determination covers this statute as functionally equivalent—or, in the alternative, that the OCC issue a separate determination promptly.

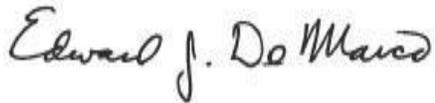
HPC notes that Section 25b of the Dodd-Frank Act provides for consultation with the Consumer Financial Protection Bureau in connection with preemption determinations involving state consumer financial laws. HPC believes that consultation with the CFPB, and transparent documentation of that consultation as appropriate, would further support the OCC's analysis and enhance regulatory certainty for market participants and consumers.

From an operational perspective, state-by-state interest mandates and fee prohibitions require complex, rate-sensitive builds, quarterly crediting configurations, customized statements,

and reconciliations, increasing cost and risk of error. These costs may be reflected in loan pricing or reduced escrow availability, whereas a uniform national approach supports scale, consistency, and lower cost. For consumers, this approach supports access and affordability while preserving banks' ability to design low-cost or no-fee escrow services consistent with safe and sound banking practices.

We appreciate the opportunity to comment on the proposed preemption determination and thank you for your consideration of HPC's recommendations.

Yours truly,

A handwritten signature in black ink that reads "Edward J. DeMarco". The signature is written in a cursive, slightly slanted style.

Edward J. DeMarco
President
Housing Policy Council