United States Senate

WASHINGTON, DC 20510

April 29, 2026

The Honorable Jonathan Gould, Comptroller
Office of the Comptroller of the Currency
400 7th Street SW
Washington, D.C. 20219

Dear Comptroller Gould:

We write to request that the Office of the Comptroller of the Currency withdraw the recently proposed rule to preempt state laws requiring banks to pay consumers interest on balances in mortgage-related escrow accounts, as well as the complementary proposed rule allowing national banks to "exercise flexibility in making business judgment as to the terms and conditions of such accounts."

Homeowners with a mortgage generally maintain funds in an escrow account with their servicer to pay property taxes and insurance. Roughly 80% of mortgage holders have these escrow accounts, and the vast majority of first-time homebuyers are required to maintain them as a condition of their mortgage. For 50 years, several states have required both state-chartered and national banks to pay interest on these accounts to prevent banks from using escrow funds as a source of interest-free funding.

If the proposal is finalized, national banks will no longer need to pay interest on an account balance that mortgage borrowers are required by law to maintain with the bank. That means consumers will lose out on interest payments to which they are entitled under state law. They will be denied these modest payments at a time when the insurance costs that make up a major component of escrow payments are at an all-time high. The beneficiaries will be the Nation's biggest banks, whose already record profits due to high interest rates will be padded even more at the expense of their customers. They will essentially receive an entitlement to interest-free loans from their customers.

While the OCC asserts that its proposal will replace a patchwork system with a uniform approach, the proposal would actually create disparate protections for mortgage borrowers depending on the charter of the institution servicing their mortgage. Whether a homeowner will receive interest on their escrow balance would depend on whether their loan is being serviced by a national bank, a state-chartered bank, or a nonbank financial institution. Because mortgage servicing rights are frequently sold by the original lender, a borrower has no control over which institution services their mortgage. A family could move to a state that requires payment of interest on escrow but cannot shop for a different servicer.

The proposal does not meet the high standard for preemption that Congress has established. Under the law, the OCC's proposal must demonstrate, based on "substantial evidence," that paying interest on escrow accounts—a practice that national banks have engaged

in for decades under state law—actually "prevents or significantly interferes" with the exercise of their national bank powers. The proposal provides no empirical evidence showing that standard has been met and instead relies on theoretical assertions that do not satisfy the strong evidentiary standard required by Congress.

Multiple courts have examined this exact question and held that state interest-on-escrow laws are not preempted by the National Bank Act. Nevertheless, the OCC is attempting via rulemaking to reshape the standard for national bank preemption that has been established by Congress and upheld by Federal courts. Rather than explain how the proposal can possibly stand up in court given these rulings, the OCC asserts without explanation that "there remains substantial uncertainty" about whether federal law preempts these state laws. Instead of grappling with inconsistent cases and statutes, the OCC ignores them in an attempt to provide banks under its supervision with relief that they could not obtain in court. Despite the OCC's attempts to "provide much needed clarity," the proposal will have the opposite effect. Current law is clear. National banks must comply with state interest-on-escrow laws.

By proposing a nebulous power for national banks to "exercise flexibility in making business judgment as to the terms and conditions of [escrow] accounts," the OCC has manufactured a conflict with state law where none previously existed. If allowed to stand, this creates a roadmap for the OCC to void any state consumer financial law by writing a vague rule that banks have "flexibility" in that area. By overriding state legislatures without a direct statutory conflict, the OCC is undermining the dual banking system and prohibiting the states from protecting consumers from abusive practices.

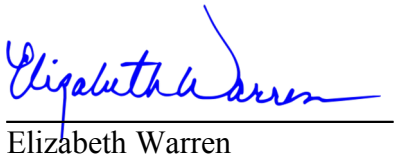
Real estate lending is an intensely local and community-based activity. In recognition of this fact, the OCC and the states have shared authority over national bank activities in this area. The OCC has never "occupied the field" of national banks' real estate lending and the National Bank Act prohibits the OCC from doing so. This is precisely the wrong time for the OCC to further encroach on consumer-friendly state laws in a way that takes money out of homeowners' pockets because many American families are struggling to make ends meet.

For these reasons, we urge the OCC to withdraw the proposal and to allow families with mortgages to continue receiving the interest payments to which they have been entitled under state law for the past 50 years.

Sincerely,

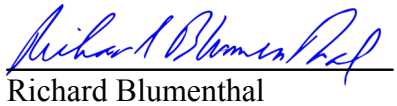
Jack Reed
United States Senator

Angela D. Alsobrooks
United States Senator



Elizabeth Warren
Ranking Member
Committee on Banking,
Housing, and Urban Affairs

Ruben Gallego
United States Senator



Richard Blumenthal
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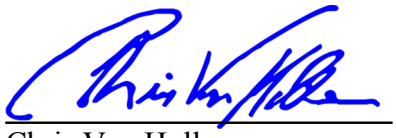

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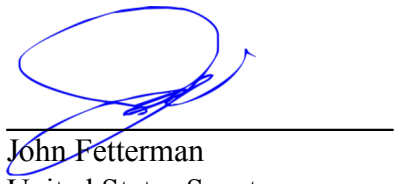

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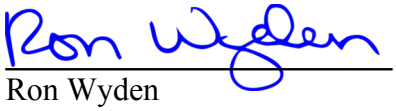
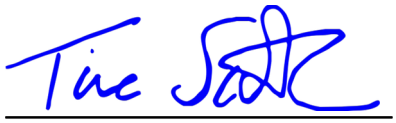
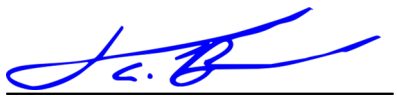


Ron Wyden
United States Senator

Angus S. King, Jr.
United States Senator



Tina Smith
United States Senator



Cory A. Booker
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Andy Kim
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