UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

ILLINOIS BANKERS ASSOCIATION, AMERICAN BANKERS ASSOCIATION, AMERICA'S CREDIT UNIONS, and ILLINOIS CREDIT UNION LEAGUE,

Plaintiffs,

v.

KWAME RAOUL, in his official capacity as Illinois Attorney General,

Defendant.

Case No. 1:24-cv-07307

Hon. Virginia M. Kendall

PLAINTIFFS' MEMORANDUM IN SUPPORT OF MOTION FOR A PRELIMINARY INJUNCTION

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INTRODUCTION

For the consumer, a credit or debit card transaction is seamless: the consumer taps or swipes a card at a terminal (or enters card information online) and instantaneously completes a purchase. But each seemingly simple transaction relies on an intricate system that knits together multiple participants, including the cardholder, the cardholder's bank (sometimes called the "Issuing Bank" or "Issuer"), a Card Network (*e.g.*, Visa or Mastercard), the merchant's bank (sometimes called the "Acquiring Bank" or "Acquirer"), and the merchant itself. These participants must develop and maintain hardware, software, and staffing to ensure that they can play their respective roles in processing transactions accurately, protecting consumers from fraud, and facilitating instantaneous access to funds to power the national and state economies. It is hard to overstate credit and debit card transactions' role as an engine of economic activity. In 2021, for example, over 150 billion credit and debit card transactions worth almost $9.5 trillion were processed in the United States.[1] With approximately 4% of the country's population and economy, Illinois sees billions of transactions worth tens of billions of dollars annually. None of this would be possible without the coordinated involvement of all players in the payment system.

These various participants all receive compensation for the roles they play in processing the entire amount paid by the cardholder. Relevant here, Issuers—which administer the cardholder's account, take on risks of non-payment and fraud, and provide popular programs like cardholder rewards—have long been paid an "interchange fee" as compensation for these services based in part on the entire amount that the cardholder pays for the goods or services.

In the recently enacted Illinois Interchange Fee Prohibition Act, 815 ILCS 151/150-1 *et seq.* ("IFPA" or the "Act"), however, Illinois has prohibited charging or receiving interchange fees

[1] https://www.federalreserve.gov/paymentsystems/fr-payments-study.htm.

on the portion of a transaction attributable to gratuities or Illinois state and local taxes (the "Interchange Fee Prohibition"). The Act forbids charging an interchange fee at all on those portions of a transaction if the merchant transmits the tax and gratuity information to the Acquiring Bank at the time of payment. *Id.* § 150-10(a). And even where a merchant does not do so, if it submits the information to the Acquirer within 180 days, the Issuer must "credit" the merchant that portion of the interchange fee within 30 days. *Id.* § 150-10(b).

The potential penalties for failure to comply are enormous: civil penalties of $1000 *per transaction*. *Id.* § 150-15(a). For perspective, one national bank Acquirer processed over 400 million credit and debit card transactions for Illinois merchants last year alone. Ex. 9, ¶ 5. If it erroneously charged interchange on some amount of tax or gratuity in only 0.01% of those transactions in a given year, it could conceivably be exposed to *$40 million* in civil penalties.

The IFPA also places extraordinary limitations on card transaction data. Specifically, the Act makes it unlawful for "[a]n entity, other than the merchant" involved in a transaction to "distribute, exchange, transfer, disseminate, or use" the associated data "except to facilitate or process the electronic payment transaction or as required by law" (the "Data Usage Limitation"). 815 ILCS 151/150-15(b). Under the statute's plain terms, for example, participants in the system could not use aggregated transaction data to detect fraud or administer rewards programs.

To the extent that compliance is even possible by the Act's July 1, 2025 effective date, both of the IFPA's provisions will impose staggering costs and technical and operational challenges on large and small banks, savings associations, and credit unions alike. Start with the Interchange Fee Prohibition. Even preparing to track the amount of tax on each transaction is immensely complicated, given Illinois's hundreds of different taxing jurisdictions with varying rates and a range of taxes including some, like gas taxes, that are excise taxes bundled into the

price of a product, rather than charged separately at checkout. The current payments infrastructure does not support separating the total transaction amount into subparts such as tax or gratuity in the way that would be required to allow such information to be sent and interchange fees to be adjusted at the moment of the transaction (the "Automatic Process"). Nor would such disaggregation be easy to implement. The process would start with Card Networks implementing new specifications, which take significant time and resources to develop. Issuers and Acquirers would then have to adopt those specifications at significant cost. Merchants, too, would likely have to purchase new point-of-sale terminals and new software to run them. In the past, the timeframe for implementing far simpler changes across the payment system has run to *several years*. But Illinois has dictated that tax and gratuity be exempted from interchange fees by *July 1, 2025*. There is simply not time to overhaul the automated payment system to accurately process real-time transactions in compliance with the Act.

What happens, then, if the Act becomes effective? In the near term, the Interchange Fee Prohibition would most likely be implemented through post hoc credit requests by merchants (the "Manual Process"). But the IFPA does not specify the universe of "tax documentation" merchants must submit to receive a refund of interchange fees previously charged; a merchant might be able to simply drop off a shoebox of receipts at its Acquirer. That means that banks and other financial institutions will have to develop procedures, hire new staff, and train existing employees to receive, evaluate, and audit the documentation they may receive from the immense number of merchants at which cardholders might make IFPA-covered purchases. Again, there are billions of credit and debit card transactions in Illinois worth tens of billions of dollars annually, the overwhelming majority of which include state or local tax or gratuity. Each one would have to be separately processed if a merchant seeks a refund. What's more, it is ultimately the *Issuer*'s responsibility to

"credit" the merchant within 30 days of when the *Acquirer* receives the "tax documentation." Issuers and Acquirers—which generally do not have direct contractual relationships—will have to work out processes for transmitting "tax documentation"; Issuers will then have to figure out how to "credit" merchants—with whom, again, they generally have no direct contractual relationship. The burden on banks and other financial institutions, from the largest to the smallest, would be staggering. And while meeting the statute's July 1, 2025 effective date will be difficult or even impossible, to even have a hope of doing so, each participant in the payment system would have to commit resources *immediately*—costs so extreme that some of Plaintiffs' members are considering exiting the Issuing or Acquiring business altogether.

The Data Usage Limitation would impose similarly overwhelming operational challenges. Banks and other financial institutions use transaction data for an array of key purposes including—but far from limited to—preventing fraud, administering rewards programs, and determining credit limits. Arbitrarily restricting such data's use will make many of these activities economically or operationally infeasible, to the detriment of consumers, merchants, and financial institutions alike.

In sum, Illinois's hastily adopted statute would blow a hole in the nation's uniform payment processing system. But the IFPA is not only bad policy; it is also unlawful and should be enjoined.

First, Plaintiffs are likely to prevail on the merits of their claims that federal law preempts the IFPA. National banks and other federally chartered financial institutions possess federally granted powers to engage in nationwide business. That includes making loans through credit cards, offering deposit accounts and the debit cards that come with them, processing credit and debit card transactions, receiving fees for all of those services, and using banking or financial information. As the Supreme Court clarified just this past Term, federal law preempts any state law that "prevents or significantly interferes with the exercise by [a] national bank of its powers." *Cantero*

v. Bank of Am., N.A., 144 S. Ct. 1290, 1294 (2024). Similar standards apply to other federally chartered financial institutions. The IFPA transgresses those limits both by directly forbidding or limiting actions, like receiving fees and using data, that federal law authorizes, and by impairing the efficient exercise of other powers, like processing card transactions. If Illinois can implement its unique law, other states will likely enact variations, transforming a functional, uniform system into an unworkable patchwork—exactly what preemption in this area of law is designed to prevent.

The IFPA therefore cannot be applied to federally chartered financial institutions such as national banks. And because state and federal law entitles state-chartered financial entities to parity of treatment with their federal counterparts, the IFPA cannot be applied to them either.

With respect to debit card transactions, the IFPA also conflicts with, and is thus preempted by, the uniform federal standard for the permissible amount of interchange fees found in the Durbin Amendment to the Electronic Fund Transfer Act ("EFTA") and its implementing Regulation II.

Second, the remaining requirements for preliminary injunctive relief are also readily met. Absent a preliminary injunction, Illinois's attempt to impose such a drastic change in the payment system on such an abnormally short timeframe will produce chaos as the system's various participants scramble to hire and train new employees and pour millions of dollars into developing new systems—all despite a strong likelihood that the law will ultimately be held preempted. That harm, which for some smaller financial institutions far outpaces their anticipated net income for 2024, will be irreparable, since the costs of those rushed attempts at compliance will be unrecoverable (as will interchange revenue forgone if the IFPA goes into effect). Given the difficulties and costs that attempts to comply would impose on all payment-system participants—including merchants and cardholders—the balance of equities and public interest also decidedly support an injunction. This Court should thus preliminarily enjoin enforcement of the IFPA.

BACKGROUND

A. The United States' Financial System Protects Federally Chartered Institutions from State Interference.

1. Federal law grants national banks and other federally chartered institutions federally guaranteed powers.

In the midst of the Civil War, Congress enacted the National Bank Act ("NBA") in order "to facilitate … a 'national banking system.'" *Marquette Nat'l Bank of Minneapolis v. First of Omaha Serv. Corp.*, 439 U.S. 299, 315 (1978) (quoting Cong. Globe, 38th Cong., 1st Sess. 1451 (1864)). As "instrumentalities of the federal government," national banks are "subject to the paramount authority of the United States." *Davis v. Elmira Sav. Bank*, 161 U.S. 275, 283 (1896). The Office of the Comptroller of the Currency ("OCC") is "charged by Congress with supervision of the NBA," and it "oversees the operations of national banks." *Watters v. Wachovia Bank, N.A.*, 550 U.S. 1, 6 (2007). To that end, the OCC "is authorized to prescribe rules and regulations to carry out the responsibilities of the office." 12 U.S.C. § 93a.

"When a bank obtains a federal charter under the National Bank Act, [it] gains various enumerated and incidental powers" pursuant to federal law. *Cantero*, 144 S. Ct. at 1295. For example, national banks may "receiv[e] deposits" and "loan[] money on personal security." 12 U.S.C. § 24 (Seventh). More broadly, the NBA empowers national banks "[t]o exercise … all such incidental powers as shall be necessary to carry on the business of banking." *Id.*

To protect against a patchwork of laws and regulations from all 50 states—not to mention municipalities and other jurisdictions—the NBA preempts any state law that would "prevent or significantly interfere with [a] national bank's exercise of its powers," whether "enumerated" or "incidental." *Barnett Bank of Marion Cnty., N.A. v. Nelson*, 517 U.S. 25, 32-33 (1996); *see also Cantero*, 144 S. Ct. at 1300 (reiterating *Barnett Bank* standard); 12 U.S.C. § 25b(b)(1)(B) (codifying the *Barnett Bank* standard in a specific context). In this way, the NBA gives national

banks, which serve customers across the country, "needed protection from possible unfriendly state legislation," *Beneficial Nat'l Bank v. Anderson*, 539 U.S. 1, 10 (2003), and avoids the "[c]onfusion" that "would necessarily result from control possessed and exercised by two independent authorities," *Watters*, 550 U.S. at 14 (internal quotation marks omitted). As the Acting Comptroller of the Currency explained just last month, this "concept of preemption" is necessary for national banks to carry out their nationwide activities: it is "[c]ritical to national banking" and "central to the dual banking system." Michael Hsu, *Remarks Before the Exchequer Club: "Size, Complexity, and Polarization in Banking"* (July 17, 2024).[2]

Congress has likewise granted federal powers to other financial institutions, and protected those powers against state intrusion. Thus, Federal savings associations derive their powers from the Home Owners' Loan Act ("HOLA") and its implementing regulations, which the OCC also administers. 12 U.S.C. § 1464; *see, e.g.*, *id.* § 1464(b)(1)(A)(i)-(ii) (power to "raise funds through … deposit[s]" and "issue … evidence of accounts" such as debit cards). The HOLA directs courts to apply "the laws and legal standard applicable to national banks" in determining whether federal law preempts state regulation of Federal savings associations. *Id.* § 1465(a).

The story is much the same for credit unions. During the Great Depression, Congress enacted the Federal Credit Union Act ("FCUA") "to make more available to people of small means credit … , thereby helping to stabilize the credit structure of the United States." *T I Fed. Credit Union v. DelBonis*, 72 F.3d 921, 931 (1st Cir. 1995). The FCUA grants federal credit unions powers including "to make loans … and extend lines of credit to [] members," as well as "such incidental powers as shall be necessary or requisite to enable [them] to carry on effectively the business for which [they are] incorporated." 12 U.S.C. § 1757(5), (17). The National Credit Union

[2] https://www.occ.treas.gov/news-issuances/speeches/2024/pub-speech-2024-79.pdf.

Administration ("NCUA") oversees federal credit unions and "prescribe[s] rules and regulations for the administration" of the FCUA. *Id.* § 1766(a). Federal law also guards against duplicative or inconsistent state regulation by "preempt[ing] any state law purporting to limit or affect" "the rates, terms of repayment and other conditions of Federal credit union loans and lines of credit (including credit cards) to members." 12 C.F.R. § 701.21(b)(1) (citing 12 U.S.C. § 1757(5)).

2. The Durbin Amendment and its implementing Regulation II exclusively and uniformly define the permissible amount of debit card interchange fees.

As part of the federal system of financial regulation, Congress enacted the "Durbin Amendment" to the EFTA, which directed the Federal Reserve to "prescribe regulations … regarding any interchange transaction fee that an issuer may receive or charge with respect to an electronic debit transaction." 15 U.S.C. § 1693o-2(a)(1), (a)(3)(A). In doing so, Congress specified that "[t]he amount of any interchange transaction fee that an issuer may receive or charge with respect to an electronic debit transaction shall be reasonable and proportional to the cost incurred by the issuer with respect to the transaction," *id.* § 1693o-2(a)(2), taking into account "the incremental cost incurred by an issuer for the role of the issuer in the authorization, clearance, or settlement of a particular electronic debit transaction," *id.* § 1693o-2(a)(4).

The Federal Reserve responded by promulgating Regulation II, which limits debit card interchange fees to the sum of a fixed rate of "21 cents" and an *ad valorem* component of 0.05% "multiplied by the value of the transaction." 12 C.F.R. § 235.3(b); *see also id.* § 235.4(a) (permitting issuers that meet certain fraud-prevention standards to charge an additional $0.01 per transaction). This "Uniform Interchange Fee Standard" "applies to *all* electronic debit transactions not otherwise exempt." 76 Fed. Reg. 43394, 43434 (July 20, 2011) (emphasis added); *see also* 12 C.F.R. § 235.5 (noting exemptions from Regulation II's coverage). In setting this "Uniform

Standard," the Federal Reserve relied on surveys considering costs and risks associated with the entire value of transactions, with no carveout for taxes or gratuities. 76 Fed. Reg. at 43397-98.

B. State and Federal Law Ensures That State-Chartered Financial Institutions Are Not Unfairly Disadvantaged by Preemption of State Regulation.

In the United States' dual financial system of parallel federal and state banking regimes, parity principles in both state and federal law ensure that state-chartered institutions compete on a level playing field. The Illinois General Assembly has granted Illinois-chartered banks the power, "[n]otwithstanding any other provisions of [the Illinois Banking Act] or any other law, to do any act … that is at the time authorized or permitted to national banks by an Act of Congress." 205 ILCS 5/5(11). In other words, Illinois has effectively extended NBA preemption to Illinois-chartered banks. And the federal dormant Commerce Clause's prohibition on "regulatory measures" that "benefit in-state economic interests by burdening out-of-state competitors," *Nat'l Pork Producers Council v. Ross*, 598 U.S. 356, 369 (2023), demands that out-of-state banks not be discriminated against relative to in-state banks. That means that out-of-state state banks must receive the same follow-on preemption as in-state state banks. Indeed, the Riegle–Neal Interstate Banking and Branching Efficiency Act, 12 U.S.C. § 1831a(j)(1), also protects out-of-state state banks by providing that "[t]he laws of a host State … shall apply to any branch in the host State of an out-of-State State bank to the same extent as such State laws apply to a branch in the host State of an out-of-State national bank."

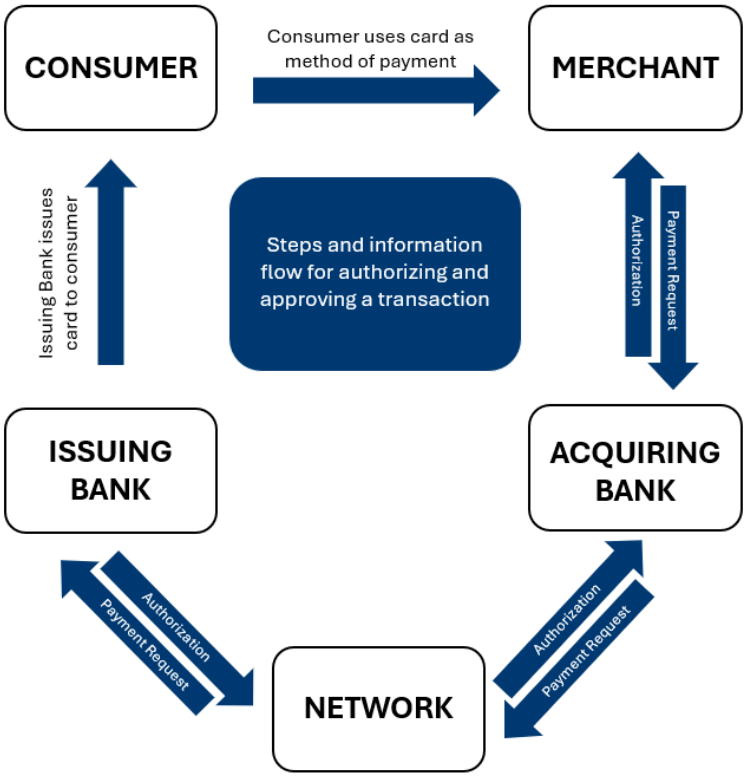
Moreover, just as it has done for the banks it charters, Illinois grants the savings banks and credit unions it charters the same powers as those enjoyed by their federal counterparts, with only limited exceptions not applicable here. *See* 205 ILCS 205/6002(a)(11) (Illinois savings banks); 205 ILCS 305/65 (Illinois credit unions). The dormant Commerce Clause extends that protection to corresponding out-of-state entities too. *See Ross*, 598 U.S. at 369.

C. Plaintiffs' Members Exercise Their Federal and State Powers Through the Nation's Credit and Debit Card Payment Systems.

Among the financial services Plaintiffs' members offer pursuant to their federal and state powers are the processing of credit and debit card transactions. These services involve an intricate, nationwide system designed to facilitate commerce while protecting participants.

To begin, a consumer is evaluated and approved for a credit card or deposit account by an Issuer, which then issues a card that works with at least one card network (e.g., Visa, Mastercard, or PULSE) ("Card Networks" or "Networks"). Ex. 2, ¶ 13. Once a financial institution issues a card, it becomes responsible for maintaining the cardholder's account: it provides the consumer with monthly account statements, collects payment from the cardholder (and takes on the risk of non-payment), administers reward programs, monitors the cardholder's account for suspicious or fraudulent activity, and handles the cardholder's fraud and other transaction-related disputes, including by absorbing the costs of fraudulent charges. Ex. 12, ¶ 12, 21. On the merchant side, to accept cards for payment, merchants typically establish a relationship with an Acquirer that is a licensed member of at least one of the Card Networks. Ex. 12, ¶ 20.

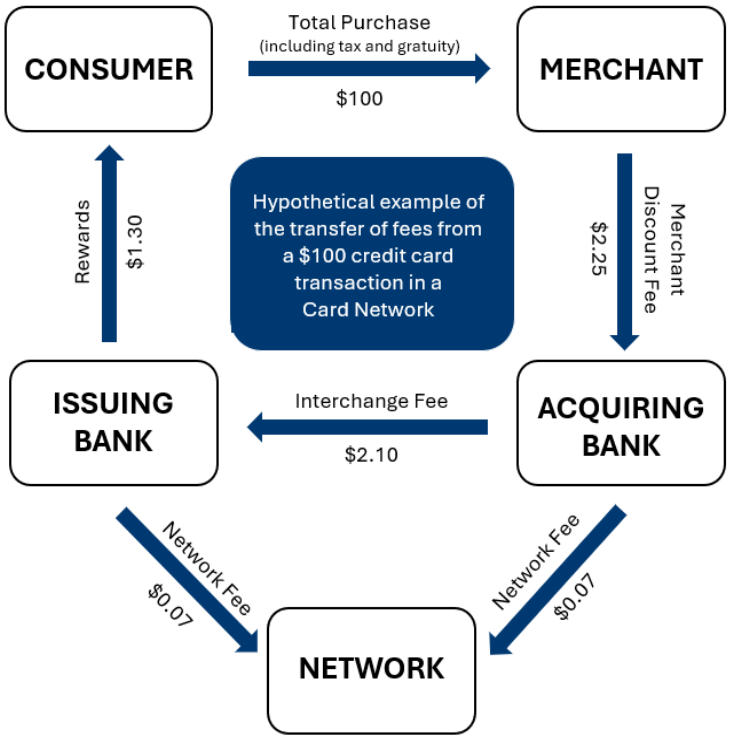
Relying on these relationships, cardholders use credit or debit cards to purchase goods or services from restaurants, stores, gas stations, and other merchants. The steps and information flow for authorizing and approving a transaction are depicted in Figure 1 on the following page:



When a cardholder uses a card to purchase goods or services, the merchant sends information about the card, the merchant, and the total purchase amount to the merchant's Acquirer. Ex. 2, ¶ 14; Ex. 12, ¶ 35. The Acquirer routes that information to the proper Card Network, which requests authorization of the transaction from the Issuer (e.g., to determine whether a cardholder has enough money or credit available to cover the purchase, or if there are any indicia of fraud). Ex. 2, ¶ 14. The Issuer then applies its policies to determine whether to authorize the transaction. *Id.* That determination flows back to the Card Network, to the Acquirer, and then to the merchant's point-of-sale terminal. *Id.* If the transaction is authorized, the point-of-sale terminal reports it as approved, the merchant completes the transaction, and the cardholder receives the goods or services. *Id.* The banks and Card Networks facilitate this entire process in a matter of seconds, using their sophisticated technology and infrastructure to create a seamless experience for both merchant and consumer. Ex. 2, ¶ 11.

Interchange fees are critical to the payment system because they compensate Issuers for the costs and risk of providing and maintaining the cardholder's account and extending credit, and fund core programs that benefit consumers, such as fraud protection and card rewards. Ex. 2, ¶ 16; Ex. 13, ¶ 3. An interchange fee typically consists, in whole or in part, of a percentage of the total transaction amount. Ex. 2, ¶ 16.

After transactions are authorized, approved, and posted, the Card Networks facilitate the flow of funds between cardholders (via Issuers) and merchants (via Acquirers) to settle the transactions—including the assessment of interchange fees to compensate the Issuer for its role in the transactions—as depicted in the illustrative example of Figure 2.



While this Figure depicts a single illustrative transaction, a merchant generally sends a batch of approved transactions to its Acquirer after a set period of time (e.g., at the end of every business day). Ex. 13, ¶ 12. The Acquirer's system then sends the information regarding those

approved transactions to the Card Network for settlement. The Card Network's settlement system calculates net payments for all Acquirers and Issuers for the processing period, deducting the applicable interchange fees from the amount to be transferred from Issuers to Acquirers.

The Card Network then debits the appropriate transaction amounts, net of interchange fees, from the Issuers' accounts and credits the corresponding amount to the Acquirers' accounts. Once the Acquirer receives the funds, it deposits the transaction proceeds into the merchant's account, minus a merchant discount fee retained by the Acquirer for its part in processing the transaction on behalf of the merchant. Ex. 12, ¶ 23. The merchant discount fee is set by each Acquirer, generally at a level sufficient to cover the cost of the interchange fee that the Issuer retains in the settlement process. *Id.* Meanwhile, the Issuer debits the cardholder's account (for a debit card transaction) or charges the transaction's value to the cardholder to be repaid as required under the card agreement (for a credit card transaction). To compensate the Card Network for its role in facilitating the card payment process, the Acquirer and Issuer each also pays its own fee to the Card Network in connection with each transaction. Ex. 12, ¶ 24.

D. The Illinois Interchange Fee Prohibition Act Threatens to Upend the Intricate Interchange System by Limiting Interchange Fees and Data Usage.

The IFPA threatens to upend that carefully calibrated system. Passed in June 2024 as part of an omnibus budget bill, HR 4951, the law forbids banks and their business partners from charging or receiving interchange fees—which it defines as "a fee established, charged, or received by a payment card network for the purpose of compensating the issuer for its involvement in an electronic payment transaction"—on the Illinois state or local tax or gratuity portion of any transaction. 815 ILCS 151/150-5, 150-10. Specifically, "if the merchant informs the acquirer bank or its designee of the tax or gratuity amount as part of the authorization or settlement process for [an] electronic payment transaction," then the law forbids entities including "[a]n issuer, a

payment card network, [and] an acquirer bank" from "receiv[ing] or charg[ing] a merchant any interchange fee" on any gratuities or any "use and occupation tax or excise tax imposed by" Illinois or by a "local government" in Illinois. *Id.* §§ 150-5, 150-10(a). The Act also provides that if a merchant "does not transmit the tax or gratuity amount data" with the transaction, but instead sends that information to the Acquirer within 180 days, "the issuer must credit to the merchant the amount of interchange fees charged on the tax or gratuity amount" within 30 days. *Id.* § 150-10(b). The Act also contains an anti-circumvention provision that makes it "unlawful" to "alter or manipulate the computation and imposition of interchange fees by increasing the rate or amount of the fees applicable to or imposed upon the portion of a … transaction not attributable to taxes or other fees charged to the retailer to circumvent the effect of [the IFPA]." *Id.* § 150-10(d). A bank or other entity that violates any of the above provisions "is subject to a civil penalty of $1,000 per electronic payment transaction, and the issuer must refund the merchant the interchange fee calculated on the tax or gratuity amount." *Id.* § 150-15(a). The Attorney General may enforce this section pursuant to his general enforcement powers. *See, e.g.*, 15 ILCS 205/4.

The IFPA's Data Usage Limitation also makes it unlawful for any "entity, other than the merchant, involved in facilitating or processing an electronic payment transaction" to "distribute, exchange, transfer, disseminate, or use the electronic payment transaction data except to facilitate or process the … transaction or as required by law." 815 ILCS 151/150-15(b). "A violation of this subsection constitutes a violation of the [Illinois] Consumer Fraud and Deceptive Business Practices Act," *id.*, which the Attorney General may enforce by seeking injunctive relief and other relief such as civil penalties of up to $50,000. *See, e.g.*, 815 ILCS 505/7.

If not enjoined, the IFPA will "take[] effect July 1, 2025." HR 4951, § 999-99. With respect to both the Interchange Fee Prohibition and the Data Usage Limitation, that result would

wreak havoc on the payment system on which Illinois businesses and consumers rely and conflict with the uniform federal regime governing debit card interchange fees under the EFTA and Regulation II. Moreover, the short time period before the IFPA's effective date means that costly measures needed to attempt to comply must begin imminently if the Act is not quickly enjoined.

To start, the IFPA's Interchange Fee Prohibition requires Plaintiffs' members to both (a) adapt to any Automatic Process the Networks may implement to contemporaneously identify the tax or gratuity portion of a transaction, and (b) devise, develop, and implement a Manual Process to "credit" a merchant within 30 days of the merchant's submission of tax documentation. The Automatic Process is likely technically infeasible by the Act's July 1, 2025 effective date, and both the Automatic and Manual processes would be enormously costly even if technically feasible.

As to the Automatic Process, the Card Networks' current payment systems transmit only limited, pre-defined information among participants, including the total "transaction amount"—a standard field that encompasses a transaction's entire value, without separately breaking out taxes and gratuities. Ex. 12, ¶ 35.[3] It is not possible to simply input additional information into existing card terminals at the point of sale. *Id.* Any change from the current standard would first require each Card Network to implement its own updated standards and technical specifications, all in conformance with national and international standards bodies that ensure interoperability. Ex. 13, ¶¶ 6, 15-19; Ex. 12, ¶¶ 33, 37. For these new standards to be of any use, they would then require other payment-system participants to conform to those revisions, such as by purchasing new software or hardware—including not just Issuers and Acquirers, but also merchants, who would

[3] To the degree that networks have fields for tax or gratuity, those fields are "used for informational purposes" only, are "not validated for accuracy," and "are not designed or used for complex calculations." *See* Ex. 13, ¶ 23. They thus could not form the basis for IFPA compliance without undermining those fields' existing purposes and creating "significant confusion in the system." *Id.*

have to pay to upgrade their point-of-sale terminals. Ex. 12, ¶¶ 33, 38-39. Completing all of this work is unlikely to be feasible by July 1, 2025. Ex. 13, ¶ 20; Ex. 12, ¶ 33. Indeed, past sweeping updates to the payment system have typically come with years of advance notice. Ex. 2, ¶¶ 18-19; Ex. 13, ¶ 26. Moreover, if and when such updates do come, implementing them would require extraordinary investment of money and other resources. *See, e.g.*, Ex. 8, ¶¶ 19-20 (estimating that such changes would cost one national bank over $25 million, require hiring or reassigning over a hundred employees, and divert resources from other network modernization initiatives that seek to increase the payment system's stability); Ex. 6, ¶ 17 (noting significant costs of implementing such updates for a "small community bank" reliant on a third-party processor).

Both because no Automatic Process appears likely to be operational by July 1, 2025, and because the IFPA requires the Manual Process in any event, Plaintiffs' members—absent an injunction—will also have to try to develop that brand new reimbursement system from the ground up. Given that the IFPA includes "receipts" and "invoices" among its non-exhaustive list of "tax documentation" that may trigger an Issuer's duty to "credit" any of the tens of thousands of Illinois merchants at which their cardholders may shop, *see* 815 ILCS 151/150-5; Ex. 8, ¶ 13, Issuers would have to stand ready to manually review practically all of the billions of Illinois card transactions they facilitate each year. The burden of doing so would be immense for large and small banks alike. For example, large banks may need to hire thousands of new employees, *see* Ex. 11, ¶ 32, while smaller institutions may need to increase their *overall* staffing by as much as 25%, *see* Ex. 15, ¶ 25. And that says nothing of the additional costs Plaintiffs' members would incur to audit or otherwise minimize mistakes and fraud in such manual tax documentation.

Preparing to comply with the Data Usage Limitations carries similar burdens. Plaintiffs' members currently use transaction data for a variety of important purposes, including building

fraud-detection algorithms, administering rewards programs, and determining credit limits. Their systems currently have no mechanism for separating data from those transactions that are subject to the IFPA to avoid using them for any of these purposes. If the IFPA is not enjoined, Plaintiffs' members face the need to design and implement new systems to accomplish this. Doing so—especially on the IFPA's compressed timeframe—would be enormously expensive, *see, e.g.*, Ex. 10, ¶ 30 (citing one bank's anticipated implementation costs of "millions of dollars" in 2024 alone); Ex. 6, ¶ 17 (noting need for smaller institution to expend "substantial resources" to pay a third party to implement needed changes). And for that enormous expense, Plaintiffs' members would be purchasing *less* efficient and effective systems, *see e.g.*, Ex. 6, ¶ 31 (explaining how the Data Usage Limitation would hamstring fraud prevention—especially for Illinois-centered institutions where most transactions would be subject to the IFPA).

* * *

In short, the Interchange Fee Prohibition and Data Usage Limitation are both incompatible with the way the payment system actually functions. To the degree that doing so is even operationally feasible for financial institutions with customers who may transact business across state lines, implementing these IFPA provisions would come at enormous cost. For example, one smaller institution estimates that the costs in 2024 alone would be almost half again as much as its entire anticipated net profit for the year. Ex. 14, ¶ 5. Indeed, the IFPA's bans and costs of compliance are so draconian that they threaten to drive multiple Issuing and Acquiring institutions from the market altogether. *See, e.g.*, Ex. 2, ¶ 28; Ex. 15, ¶ 32; Ex. 4, ¶ 25.

ARGUMENT

This Court should grant a preliminary injunction against enforcement of the IFPA because Plaintiffs' members will suffer irreparable harm if they are forced to expend unrecoverable resources preparing to comply with a statute that will ultimately be held preempted in this litigation.

"A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter v. NRDC*, 555 U.S. 7, 20 (2008). The Seventh Circuit "employs a sliding scale approach" under which "if a plaintiff is more likely to win, the balance of harms can weigh less heavily in its favor." *GEFT Outdoors, LLC v. City of Westfield*, 922 F.3d 357, 364 (7th Cir. 2019). Moreover, the last two "factors merge when the government is the party sought to be enjoined." *Stevens v. U.S. Dep't of Health & Human Servs.*, 666 F. Supp. 3d 734, 748 (N.D. Ill. 2023) (internal quotation marks omitted). Plaintiffs here readily satisfy each of the requirements for a preliminary injunction.

I. PLAINTIFFS' CLAIMS ARE LIKELY TO SUCCEED ON THE MERITS.

The IFPA is preempted by federal law as applied to federally chartered financial institutions and invalid as applied to state-chartered financial institutions under parity principles that undergird the nation's dual banking system.

A. The IFPA Is Preempted by the National Bank Act.

The NBA preempts the IFPA because both the Interchange Fee Prohibition and the Data Usage Limitation significantly interfere with national banks' exercise of multiple federal powers.

As noted above, the NBA preempts any state law that "prevents or significantly interferes with [a] national bank's exercise of its powers." *Cantero*, 144 S. Ct. at 1300; *see also Barnett Bank*, 517 U.S. at 32-33 (same). In its recent *Cantero* decision, the Supreme Court explained that whether a state law significantly interferes with national banking powers should be assessed "based on the text and structure of the [state law], comparison to other precedents, and common sense." 144 S. Ct. at 1301 n.3. In particular, the Supreme Court noted that, alongside *Barnett Bank*, two other precedents—*Franklin National Bank of Franklin Square v. New York*, 347 U.S. 373 (1954), and *Fidelity Federal Savings & Loan Ass'n v. De la Cuesta*, 458 U.S. 141 (1982)—"together

illustrate the kinds of state laws that significantly interfere with the exercise of a national bank power and thus are preempted." *Cantero*, 144 S. Ct. at 1299. By contrast, *Cantero* recognized that three other cases—*Anderson National Bank v. Luckett*, 321 U.S. 233 (1944), *National Bank v. Commonwealth*, 76 U.S. (9 Wall.) 353 (1870), and *McClellan v. Chipman*, 164 U.S. 347 (1896)—provide examples of state laws that are not preempted. Under the precedents endorsed in *Cantero*, the Interchange Fee Prohibition and the Data Usage Limitation both plainly "prevent[] or significantly interfere[] with" powers the NBA grants national banks and are thus preempted.

1. The Interchange Fee Prohibition prevents or significantly interferes with national banks' exercise of multiple powers granted by the NBA.

The NBA grants national banks the powers to "carry on the business of banking" by, among other things, "receiving deposits" and "loaning money on personal security," as well as by exercising "all such incidental powers as shall be necessary." 12 U.S.C. § 24 (Seventh). "An activity is authorized for a national bank as incidental to the business of banking if it is convenient or useful to an activity that is specifically authorized for national banks or to an activity that is otherwise part of the business of banking." 12 C.F.R. § 7.1000(d)(1). As the OCC has long recognized, "[t]he processing of credit card transactions for merchants is a part of or incidental to the business of banking within the meaning of [the NBA]." OCC Inter. Ltr. 689, 1995 WL 604271, at *1 (Aug. 9, 1995). Likewise, the NBA gives national banks the power to process and post debit card transactions, as "[b]oth the 'business of banking' and the 'power to receiv[e] deposits' necessarily include the power to post transactions—*i.e.*, tally deposits and withdrawals." *Gutierrez v. Wells Fargo Bank, NA*, 704 F.3d 712, 723 (9th Cir. 2012) (quoting 12 U.S.C. § 24 (Seventh)) (second brackets in original). In short, "processing credit and debit card transactions … [is] clearly

part of the business of banking." OCC Corp. Dec. 99-50, at 4 (Dec. 23, 1999)[4]; *see also, e.g.*, OCC, Activities Permissible for National Banks and Federal Savings Associations, Cumulative, at 75 (Oct. 2017) (national banks "can provide authorization and processing services necessary for the merchants to accept online credit and debit card payments in a secure environment").[5]

The NBA also gives national banks the power to receive fees for the services they offer. For example, one non-exhaustive OCC regulation authorizes any national bank to "charge its customers non-interest charges and fees." 12 C.F.R. § 7.4002(a). Thus, the powers to participate in processing card transactions, make loans through credit cards, and administer deposit accounts and their accompanying debit cards carry with them the power to receive fees for those services.

The IFPA's Interchange Fee Prohibition "prevents or significantly interferes" with the exercise of national banks' powers in multiple ways. It significantly interferes with the power to charge and receive fees by forbidding national banks from collecting a portion of the fees that the NBA permits for performing services. And it imposes burdensome requirements on those underlying services, all while decreasing the revenue banks may receive for providing them.

a. The Interchange Fee Prohibition prevents or significantly interferes with national banks' power to receive fees for the services they provide.

The NBA authorizes national banks to receive fees for the services they provide. *See, e.g.*, 12 C.F.R. § 7.4002(a). And courts—including the Supreme Court in cases cited by *Cantero* as emblematic of preemption—routinely recognize that the NBA preempts state law that limits when or how national banks may take an action the NBA permits. Under that principle, Illinois may not forbid national banks from receiving a portion of interchange fees that federal law authorizes.

[4] https://www.occ.gov/topics/charters-and-licensing/interpretations-and-actions/2000/cd99-50.pdf.

[5] https://www.occ.gov/publications-and-resources/publications/banker-education/files/activities-permissible-nat-banks-fed-savings-associations.html.

Fidelity Federal Savings & Loan demonstrates why. There, federal law allowed, but did "not compel, federal savings and loans to include due-on-sale clauses in their [mortgage] contracts." 458 U.S. at 155. California sought to "limit[]" that right by allowing enforcement of such clauses only when "reasonably necessary" to protect a security interest. *Id.* at 149, 154-55. Although national banks *could* comply with both federal and state law, the Court held that the state law was preempted because it impinged on "the 'flexibility' given" by federal law. *Id.* at 155. So too here. The IFPA "deprive[s] the [banks] of the 'flexibility'" the NBA and its implementing regulations offer by barring national banks from receiving a portion of the fees that the NBA authorizes in connection with virtually every Illinois credit and debit card transaction. *See* 12 C.F.R. § 7.4002(a). That interference is only heightened by the IFPA's anti-circumvention provision, which further intrudes into national banks' powers to set and receive fees for their services.

Barnett Bank is similar. There, federal law authorized national banks to sell insurance, and Florida tried to prohibit that activity, arguing that there was no conflict because federal law did not *require* national banks to sell insurance. *See* 517 U.S. at 31-32. The Court flatly rejected this argument, explaining that "normally Congress would not want States to forbid, or to impair significantly, the exercise of a power that Congress explicitly granted." *Id.* at 33. Just so here, the federal government's grant of powers to national banks to earn and receive interchange fees on the full amount of a transaction precludes Illinois's attempt to limit or constrain that authority.

By contrast, the IFPA looks nothing like the three statutes upheld against preemption challenges in the cases *Cantero* cited. In *Anderson National Bank v. Luckett*, Kentucky's unclaimed property law "simply allowed the State to 'demand payment of the accounts in the same way and to the same extent that the depositors could' after the depositors abandoned the account"—which did not affect the powers of national banks. *Cantero*, 144 S. Ct. at 1299 (quoting

Anderson, 321 U.S. at 249). Likewise, in *National Bank v. Commonwealth*, 76 U.S. 353, the Court upheld a Kentucky law that "taxed the shareholders of all banks (including national banks) on their shares of bank stock" because the law "in no manner hinder[ed]" national "banking operations" and had no greater effect than any "generally applicable state contract, property, [or] debt-collection law[]." *Cantero*, 144 S. Ct. at 1300. Similarly, in *McClellan v. Chipman*, 164 U.S. 347, the Court held that "a generally applicable Massachusetts contract law" regarding unlawful preferential transfers in advance of insolvency "could apply to national banks" if it did not "impai[r] the efficiency of national banks or frustrat[e] the purpose for which they were created." *Cantero*, 144 S. Ct. at 1300. Here, by contrast, the interference with federal fee powers is direct—the IFPA forbids national banks from receiving a portion of a fee the NBA permits.

Unsurprisingly, circuit courts confronted with examples of such direct and explicit limitations on national banks' fee-related powers have held them preempted. For example, *Bank of America v. City and County of San Francisco* held that municipal ordinances prohibiting ATM fees on non-depositors were preempted, because federal law permitted national banks to charge such fees without reference to whether or not they were charged to depositors or non-depositors. 309 F.3d 551, 562-64 (9th Cir. 2002). Likewise, in *Baptista v. JPMorgan Chase Bank, N.A.*, the Eleventh Circuit held that the NBA preempted a Florida law barring banks from imposing check cashing fees on those without accounts at the bank because OCC's regulations had "the significant objective of … allow[ing] national banks to charge fees and [allowing] banks latitude to decide how to charge them." 640 F.3d 1194, 1198 n.2 (11th Cir. 2011) (citing 12 C.F.R. § 7.4002); *see also Wells Fargo Bank of Tx. NA v. James*, 321 F.3d 488, 495 (5th Cir. 2003) (Texas's similar attempt to ban national banks from charging non-depositors check-cashing fees was "in irreconcilable conflict with the federal regulatory scheme, and it is preempted").

The same principles govern here. Federal law gives national banks the power to receive fees—such as the interchange fees paid to issuers—to process payment card transactions. The IFPA's diktat that banks may not receive such fees on the portion of a transaction attributable to tax or gratuity thus denies national banks a power that the NBA accords them, and is preempted.

b. The Interchange Fee Prohibition prevents or significantly interferes with the powers to process credit and debit card transactions, receive deposits, and make loans through credit cards.

In addition to significantly interfering with national banks' fee powers, the IFPA's Interchange Fee Prohibition "significantly interferes with" national banks' powers to process credit and debit card transactions and, by extension, their powers to make loans and receive deposits. *See, e.g.*, 12 U.S.C. § 24 (Seventh) (powers to "receiv[e] deposits" and "loan[] money"); OCC Inter. Ltr. 689, 1995 WL 604271, at *1 ("The processing of credit card transactions for merchants is a part of or incidental to the business of banking within the meaning of [the NBA]."). Here, *Franklin National Bank*—which the Supreme Court described in *Cantero* as "[t]he paradigmatic example of significant interference"—governs. *Cantero*, 144 S. Ct. at 1298.

In *Franklin National Bank*, the Supreme Court held that, because banks were expressly authorized to receive savings deposits, federal law protected their "incidental power[]" to engage in "advertising" for such accounts. 347 U.S. at 377. As a result, the NBA preempted a New York law that created a "clear conflict" with this incidental advertising power by precluding national banks from using the word "savings" in their advertisements. *Id.* at 374, 378. "Importantly," *Cantero* emphasized, that was so even though "the New York law did not bar national banks from receiving savings deposits, 'or even' from 'advertising that fact'" using different words. *Cantero*, 144 S. Ct. at 1298 (quoting *Franklin Nat'l Bank*, 347 U.S. at 378). Because "[f]ederal law gave national banks the power not only 'to engage in a business,' but also 'to let the public know about

it,'" it followed that "state law could not interfere with the national bank's ability to do so efficiently." *Id.* (quoting *Franklin Nat'l Bank*, 347 U.S. at 377-78).

The IFPA's Interchange Fee Prohibition interferes with the "efficient" provision of debit and credit card processing services far more significantly than the New York law at issue in *Franklin National Bank*. Instead of merely limiting the form that advertising for a particular service may take, it targets the service itself. Indeed, under federal law, charges like interchange fees permissibly take into account factors including "[t]he cost incurred by the bank in providing [a] service" and "[t]he deterrence of misuse by customers of banking services." 12 C.F.R. § 7.4002(b)(2). State limitations on national banks' federal authority to charge interchange fees will compromise banks' ability to offer debit and credit card processing services—as well as to hold deposits and extend credit—in the manner that best advances their business goals while deterring and detecting fraud. That is precisely the type of result that the NBA's preemption rule is designed to prevent. And the problem will be exacerbated if the IFPA is not held preempted, because comparable laws under consideration in other states may take effect, further multiplying the inefficiencies and interference with the exercise of federal powers.

For all of these reasons, the IFPA's Interchange Fee Prohibition is a significant interference with national banks' powers under the NBA and is therefore preempted.

2. The Data Usage Limitation prevents or significantly interferes with national banks' exercise of multiple powers granted by the NBA.

The IFPA's Data Usage Limitation is similarly preempted. That provision makes it unlawful for banks and any other entity "involved in facilitating or processing an electronic payment transaction"—except for merchants—to "distribute, exchange, transfer, disseminate, or use the electronic payment transaction data, except to facilitate or process the electronic payment transaction or as required by law." 815 ILCS 151/150-15(b). That cannot be squared with national

banks' broad power under the NBA to process data. 12 C.F.R. § 7.5006(a). Nor can it be squared with national banks' need—and, therefore, incidental power, *see* 12 C.F.R. § 7.1000(d)(1)—to process, use, or otherwise employ electronic payment transaction data in various ways to "efficiently" provide credit and debit card processing services, make loans, and receive deposits.

a. The Data Usage Limitation prevents or significantly interferes with the power to process data.

Just as the IFPA's Interchange Fee Prohibition impermissibly limits national banks' power to receive fees in their discretion, the IFPA's Data Usage Limitation impermissibly limits their power to process data in their discretion. A national bank has the express federal power to "provide data processing, and data transmission services … and access to such services … for itself and for others" with respect to "banking, financial, or economic data," which "includes anything of value in banking and financial decisions." 12 C.F.R. § 7.5006(a); *see also id.* (describing these "activities" as "part of the business of banking"). Because federal law permits the processing and use of data whether or not it comes from particular transactions, Illinois's attempt to impose limits based on that characteristic of the data is preempted. *See Bank of Am.*, 309 F.3d 551 at 562-64. In other words, by unlawfully "depriv[ing]" national banks of the "flexibility" federal law accords them to process and otherwise employ data, the IFPA's Data Usage Limitation conflicts with that law and is preempted. *See Fidelity Fed. Sav. & Loan*, 458 U.S. at 155.

b. The Data Usage Limitation prevents or significantly interferes with the power to process credit and debit card transactions, receive deposits, and make loans.

By making it impossible to "efficiently" process credit and debit card transactions, and by extension to make loans and receive deposits, the IFPA's Data Usage Limitation also significantly interferes with those underlying federal powers. The Illinois law's sweeping scope has the potential to outlaw a broad range of data uses that, as common sense indicates, are critical for the

operational success or economic viability of these services. For example, financial institutions commonly use transaction data to build predictive models that detect and combat fraud, which poses a continuing and substantial problem. Ex. 2, ¶ 30; *see also, e.g.*, Ex. 6, ¶ 31 ("Historical electronic payment transaction data is very important in detecting patterns of fraud."). Likewise, it is unclear how a reward program for Illinois cardholders making purchases primarily in Illinois could survive the IFPA's Data Usage Limitation. *See, e.g.*, Ex. 12, ¶¶ 61-62; Ex. 8, ¶ 26 (noting the use of transaction data for "cardholder loyalty programs"). As is the case for its Interchange Fee Prohibition, the IFPA's Data Usage Limitation works a far more significant interference with national banks' ability to "efficiently" provide credit and debit card processing services than did the New York advertising limit the Supreme Court called the "paradigmatic example of significant interference" in *Franklin National Bank*. *See* *Cantero*, 144 S. Ct. at 1298 (citing *Franklin Nat'l Bank*, 347 U.S. at 377-78). Here, unlike there, Illinois's law makes it harder for national banks to safeguard—or even provide—the services they offer under the NBA. *See, e.g.*, Ex. 6, ¶ 31 ("[T]he IFPA would render our account data virtually useless for fraud prevention, essentially guaranteeing real dollar losses by customers, the bank or both."). The Data Usage Limitation is thus preempted as well.

3. Illinois and federal law extend the effect of NBA preemption to banks chartered by Illinois and by other states.

In order to provide a level playing field for state-chartered banks, both Illinois and federal law recognize that the preemption available to national banks should often extend as well to state-chartered banks. Thus, Illinois grants banks it charters the power, "[n]otwithstanding any other provisions of [the Illinois Banking Act] or any other law, to do any act … that is at the time authorized or permitted to national banks by an Act of Congress." 205 ILCS 5/5(11). Under this provision, "Illinois state banks for [decades] have enjoyed parity with national banks." Ill. Dep't

of Financial & Professional Regulation, Interpretive Ltr. 2000-02, at 1 (Jan. 12, 2000)[6]; *see also* *Johnson v. First Banks, Inc.*, 889 N.E.2d 233, 238 (Ill. App. Ct. 2008) (citing 205 ILCS 5/5(11)).

Federal law has the same effect for non-Illinois state banks. The dormant Commerce Clause forbids "regulatory measures" that "benefit in-state economic interests by burdening out-of-state competitors." *Ross*, 598 U.S. at 369; *see also* *Hunt v. Wash. State Apple Advertising Comm'n*, 432 U.S. 333, 352-53 (1977) (discriminatory statutes forbidden even if they are enacted for non-discriminatory purposes, such as "protecting consumers"). Because Illinois essentially extends NBA preemption to in-state state banks, the dormant Commerce Clause requires equivalent treatment for out-of-state state banks. Otherwise, Illinois law would violate the "cardinal principle that a State may not benefit in-state economic interests by burdening out-of-state competitors." *W. Lynn Creamery, Inc. v. Healy*, 512 U.S. 186, 199 (1994) (internal quotation marks omitted); *see also id.* at 194 (collecting a "legion" of cases). And indeed, federal statutory law also protects out-of-state state banks, as 12 U.S.C. § 1831a(j) provides that "[t]he laws of a host State … shall apply to any branch in the host State of an out-of-State State bank to the same extent as such State laws apply to a branch in the host State of an out-of-State national bank." In other words, § 1831a(j)(1) gives "an out-of-state, state bank … the same power and authority as a national bank," and interference with those powers is likewise "preempted." *Johnson*, 889 N.E.2d at 238; *see also* *Pereira v. Regions Bank*, 752 F.3d 1354, 1356-57 (11th Cir. 2014) (similar).

In short, under both Illinois and federal law, state-chartered banks are entitled to the same benefits of NBA preemption of the IFPA as national banks.

[6] https://idfpr.illinois.gov/content/dam/soi/en/web/idfpr/banks/cbt/legal/intrltr/btil0002.pdf.

B. The IFPA Is Preempted by the Home Owners' Loan Act.

Application of the IFPA to Federal savings associations is preempted by the HOLA just as the NBA preempts its application to national banks. The preemption standard governing the two statutes is the same, *see* 12 U.S.C. § 1465(a), and the HOLA gives Federal savings associations comparable powers to those the NBA grants national banks.

1. The Interchange Fee Prohibition prevents or significantly interferes with Federal savings associations' exercise of multiple powers granted by the HOLA.

Under the HOLA and its implementing regulations, Federal savings associations enjoy the powers to offer credit cards, 12 U.S.C. § 1464(c)(1)(T), to "raise funds through … deposit[s]" and "issue … evidence of accounts" such as debit cards, *id.* § 1464(b)(1)(A)(i)-(ii), and to charge fees, including "to transfer … its customers' funds," *see, e.g.*, 12 C.F.R. § 145.17. For all the same reasons that the IFPA's Interchange Fee Prohibition "prevents or significantly interferes with" national banks' exercise of their federally granted powers, that provision does the same with respect to the corresponding powers of Federal savings associations. *See supra* Section I.A.1. This IFPA provision prevents Federal savings associations from receiving fees their governing statute permits, *see supra* Section I.A.1.a, and it also prevents them from efficiently exercising their fundamental underlying powers involving credit cards and deposits, *see supra* Section I.A.1.b.

2. The Data Usage Limitation prevents or significantly interferes with Federal savings associations' exercise of multiple powers granted by the HOLA.

The IFPA's Data Usage Limitation is also preempted under the HOLA just as it is under the NBA. Federal savings associations have the federal power, operating through a service corporation, to engage in "data processing" that is "generally finance-related." 12 C.F.R. § 5.59(f)(2)(vi). Moreover, that power is necessary to efficiently carry out its underlying credit card and deposit operations. Accordingly, the Data Usage Limitation "prevents or significantly

interferes with" Federal savings associations' exercise of their federal powers for the same reasons it interferes with national banks' corresponding federal powers. *See supra* Section I.A.2. This provision prevents Federal savings associations from processing data in ways that would otherwise be permitted, *see supra* Section I.A.2.a, and it also prevents them from efficiently exercising their fundamental underlying powers involving credit cards and deposits, *see supra* Section I.A.2.b.

3. The effect of HOLA preemption extends to state savings banks.

Just as with state-chartered banks, Illinois has opted to give the savings banks it charters the same powers their federal equivalents enjoy. Specifically, with exceptions not relevant here, Illinois permits savings banks it charters to "make any loan or investment or engage in any activity that it could make or engage in if it were organized … under federal law as a federal savings and loan association or federal savings bank." 205 ILCS 205/6002(a)(11). Illinois-chartered savings banks thus enjoy parity with Federal savings associations. And here too, the dormant Commerce Clause ensures that out-of-state savings banks and savings associations receive the same preemption benefits as in-state ones. *See Ross*, 598 U.S. at 369.

C. The IFPA Is Preempted by the Federal Credit Union Act.

The FCUA preempts the IFPA's application to federal credit unions for similar reasons, since FCUA preemption "fit[s] the same pattern" as NBA preemption. Adam J. Levitin, *Hydraulic Regulation: Regulating Credit Markets Upstream*, 26 YALE J. REG. 143, 172 n.138 (2009). As noted above, the FCUA preempts any state law that limits or affects certain powers that that statute grants federal credit unions. *See, e.g.*, 12 C.F.R. § 701.21(b). Both IFPA provisions conflict with the FCUA in this way, and are thus preempted.

1. The Interchange Fee Prohibition conflicts with federal credit unions' exercise of multiple powers granted by the FCUA.

The FCUA grants federal credit unions the powers to "carry on effectively the business for which [they] are incorporated" by, among other things, "mak[ing] loans … and extend[ing] lines of credit to [] members," as well as by exercising "such incidental powers as shall be necessary or requisite." 12 U.S.C. § 1757(5), (17). "An activity meets the definition of an incidental power activity if" it, among other things, "[i]s convenient or useful in carrying out the mission or business of credit unions consistent with the [FCUA]" or "[i]s the functional equivalent or logical outgrowth of activities that are part of the mission or business of credit unions." 12 C.F.R. § 721.2.

The FCUA and its implementing regulations further give the NCUA "exclusive authority" "to regulate the rates, terms of repayment and other conditions of Federal credit union loans and lines of credit (including credit cards) to members." *Id.* § 701.21(b). Accordingly, federal law "preempts any state law purporting to limit or affect" "amounts of finance charges," "other fees," and "other conditions" associated with credit cards, as well as debit cards. *See id.*; 12 C.F.R. § 721.3(k) ("debit cards"). The regulations also state that federal credit unions' incidental powers include the power to "process[]" "transaction[s]," through "electronic" means and otherwise, from which credit unions "may earn income." *Id.* §§ 721.3(d), 721.6; *see also, e.g.*, *id.* § 704.12 (listing "[p]ayment systems," defined as "any methods used to facilitate the movement of funds for transactional purposes," as a "preapproved service"). Federal credit unions' power to participate in the processing of credit and debit card transactions thus carries with it the power to charge "fees" for those services consistent with NCUA's oversight.

This case fits comfortably with those in which courts have found FCUA preemption. For example, *Neal v. Redstone Federal Credit Union* refused to enforce a usury law that barred credit card issuers from charging over 8% interest, because the FCUA permitted higher interest rates.

447 So. 2d 805, 807 (Ala. Ct. App. 1984). Likewise, *American Bankers Ass'n v. Lockyer* held preempted a California law that required "credit card issuers" to "either impose a 10% minimum monthly repayment" on cardholders or else "be subjected to [certain] onerous [disclosure] requirements." 239 F. Supp. 2d 1000, 1018 (E.D. Cal. 2002). As the court explained, even though the FCUA's implementing regulations do not "preempt state laws concerning credit cost disclosure requirements," the FCUA preempted the law's attempt to "use[] credit disclosures and other requirements … as sanctions to coerce lenders into imposing a 10% minimum payment." *Id.* at 1019. Attempting to indirectly set that minimum payment rate "conflict[ed] with the NCUA's broad power to regulate the rates, terms of repayment, and other conditions of federal credit union loan and lines of credit." *Id.*

So too here. The IFPA bans an action—receiving fees—in circumstances where the FCUA permits it, and thereby "conflicts" with the FCUA and its implementing regulations. Indeed, the IFPA presents an even clearer case for preemption than the statute at issue in *Lockyer*, because it directly prohibits federal credit unions from charging FCUA-permitted fees, rather than merely giving them the choice of forgoing the federally authorized action.

2. The Data Usage Limitation conflicts with federal credit unions' exercise of multiple powers granted by the FCUA.

The Data Usage Limitation is similarly preempted. As the NCUA has recognized, federal credit unions' incidental powers expressly include the power to engage in "[e]lectronic financial services," including "account aggregation services" and "data processing." *See, e.g.*, 12 C.F.R. § 721.3(e) (listing "data processing" as an example of an activity that "serv[es] … members" and "support[s] … business operations"). And just like national banks, federal credit unions may use transaction data to detect and prevent fraud and offer rewards programs to their customers. *See, e.g.*, Ex. 14, ¶ 27. The ability to use transactional data is thus core to federal credit unions' ability

to exercise their FCUA powers and to provide services to their members. *See* 12 C.F.R. § 721.2. The Data Usage Limitation conflicts with those powers and is therefore preempted.

3. The effect of FCUA preemption extends to state credit unions.

Similar to its policy for Illinois banks, Illinois grants credit unions it charters "all of the rights, privileges and benefits which may be exercised by a federal credit union." 205 ILCS 305/65. Indeed, the state must, "where necessary, promulgate rules and regulations in substantial conformity with those promulgated by the NCUA under the Federal Credit Union Act." *Id.* Illinois credit unions thus enjoy parity with federal credit unions. *See* 5 Ill. Law & Prac. Banks § 193 (citing 205 ILCS 305/65). And here too, the dormant Commerce Clause ensures that out-of-state credit unions receive the same preemption benefits as in-state ones. *See Ross*, 598 U.S. at 369.

D. Federal Preemption Extends to Other Participants in the Payment System.

Finally, in order to effectuate federal preemption, the IFPA cannot be applied to Card Networks or others involved in the payment process, either. As the Supreme Court has explained, for example, there is no basis to conclude that "the preemptive reach of the NBA extends only to a national bank itself." *Watters*, 550 U.S. at 18. Instead, "in analyzing whether state law hampers the federally permitted activities of a national bank," courts should "focus[] on the exercise of a national bank's *powers*." *Id.* To that end, federal preemption applies "to an action taken by a non-national bank entity" if "application of state law to that action … significantly interfere[s] with a national bank's ability to exercise its power under the NBA." *Madden v. Midland Funding, LLC*, 786 F.3d 246, 250 (2d Cir. 2015); *see also Eul v. Transworld Sys.*, No. 15 C 7755, 2017 WL 1178537, at *6 (N.D. Ill. Mar. 30, 2017) (similar).

That often happens, for instance, when another entity functions as an agent or on behalf of the entity to which federal law grants a particular power. Thus, in *SPGGC, LLC v. Ayotte*, the First Circuit applied NBA preemption to a non-bank entity that sold gift cards on behalf of a

national bank. 488 F.3d 525 (1st Cir. 2007). The court explained that the NBA gives national banks the power to sell gift cards, and to "use 'duly authorized officers or agents'"—including third-party agents—to exercise their powers. *Id.* at 532 (quoting 12 U.S.C. § 24 (Seventh)); *see also, e.g.*, 12 U.S.C. § 1757(1) (permitting credit unions to "make contracts" with others in aid of their operations). Accordingly, a state law banning non-bank entities from selling gift cards would "significantly interfere[]" with the powers federal law granted, and was thus preempted. *SPGGC*, 488 F.3d at 533. As the court put it, the New York restriction on advertising that the Supreme Court deemed preempted in *Franklin National Bank* would have been no more permissible if, instead of regulating banks' use of the word "savings" directly, it had "prohibited billboard owners" from posting advertisements for national banks that used the word "savings." *Id.*

Similar reasoning demonstrates that the IFPA cannot limit parties in the payment system that facilitate federally chartered institutions' exercise of their NBA, HOLA, or FCUA powers. For example, an operating subsidiary or joint venture that issues credit or debit cards in conjunction with a federally chartered entity is every bit as protected from the interference of the IFPA as is the federally chartered entity itself. Likewise, Card Networks and other participants in the payment system are covered by federal preemption, because Illinois may not indirectly prevent or significantly interfere with federally chartered entities' exercise of their federal powers any more than it could do so directly. To take just one example, if those other participants were required to comply with the IFPA and could not "receive or charge a merchant any interchange fee on the tax amount or gratuity of an electronic payment transaction," there would be no way for the federally chartered entities to collect the full interchange fee that federal law permits. Likewise, the Data Usage Limitation would significantly interfere with Card Networks' ability to police fraud and otherwise efficiently run the payment system on which federally chartered entities depend. *See*

Ex. 12, ¶¶ 55-59. Because that interference with the powers of the various federally chartered financial institutions would be significant, Plaintiffs are likely to prevail on a claim that application of the IFPA to Card Networks and other entities in the payment ecosystem is preempted as well.

E. The EFTA Preempts the Interchange Fee Prohibition's Application to Debit Card Interchange Fees.

As applied to debit card transactions, the IFPA's Interchange Fee Prohibition also conflicts with, and is thus preempted by, the Durbin Amendment to the EFTA and its implementing regulation. Conflict preemption "exists if it would be impossible for a party to comply with both local and federal requirements or where local law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Aux Sable Liquid Prod. v. Murphy*, 526 F.3d 1028, 1033 (7th Cir. 2008). In particular, where a federal agency has carefully considered a question and established a regulatory standard that balances competing imperatives and reflects a deliberate federal policy choice, a competing state standard will be preempted. *Geier v. Am. Honda Motor Co.*, 529 U.S. 861, 886 (2000). Indeed, the EFTA itself contains a provision specifying that preemption follows when a state law is "inconsistent with the provisions of this subchapter … to the extent of the inconsistency." 15 U.S.C. § 1693q.[7]

Such inconsistency is evident here. As noted above, Congress directed the Federal Reserve to "prescribe regulations … regarding any interchange transaction fee that an issuer may receive or charge with respect to an electronic debit transaction." 15 U.S.C. § 1693o-2(a)(1), (a)(3)(A).

[7] While this provision also clarifies that "[a] State law is not inconsistent with this subchapter if the protection such law affords any consumer is greater than the protection afforded by this subchapter," 15 U.S.C. § 1693q, that clarification has no force here, both because the IFPA's Interchange Fee Prohibition applies only to the fees charged to entities, and provides no "protection" to "consumers," and because regulation of "service fees charged by financial institutions" is "not the type of consumer protection measure contemplated by the EFTA," which instead "was enacted to prevent fraud, embezzlement, and unauthorized disclosure in electronic fund transfers," *Bank of Am.*, 309 F.3d at 564.

Congress also specified that "[t]he amount of any interchange transaction fee that an issuer may receive or charge with respect to an electronic debit transaction shall be reasonable and proportional to the cost incurred by the issuer with respect to the transaction," taking into account "the incremental cost incurred by an issuer for the role of the issuer in the authorization, clearance, or settlement of a particular electronic debit transaction." *Id.* § 1693o-2(a)(2), (a)(4).

The Federal Reserve responded by promulgating Regulation II, which limits debit card interchange fees to the sum of a fixed rate of "21 cents" and an *ad valorem* component of 0.05% "multiplied by the value of the transaction." 12 C.F.R. § 235.3(b). In setting a "Uniform Interchange Fee Standard," the Federal Reserve's final rule stated that it would "appl[y] to *all* electronic debit transactions not otherwise exempt." 76 Fed. Reg. at 43434 (emphasis added). That uniformity was important, the Federal Reserve explained, because "a uniform standard … is … the most practical and least burdensome approach in the context of a complex and dynamic system that handles large and growing volumes of transactions." *Id.* at 43432.

By setting a different standard, the IFPA disrupts this uniformity and conflicts with both Regulation II and the Durbin Amendment itself. After all, nothing in the Durbin Amendment, Regulation II, or anywhere else in federal law suggests that the "cost incurred by the issuer" referenced in the Durbin Amendment or "the value of the transaction" used in Regulation II to compute the 0.05% *ad valorem* component of permitted interchange fees excludes tax and gratuity. *See* 12 C.F.R. § 235.3; *see also id.* § 235.2(h)(1) (defining "[e]lectronic debit transaction" as "the use of a debit card by a person as a form of payment in the United States to initiate a debit to an account"—without any carveout for tax or gratuity). There is no reason to think that the tax and gratuity portions of a transaction produce less fraud or costs than other portions—let alone that they impose no such costs at all—and indeed, the study the Federal Reserve used to assess those

costs included the whole transaction, including tax and gratuity. *See* 76 Fed. Reg. at 43434 (setting *ad valorem* component of fees with reference to the "average per-transaction fraud loss"). The IFPA thus further conflicts with the Durbin Amendment and Regulation II by leaving Issuers on the hook for fraud losses associated with the entire transaction, while limiting their interchange fee compensation to only a portion of those costs.

II. PLAINTIFFS WILL SUFFER IRREPARABLE HARM ABSENT A PRELIMINARY INJUNCTION.

Plaintiffs' members face irreparable harm if the IFPA is not enjoined. As the Supreme Court has explained, irreparable harm results when a plaintiff is put to the "Hobson's choice" of either complying with an invalid state law or else violating it and incurring coercive penalties. *See Morales v. Trans World Airlines, Inc.*, 504 U.S. 374, 381 (1992). That is especially true because the costs of complying with an invalid state law cannot be recovered due to the State's sovereign immunity. *See, e.g.*, *Staffing Servs. Ass'n of Ill. v. Flanagan*, __ F. Supp. 3d __, 2024 WL 1050160, at *8 (N.D. Ill. Mar. 11, 2024); *Ohio v. EPA*, 144 S. Ct. 2040, 2052-53 (2024) (recognizing and relying on "weighty" argument for irreparable harm from the "costs" of "having to comply with" a challenged law "during the pendency of this litigation" because those costs would be "nonrecoverable"). Here, the unrecoverable costs of compliance would be enormous because of the scope of changes the IFPA requires and the extremely compressed time scale the Act demands. The weakening effect the Data Usage Limitation would have on fraud protection and other critical functions—which cannot be performed effectively without transaction data—would also be irreparable.

As explained above, adoption of any Automatic Process (if possible at all) is quite likely infeasible by the IFPA's July 1, 2025 effective date, given the timeline for updated standards and technical specifications from the Card Networks. *See supra* at 16 (citing Ex. 13, ¶ 20 and Ex. 12,

¶ 33). But the costs Plaintiffs' members, their service providers, and other participants in the payment system will incur to develop and implement such a process would likely reach tens of millions of dollars for large institutions and be comparably great in relative terms for smaller institutions. *See supra* at 16 (citing Ex. 8, ¶¶ 19-20 and Ex. 6, ¶ 17).

The unrecoverable costs of designing and implementing a Manual Process are likewise immense. As noted above, billions of Illinois-related card transactions occur annually. Under the IFPA, banks and other financial institutions could be responsible for retroactive "credits" of a portion of interchange fees on almost all of them. At the outset, it is far from clear how this process could meaningfully work at all. Issuers seldom have direct commercial relationships with Acquiring Banks, let alone with the merchants where their cardholders shop. Ex. 2, ¶ 24; Ex. 12, ¶ 23. Acquirers thus simply do not currently have systems or staffing that would allow them to transmit any tax documentation they receive to Issuers, nor do Issuers currently have systems or staffing in place to determine the precise amount of interchange fees for which a "credit" is due or to provide such credit—particularly since the IFPA imposes no restrictions on how much of the thirty-day period for processing credits may elapse before Acquirers transmit the information in question to Issuers. *See* Ex. 10, ¶ 21. Indeed, modern payment receipts, which vary widely in size, format, and detail, seldom include sufficient information for an Acquirer to identify the Issuer to whom the information should be passed along, Ex. 12, ¶ 43, or even determine whether the IFPA applies to the transaction at all, Ex. 13, ¶ 25.

Even if developing, implementing, and staffing such systems by the IFPA's July 1, 2025 effective date were theoretically possible, doing so would require enormous technical, financial, and personnel resources. Start with larger Issuers, which—absent a quickly issued injunction—would have to spend up to tens of millions of dollars in 2024 alone, plus the ongoing cost of hiring,

training, and retaining thousands of new employees. *See, e.g.*, Ex. 11, ¶ 32 (tens of millions of dollars and thousands of new employees); Ex. 10, ¶ 26 ("tens of millions of dollars" and "hundreds, if not thousands, of new employees"). The burden on smaller Issuers would be no less meaningful. As the president of one such bank explained, the Manual Process requirement "creates an unsustainable burden on debit card issuers of our size," and would likely lead to the bank exiting the debit card market altogether. Ex. 4, ¶ 25. Even though the bank has only 3,500 debit cardholders, a manual process capable of handling the 625,000 debit card transactions it processes annually would require at least two new full-time employees, at a cost of $150,000 or more once salaries, benefits, and hardware and software support are considered. Ex. 4, ¶¶ 5-6, 24; *see also* Ex. 15, ¶¶ 4, 24 (credit union with approximately 100 Illinois employees would have to hire or divert 28 employees and spend almost $1.3 million to try to implement the Manual Process). Such additional costs—combined with the irrevocably forgone revenue from the tax and gratuity portion of transactions—would render debit card services a money-losing line of business. Ex. 4, ¶ 25.

Moreover, aside from these direct financial costs, the Manual Process the IFPA contemplates precludes sufficient safeguards against errors and fraud. Manually reviewing billions of transactions and processing credits for them opens the door to both, particularly in a setting where a financial incentive exists to characterize as much of a transaction as possible as consisting of gratuities or taxes. New manual systems will also have to be created to resolve disputes that arise when transactions are undone through returns—which might occur either before or after a "credit" has been issued. Ex. 12, ¶ 51. Because no such systems currently exist, banks have no procedures or staff in place to audit or otherwise ensure the accuracy of credits provided under the Act. Ex. 2, ¶ 24. Developing those procedures and ensuring that staffing will carry

additional costs, as will the increase in errors and fraud that will inevitably occur as a result of introducing billions of manual potential points of failure into the payment system. *See* Ex. 9, ¶ 20.

Likewise, the need to take imminent action to comply with the IFPA's Data Usage Limitation would impose irreparable harm in the form of unrecoverable costs. In particular, Plaintiffs' members currently lack any mechanism to prevent data from transactions subject to the IFPA from being used in their numerous operationally, reputationally, or economically critical functions that use transaction data. Absent an injunction, Plaintiffs' members face the need to design and implement new systems to ensure that IFPA-covered transaction information is not used, for example, to build or refine fraud prevention models, offer cardholder rewards, or determine credit limits. Ex. 2, ¶ 31. In addition to the direct, unrecoverable costs of designing and implementing such systems on a compressed time scale, *see, e.g.*, *supra* at 17 (citing Ex. 10, ¶ 30 and Ex. 6, ¶ 17), this result imposes the irreparable harm of making these key functions less effective or even impossible to carry out, *see, e.g.*, Ex. 6, ¶ 31.

Finally, any revenue forgone under the IFPA will also constitute irreparable harm if the Act is declared invalid after being permitted to go into effect. In such a circumstance, there would be no mechanism to retroactively charge amounts not paid under an Automatic Process, nor would there likely be a meaningful way to recoup any credits offered under the Manual Process.

III. THE BALANCE OF EQUITIES AND THE PUBLIC INTEREST SUPPORT PRELIMINARY INJUNCTIVE RELIEF.

At the outset, because of the strength of Plaintiffs' showings with respect to likelihood of success on the merits and irreparable harm, the sliding scale this circuit employs means that "the balance of equities does not need to weigh as heavily in [Plaintiffs'] favor" to justify a preliminary injunction. *Staffing Servs. Ass'n of Ill.*, 2024 WL 1050160, at *9. But in any event, the balance of equities and public interest factors—which "merge" in this case against the Government, *see*

Stevens, 666 F. Supp. 3d at 748—weigh strongly in Plaintiffs' favor as well. The chaos that would follow if the Illinois law is not speedily enjoined—let alone if it is allowed to go into effect—would not benefit the public. Banks, Card Networks, consumers, small business owners, and others would all suffer as the industry scrambled to invest in technology and resources that could separate the tax and gratuity portions from the rest of each of the millions of credit and debit card transactions that occur daily in Illinois. *See supra* Section II. Indeed, many merchants would need to expend substantial resources to update (or replace) the point-of-sale terminals where consumers swipe, insert or tap their cards. *See* Ex. 2, ¶ 21. And some Issuers and Acquirers may exit the market entirely, *see, e.g.*, Ex. 2, ¶ 28; Ex. 15, ¶ 32; Ex. 4, ¶ 25. Allowing the IFPA to stand would also impede fraud protection, cardholder rewards, and other benefits to consumers, which rely on information obtained from transactions to function. *See, e.g.*, Ex. 6, ¶ 31 ("Because the vast majority of First Federal Savings Bank of Champaign-Urbana's cardholders' debit transactions are within the state of Illinois, the IFPA would render our account data virtually useless for fraud prevention, essentially guaranteeing real dollar losses by customers, the bank or both."). On the flip side, of course, "[t]he public 'does not have an interest in the enforcement of state laws that conflict with federal laws.'" *Staffing Servs. Ass'n of Ill.*, 2024 WL 1050160, at *9 (quoting *Pro. Towing & Recovery Operators of Ill. v. Box*, No. 08 c 4096, 2008 WL 5211192, at *14 (N.D. Ill. Dec. 11, 2008)).

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court enter a preliminary injunction against enforcement of the IFPA against any "issuer," "payment card network," "acquirer bank," "processor," or "other designated entity," *see* 815 ILCS 151/150-10(a), 150-15(a), as well as any other participants in the payment system needed to afford complete relief.

Dated: August 21, 2024

Respectfully submitted,

/s/ *Bethany K. Biesenthal*

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CERTIFICATE OF SERVICE

I hereby certify that, on August 21, 2024, a copy of the foregoing was filed using the CM/ECF system. Because Defendant has not yet entered an appearance, I will attempt to serve the foregoing by process unless Defendant's counsel agrees to service by email. I have also notified counsel at the Office of the Illinois Attorney General of the filing of the underlying complaint and motion for a preliminary injunction. I will both email and mail copies of the motion for a preliminary injunction and this memorandum in support to that counsel.

/s/ *Bethany K. Biesenthal*

Attorney for Illinois Bankers Association, American Bankers Association, America's Credit Unions, and Illinois Credit Union League

EXHIBIT 1

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

ILLINOIS BANKERS ASSOCIATION, AMERICAN BANKERS ASSOCIATION, AMERICA'S CREDIT UNIONS, and ILLINOIS CREDIT UNION LEAGUE *Plaintiffs*, v. KWAME RAOUL, in his official capacity as Illinois Attorney General, *Defendant*.	Case No. _____ **DECLARATION OF RANDALL HULTGREN**

I, Randall Hultgren, hereby declare:

1. I am a president and CEO of the Illinois Bankers Association ("IBA") and have been employed by the IBA since 2020. I submit this declaration in further support of Plaintiffs' motion for a preliminary injunction against the Interchange Fee Prohibition Act ("IFPA").

2. I have personal knowledge of the matters set forth herein, and believe them to be true and correct based on (a) my work for IBA, and (b) my discussions with other participants in the financial services industry, including IBA's members.

3. The IBA is the voice of Illinois's banking industry and is dedicated to creating a positive business climate that benefits the entire banking industry and the communities they serve. Founded in 1891, the IBA brings together state and national banks and savings banks employing over 105,000 people in nearly 4,500 offices. The IBA's members include banks that issue credit and debit cards to consumers in Illinois, as well as financial institutions that serve as acquiring banks for merchants in Illinois.

4. I have confirmed that the following financial institutions submitting declarations in support of plaintiffs' motion for preliminary injunction are members of the IBA: Wells Fargo Bank, N.A., Citibank, N.A., JPMorgan Chase Bank, N.A., Home State Bank, National

Association, American Community Bank & Trust, CBI Bank & Trust, First Federal Savings Bank of Champaign-Urbana, and Hoyne Savings Bank.

5. In performing my job duties on behalf of the IBA, I have worked closely with the IBA's members to help them assess the IFPA's complexity and the vast burdens that it would impose on the IBA's members.

6. I understand that the IFPA takes effect on July 1, 2025, and that it has two provisions that will impose extraordinary near- and long-term financial, technological, and human resource costs on the IBA's members. First, the IFPA restricts issuing and acquiring banks (among others) from assessing interchange fees from being "receive[d] or charge[d]" on portions of transactions that reflect Illinois taxes and gratuities when the merchant submits this information to its acquiring bank (the "Interchange Fee Prohibition"). Second, the IFPA provides that an "entity, other than the merchant, involved in facilitating or processing an electronic payment transaction . . . may not distribute, exchange, transfer, disseminate, or use the electronic payment transaction data except to facilitate or process the electronic payment transaction or as required by law" (the "Data Use Restriction").

7. The IBA represents the majority of the banks and savings banks based in Illinois, and all of its members are subject to the Interchange Fee Prohibition and the Data Use Restriction provisions. For the Interchange Fee Prohibition provision, the IBA's members that are acquiring and issuing banks do not have the systems, processes or technical capabilities to avoid receiving or charging interchange fees on portions of transactions that reflect Illinois taxes and gratuities if the merchant transmits information regarding the tax and gratuity amount at the time of the transaction, or to credit the applicable portion of interchange fees if merchants provide such information later. To build the processes contemplated by the IFPA to avoid receiving or charging interchange fees on portions of transactions that reflect Illinois taxes and gratuities—or to credit those portions of the fees after they have been paid—would require the IBA's members to invest hundreds of millions of dollars and hire and train thousands of new employees to build and utilize new systems and processes.

8. The IBA's members must begin investing these resources immediately in light of the immense operational and technological challenges posed by the Interchange Fee Prohibition. I believe that, if the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

9. Even using their best efforts, complying with the Interchange Fee Prohibition by July 1, 2025 will likely prove unachievable for many institutions in light of the IFPA's complexities and the burdens it imposes.

10. The Data Use Restriction also imposes significant burdens on the IBA's members. The IBA's members currently use electronic payment transaction data from transactions that occur in Illinois for many legitimate, pro-consumer purposes beyond processing the transaction. Those purposes include providing fraud protection and reward programs to cardholders.

11. The IBA's members do not have systems for segregating electronic payment transaction data based on the location of the cardholder's transaction when, for example, using historical transaction data to protect against and deter fraud. Developing systems for segregating transaction data based on the cardholder's location will likely collectively cost the IBA's members millions of dollars, and they must immediately begin investing those resources. Even with these investments, it may prove impossible to provide reliable fraud protection systems that do not use historical electronic payment transaction data.

12. I believe that, if the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

13. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 12 day of August 2024 in Springfield, Illinois.

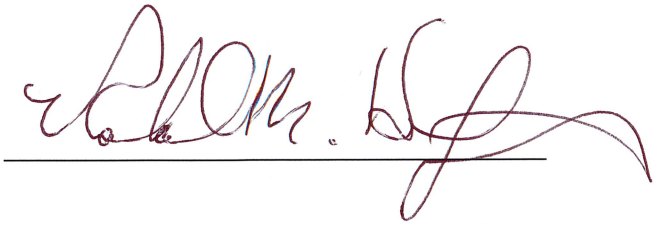


EXHIBIT 2

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

ILLINOIS BANKERS ASSOCIATION, AMERICAN BANKERS ASSOCIATION, AMERICA'S CREDIT UNIONS, and ILLINOIS CREDIT UNION LEAGUE *Plaintiffs*, v. KWAME RAOUL, in his official capacity as Illinois Attorney General, *Defendant*.	Case No. _____ **DECLARATION OF TOM ROSENKOETTER IN SUPPORT OF PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION**

I, Tom Rosenkoetter, hereby declare:

1. I am a Senior Vice President of the American Bankers Association ("ABA"). In that capacity, I lead our Card Policy Council, which works closely with banks on a range of domestic policy and economic issues, including payments. I submit this declaration in further support of Plaintiffs' motion for a preliminary injunction against the Interchange Fee Prohibition Act ("IFPA").

2. I have personal knowledge of the matters set forth herein and believe them to be true and correct based on (a) my work for the ABA, and (b) my discussions with other participants in the financial services industry, including the ABA's members.

3. The ABA is the principal national trade association of the financial services industry in the United States. Founded in 1875, the ABA is the voice for the nation's $24 trillion banking industry, which is composed of small, regional, and large banks that together employ more than 2.1 million people. The ABA's members headquartered in Illinois have just over 1,100 branches in Illinois, and the ABA's members headquartered outside of Illinois have just over 1,200 branches in Illinois.

4. I have confirmed that the following financial institutions submitting declarations in support of Plaintiffs' motion for a preliminary injunction are members of the ABA: Home State Bank/N.A., American Community Bank & Trust, CBI Bank & Trust, First Federal Savings Bank of Champaign-Urbana, Hoyne Savings Bank, JPMorgan Chase Bank, N.A., Citibank, N.A., Wells Fargo Bank, N.A., Mastercard International Inc., and Visa Inc.

Interchange Fee Prohibition Act

5. My employment responsibilities include assisting the ABA's members in understanding the IFPA.

6. I understand that the IFPA is effective July 1, 2025, and that it restricts assessing interchange fees on portions of transactions that reflect Illinois taxes and gratuities when the merchant submits this information to its acquiring bank in one of two ways.

7. First, the merchant can use an automated process to "transmit the tax or gratuity amount data as part of the authorization or settlement process." If the merchant does so, interchange fees cannot be assessed "on the tax amount or gratuity."

8. Second, a merchant that did not submit tax or gratuity information at the time of the transaction can seek manual reimbursement. To do so, the merchant can submit "the necessary tax documentation," and then must be "credit[ed]" within 30 days "the amount of interchange fees charged on the tax or gratuity amount of the electronic payment transaction."

9. As I explain below, while the IFPA is ambiguous in numerous respects, it is clear that it will impose extraordinary burdens and costs on the ABA's members and that they must begin immediately committing immense financial, technological, and human resources to implement both the automated and manual processes contemplated by the IFPA. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

10. Even with such extraordinary efforts, complying with the IFPA in all respects by July 1, 2025, will likely prove unachievable for many institutions in light of the IFPA's burdens,

ambiguities, and complexities. The IFPA's burdens also create extraordinary uncertainty and debilitating economic and operational challenges for the ABA's members.

Implementing the IFPA's requirement that interchange fees will not be charged when the merchant transmits the tax or gratuity amount data as part of the authorization or settlement process

11. When a cardholder swipes, inserts, or taps a debit or credit card at a merchant's payment terminal, the merchant is notified within seconds whether the transaction is approved. But behind the scenes is an intricate system involving software, hardware, and protocols carefully designed to interface across a multiparty ecosystem.

12. Processing credit and debit card payments over payment card networks like Visa or Mastercard involves four primary parties beyond the cardholder: (a) the merchant; (b) the merchant's bank ("Acquiring Bank" or "Acquirer"); (c) the bank that issued the cardholder's credit or debit card ("Issuing Bank" or "Issuer"); and (d) the payment card network. Before these parties can facilitate a cardholder's purchase of a good or service from a merchant using his or her credit or debit card, they make several decisions. For example, a merchant decides to accept electronic payment cards and which payment card networks' cards to accept. The merchant then must procure the technology infrastructure (e.g., a point-of-sale terminal, software, and services) necessary to use that payment card network.

13. Before a consumer can buy goods or services from a merchant using his or her credit or debit card, an Issuer must provide one to him or her. Issuers belong to payment card networks and issue cards to consumers, typically with the brand marks of that network. For example, an Issuer that is a member of the Visa network can issue a Visa card.

14. When a consumer swipes, taps, or inserts his or her card at a merchant's point-of-sale terminal to buy a good or service, the point-of-sale terminal captures the transaction details and securely transmits this information to the Acquiring Bank. The Acquiring Bank then sends this information to the Issuer's payment card network, which transmits it to the Issuer. The Issuer determines whether to authorize the transaction by verifying the cardholder's account, screening for

sufficient funds, and evaluating any potential fraud or security issues. If approved, the Issuer transmits an authorization response back to the payment card network, which passes the response to the Acquiring Bank, which then transmits it to the merchant. If the transaction is authorized and the purchase is completed, a subsequent "clearing message" is transmitted from the merchant and Acquirer to the payment card network, which then passes that message to the Issuer. The merchant then completes the sale and provides the goods or services to the consumer.

15. The Issuer then, typically through processes provided by payment card networks, transmits the funds to the Acquirer, which deposits the funds in the merchant's account. This is typically referred to as the "settlement" process of the transaction.

16. As part of the settlement process, interchange fees are paid by Acquiring Banks to Issuers to help cover the costs and risks that Issuers incur, such as fraud and administrative costs associated with managing cardholders' accounts. Interchange fees are generally calculated, in whole or in part, as a percentage of the total transaction amount and vary among transactions depending on many factors, including the type of purchase. Interchange fees are critical to operating payment card networks for the benefit of all participants in the system. Issuers also use interchange fees to support various programs benefiting their cardholders, including rewards programs and chargebacks (the process for cardholders to dispute transactions made with their credit or debit cards).

17. Payment card networks like Visa and Mastercard supply the standards and technical specifications that allow the various network participants to interact seamlessly and process credit and debit card transactions instantaneously.

18. The current process for authorizing and settling debit and credit card transactions is not capable of identifying separate components of the transaction (such as Illinois taxes and gratuities) as part of the authorization or settlement process, so that these components could be excluded from the calculation of interchange fees. Redesigning the process in this way would require the ABA's members (and others) to invest hundreds of millions of dollars, commit substantial technological and human resources, and likely take at least several years.

19. For this process even to begin, payment card networks will need to invest millions of dollars to design and implement significant changes to data fields that identify and isolate Illinois taxes and gratuities, while also developing technical specifications instructing members how to interface with these new fields. To date, Plaintiffs' members have not received any such updated standards or technical specifications.

20. After receiving those instructions from payment card networks, Acquirers and Issuers would need to invest extraordinary resources to update their own technical specifications, as well as their systems for calculating and settling interchange fees. In the past, changes to these specifications and systems have required extensive (and yearslong) testing to identify potential fraud and security gaps.

21. These standards, specifications, and systems will be incredibly challenging and expensive for the ABA's members to develop—and the IFPA's complexities and breadth increase these burdens. For example, the IFPA defines "tax" as "any use and occupation tax or excise tax imposed by the State or a unit of local government in the State," yet Illinois has several hundred local jurisdictions that could each impose different taxes. The new data fields, processes, and specifications developed by the payment card networks would have to account for all these different local taxes, while Issuers and Acquirers will also have to develop systems and processes for monitoring and verifying these local taxes. Although some of the relevant taxes (such as a sales tax) commonly appear on a merchant's receipt, others (such as excise taxes) do not. Merchants will likely need to update or replace their point-of-sale equipment to be able to identify and transmit to the relevant network the information contemplated by the IFPA, to the extent that information is even available.

22. Even with these extraordinary investments in financial, technological, and human resources by the ABA's members and others involved in the payment card system, I believe that the IFPA's breadth and complexities make it virtually impossible to develop and implement the IFPA's requirement that interchange fees not be charged when the merchant transmits the tax or gratuity amount data as part of the authorization or settlement process by July 1, 2025.

Implementing IFPA's manual process for reimbursing merchants

23. Whether or not a merchant transmits the tax or gratuity amount data as part of the authorization or settlement process, the IFPA allows a merchant to receive a refund of interchange fees if, within 180 days of the transaction, it submits to its Acquiring Bank the "tax documentation" necessary to "determine the total amount of the . . . transaction and the tax or gratuity amount." Once the merchant provides the necessary "tax documentation," the Issuer then has 30 days to reimburse the merchant for the interchange fee—with no allowance for the length of time it takes that documentation to make its way from the Acquirer to the Issuer, and no specific timeline or requirements for the Acquirer to provide the documentation to the Issuer.

24. The ABA's members that are Acquiring and Issuing banks—which generally transact payment system business through the card networks rather than having direct commercial relationships with each other—do not have systems or processes for: receiving "tax documentation," reviewing and auditing that documentation, providing interchange fee reimbursements, or resolving disputes among the relevant parties. To implement and run those systems and processes, the ABA's members would have to collectively (a) invest hundreds of millions of dollars to develop these systems and processes and (b) hire and train thousands of new employees. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

25. The IFPA's ambiguity and its expansive definition of "tax documentation" increases the burdens on the ABA's members. For example, the IFPA defines "tax documentation" as including (but not limited to) "invoices, receipts, journals, ledgers, and tax returns," many of which may be insufficient to identify the cardholder who made the purchase from the merchant or that cardholder's account number. In addition, while the IFPA defines "tax documentation" as documentation "sufficient for the payment card network to determine the total amount of the electronic payment transaction and the tax or gratuity amount of the transaction," the IFPA does not provide for the tax documentation to be sent to payment card networks.

26. Further exacerbating the burdens on the ABA's members of complying with the manual process, the IFPA does not specify the form in which "tax documentation" is provided to Acquirers and Issuers. Nor does the IFPA prescribe processes, standards, or sufficient time for auditing the "tax documentation" provided, much less resolving disputes among the merchant and Acquiring and Issuing banks.

27. Even if the ABA's members make extraordinary expenditures, I believe it is unlikely that reliable and accurate manual reimbursement systems can be achieved by all members by July 1, 2025, because the IFPA requires Acquiring and Issuing banks to develop those systems from scratch without providing any processes or standards.

28. The costs and complexity of building and operating manual systems for reimbursing interchange fees in a manner that complies with the IFPA is also causing some of the ABA's members that are Issuers to reconsider whether they can continue offering credit and debit cards to their customers. Similar concerns are also causing some of the ABA's members to consider withdrawing from serving as Acquiring Banks for merchants in Illinois.

Implementing IFPA's data processing restrictions

29. The IFPA also provides that an "entity, other than the merchant, involved in facilitating or processing an electronic payment transaction . . . may not distribute, exchange, transfer, disseminate, or use the electronic payment transaction data except to facilitate or process the electronic payment transaction or as required by law."

30. ABA members use electronic payment transaction data from transactions that occur in Illinois for many purposes beyond processing the transaction. Those purposes include providing fraud protection and reward programs to cardholders, as well as monitoring cardholder disputes.

31. ABA members do not have systems for segregating electronic payment transaction data based on the location of the cardholder's transaction when, for example, using historical transaction data to protect against and deter fraud. Developing systems for segregating transaction data based on the cardholder's location will likely collectively cost the ABA's members

tens of millions of dollars. It may also prove impossible to provide reliable fraud protection systems that do not use historical electronic payment transaction data.

32. Preliminarily enjoining Defendant and his agents from enforcing the IFPA, before the ABA's members are forced to begin incurring substantial compliance costs, would temporarily remedy and limit their harms. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments by the ABA's members towards complying with the IFPA would be wasted.

33. The ABA's members' inability to use electronic payment transaction data from transactions that occur in Illinois will also likely reduce other benefits that the ABA's members provide it their cardholders. For instance, it will likely inhibit some Issuers' ability to provide certain rewards to customers for Illinois purchases and will limit the protections provided by current fraud systems and technologies.

34. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 14 day of August 2024 in Washington, D.C.

EXHIBIT 3

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

ILLINOIS BANKERS ASSOCIATION, AMERICAN BANKERS ASSOCIATION, AMERICA'S CREDIT UNIONS, and ILLINOIS CREDIT UNION LEAGUE, *Plaintiffs*, v. KWAME RAOUL, in his official capacity as Illinois Attorney General, *Defendant.*	Case No. _____ **DECLARATION OF KATHLEEN M. NARUSIS**

I, Kathleen M. Narusis, hereby declare:

1. I am the Chief Financial Officer of Home State Bank/N.A. and have been employed by Home State Bank/N.A. since 1979. I submit this declaration in further support of Plaintiffs' motion for a preliminary injunction against the Interchange Fee Prohibition Act ("IFPA").

2. I have personal knowledge of the matters set forth herein, and believe them to be true and correct based on (a) my work for Home State Bank/N.A., and (b) my review of relevant business records.

3. Home State Bank/N.A. is a national bank chartered under the National Bank Act.

4. Home State Bank/N.A. has approximately 6 offices and 132 employees in Illinois.

5. In its capacity as an issuing bank, Home State Bank/N.A. has approximately 11,371 debit cardholders, 10,806 of which are in Illinois.

6. Home State Bank/N.A. cardholders who reside in Illinois engaged in approximately 717,000 credit and debit card transactions in 2023, totaling more than $110 million.

Interchange Fee Prohibition Act

7. My employment responsibilities include assisting Home State Bank/N.A. in complying with the IFPA.

8. I understand that the IFPA is effective July 1, 2025, and that it provides for two procedures by which merchants can avoid paying interchange fees on those portions of credit or debit card transactions that reflect Illinois taxes and gratuities.

9. First, the merchant can "transmit the tax or gratuity amount data as part of the authorization or settlement process." If the merchant does so, interchange fees cannot be assessed "on the tax amount or gratuity."

10. Second, a merchant that did not follow the first procedure can nonetheless submit "the necessary tax documentation," and then must be "credit[ed]" within 30 days "the amount of interchange fees charged on the tax or gratuity amount of the electronic payment transaction."

11. As I explain below, I believe that neither of these procedures can be implemented by July 1, 2025 without requiring Home State Bank/N.A. to commit substantial financial, technological and human resources beginning no later than September 2024. I also believe that these resources will be wasted if the IFPA is subsequently found unlawful (and therefore does not go into effect).

Implementing the IFPA's requirement that interchange fees not be charged when the merchant transmits the tax or gratuity amount data as part of the authorization or settlement process

12. The current process for authorizing and settling debit and credit card transactions involves thousands of issuing banks (cardholders' banks) and hundreds of acquiring banks (merchants' banks). Payment card networks like Visa and Mastercard supply the standards and technical specifications that allow the various network participants to interact seamlessly and process the transaction instantaneously whenever a cardholder presents a debit or credit card to a

merchant for payment. These specifications also enable the payment card network participants to accurately assess the interchange owed by the acquiring bank to the issuing bank in connection with each transaction.

13. Home State Bank/N.A. has invested substantial resources to acquire software, hardware, and develop various processes that comport with the specifications of the payment card networks. The electronic payment transaction systems at Home State Bank/N.A. must seamlessly interface with other infrastructure dedicated to authorizing and settling transactions.

14. Currently, as an issuing bank, Home State Bank/N.A. receives information about the size of a credit or debit card transaction through the relevant payment card network via a message that provides a "transaction amount" field. This field reflects the full amount of the cardholder's transaction, including taxes and gratuities. "Transaction amount" is the industry standard and it serves as the basis for calculating interchange fees. Home State Bank/N.A. systems are set up to authorize and settle transactions on the basis of the "transaction amount."

15. Home State Bank/N.A. systems are not set up to identify components of the "transaction amount" (such as Illinois taxes and gratuities) as part of the authorization or settlement process. Home State Bank/N.A. has not received standards or technical specifications from any payment card networks that, if implemented, would accomplish these changes. Home State Bank/N.A. currently issues debit cards on the Mastercard and Accel debit card networks, and would need both of these networks to provide its own standards in order for Home State Bank/N.A. to fully update its systems for all debit card transactions.

16. In the past, significant new standards and technical specifications initiated by a payment card network have required Home State Bank/N.A. to invest substantial resources and have often taken well over a year to be implemented.

17. After a payment card network develops and provides Home State Bank/N.A. the necessary standards and specifications, Home State Bank/N.A. must update its own technical specifications. Home State Bank/N.A. must also adapt its authorization and settlement

systems, which facilitate calculating and settling interchange fees. Accomplishing these tasks in time to implement new (yet to be identified) network specifications related to the IFPA before July 1, 2025 would require extraordinary financial, technological, and human resources of Home State Bank/N.A., if it is even possible.

18. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

Implementing the IFPA's manual process for reimbursing merchants

19. Whether or not a merchant can transmit the tax or gratuity amount data as part of the authorization or settlement process, the IFPA allows it to be reimbursed for "the amount of interchange fees charged on the tax or gratuity amount" within 30 days "after the merchant submits the necessary tax documentation" to its acquiring bank or its designee.

20. Home State Bank/N.A. cardholders can present their cards for payment at any of millions of merchants that accept Mastercard and Accel debit cards. Merchants that accept cards from Home State Bank/N.A. customers generally do not interact directly with Home State Bank/N.A. or maintain a commercial relationship with Home State Bank/N.A. Nor does Home State Bank/N.A., as an issuer, have direct interactions with the hundreds of institutions that serve as acquiring banks for these millions of merchants. Home State Bank/N.A. therefore has no procedures by which individual merchants or their acquiring banks can submit "tax documentation" directly to it. Similarly, payment card networks do not currently have the infrastructure or mechanisms to facilitate the transfer of this "necessary tax documentation" to Home State Bank/N.A. from merchants' acquiring banks.

21. Assuming Home State Bank/N.A. was to receive "tax documentation" from merchants' acquiring banks, Home State Bank/N.A. currently does not have systems or processes for reviewing and auditing that documentation. Because the IFPA defines "tax documentation" to include "invoices" and "receipts," manual review of a merchant's documents could be required.

22. Home State Bank/N.A. does not have procedures for resolving disputes with individual merchants in connection with interchange reimbursement. Nor has it negotiated interchange-reimbursement dispute resolution procedures with hundreds of acquiring banks that may be servicing those merchants.

23. Home State Bank/N.A. also does not have procedures for reimbursing interchange fees directly to merchants, with whom, again, it generally does not maintain commercial relationships. Nor does it have established protocols for interchange reimbursements with hundreds of acquiring banks that may be servicing those merchants.

24. I estimate that Home State bank/N.A. will have to invest at least $50,000 in 2024 to begin developing/acquiring systems and processes to accomplish these tasks. I also estimate that Home State Bank/N.A. will need to hire (or divert from other tasks) and train at least two employees to accomplish this. In light of the IFPA's July 1, 2025 effective date, Home State Bank/N.A. must begin investing those resources no later than September 2024. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments would be wasted.

25. In order to accomplish these tasks, Home State Bank/N.A. will also likely have to divert resources from other tasks designed to maintain and improve its electronic payment transaction systems.

26. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

Implementing the IFPA's data processing restrictions

27. The IFPA also provides that an "entity, other than the merchant, involved in facilitating or processing an electronic payment transaction . . . may not distribute, exchange, transfer, disseminate, or use the electronic payment transaction data except to facilitate or process the electronic payment transaction or as required by law."

28. Home State Bank/N.A. currently is capable of using electronic payment transaction data from transactions that occur in Illinois for purposes beyond processing the

transaction. Those purposes may include providing fraud protection and other programs to cardholders.

29. Home State Bank/N.A. does not have a system for segregating electronic payment transaction data based on the location of the cardholder's transaction or for providing fraud protection without using historical electronic payment transaction data. I estimate that Home State Bank/N.A. will have to invest at least $50,000 in the next few months to begin developing systems and processes to segregate and limit its use of electronic payment transaction data from transactions that occur in Illinois.

30. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

31. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 12th day of August 2024 in Crystal Lake, IL.

Kathleen M. Narusis
Home State Bank/N.A.
Chief Financial Officer

EXHIBIT 4

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

ILLINOIS BANKERS ASSOCIATION, AMERICAN BANKERS ASSOCIATION, AMERICA'S CREDIT UNIONS, and ILLINOIS CREDIT UNION LEAGUE,

Plaintiffs,

v.

KWAME RAOUL, in his official capacity as Illinois Attorney General,

Defendant.

Case No. _____

DECLARATION OF RICK FRANCOIS

I, Rick Francois, hereby declare:

1. I am the President of American Community Bank & Trust ("ACBT") and have been employed by ACBT since 2000. I submit this declaration in further support of Plaintiffs' motion for a preliminary injunction against the Interchange Fee Prohibition Act ("IFPA").

2. I have personal knowledge of the matters set forth herein, and believe them to be true and correct based on (a) my work for ACBT, and (b) my review of relevant business records.

3. ACBT is an Illinois state-chartered bank.

4. ACBT has approximately 6 offices and 90 employees in Illinois, many of which are in the six-county Chicagoland area.

5. In its capacity as an issuing bank, ACBT has approximately 3,500 debit cardholders, including thousands of cardholders in six counties in the Chicagoland area in Illinois.

6. ACBT cardholders who reside in Illinois engaged in over 625,000 debit transactions in 2023 (or over 50,000 transactions a month on average), totaling more than $36,000,000.

Interchange Fee Prohibition Act

7. My employment responsibilities include assisting ACBT in complying with the IFPA.

8. I understand that the IFPA is effective July 1, 2025, and that it provides for two procedures by which merchants can avoid paying interchange fees on those portions of credit or debit card transactions that reflect Illinois taxes and gratuities.

9. First, the merchant can "transmit the tax or gratuity amount data as part of the authorization or settlement process." If the merchant does so, interchange fees cannot be assessed "on the tax amount or gratuity."

10. Second, a merchant that did not follow the first procedure can nonetheless submit "the necessary tax documentation," and then must be "credit[ed]" within 30 days "the amount of interchange fees charged on the tax or gratuity amount of the electronic payment transaction."

11. As I explain below, I believe that neither of these procedures can be implemented by July 1, 2025, without requiring ACBT to commit substantial financial, technological and human resources beginning no later than the fourth quarter of 2024. I also believe that these resources will be wasted if the IFPA is subsequently found unlawful (and therefore does not go into effect).

Implementing the IFPA's requirement that interchange fees not be charged when the merchant transmits the tax or gratuity amount data as part of the authorization or settlement process

12. The current process for authorizing and settling debit transactions involves thousands of issuing banks (cardholders' banks) and hundreds of acquiring banks (merchants' banks). Payment card networks like Visa and Mastercard supply the standards and technical specifications that allow the various network participants to interact seamlessly and process the transaction instantaneously whenever a cardholder presents a debit card to a merchant for payment. These specifications also enable the payment card network participants to accurately assess the interchange fees owed by the acquiring bank to the issuing bank in connection with each transaction.

13. ACBT has multi-year contracts with third parties to interface with software, hardware, and various processes that comport with the specifications of the payment card networks. The electronic payment transaction systems at ACBT must seamlessly interface with other infrastructure dedicated to authorizing and settling transactions.

14. Currently, as an issuing bank, ACBT receives information about the size of a debit card transaction through the relevant payment card network via a message that provides a "transaction amount" field. This field reflects the full amount of the cardholder's transaction, including taxes and gratuities with no specific breakdown. "Transaction amount" is the industry standard and it serves as the basis for calculating interchange fees. ACBT systems are set up to authorize and settle transactions on the basis of the "transaction amount."

15. ACBT systems are not set up to identify components of the "transaction amount" (such as Illinois taxes and gratuities) as part of the authorization or settlement process. The components of a "transaction amount" are unknown to ACBT. ACBT has not received standards or technical specifications from any payment card networks that, if implemented, would accomplish these changes. ACBT currently issues debit cards on two debit card networks, and would need each of these networks to provide its own standards in order for ACBT to fully update its systems for all debit card transactions.

16. In the past, significant new standards and technical specifications initiated by a payment card network have required ACBT to invest substantial resources and have often taken well over a year to be implemented.

17. After a payment card network develops and provides ACBT the necessary standards and specifications, ACBT must update its own technical specifications through its electronic processing partners. ACBT must also adapt its authorization and settlement systems, which facilitate calculating and settling interchange fees. Because of these outsourcing arrangements, ACBT is not in control of the timing on implementing the necessary changes to comply with the IFPA. Accomplishing these tasks in time to implement new (yet to be identified) network

specifications related to the IFPA before July 1, 2025, would require extraordinary coordination, financial, technological, and human resources of ACBT, if it is even possible.

18. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments would be wasted.

Implementing the IFPA's manual process for reimbursing merchants

19. Whether or not a merchant can transmit the tax or gratuity amount data as part of the authorization or settlement process, the IFPA allows it to be reimbursed for "the amount of interchange fees charged on the tax or gratuity amount" within 30 days "after the merchant submits the necessary tax documentation" to its acquiring bank or its designee.

20. ACBT's cardholders can present their cards for payment at any of millions of merchants that accept Visa/Mastercard networks. Merchants that accept cards from ACBT customers generally do not interact directly with ACBT or maintain a commercial relationship with ACBT. Nor does ACBT, as an issuer, have direct interactions with the hundreds of institutions that serve as acquiring banks for these millions of merchants. ACBT therefore has no procedures by which individual merchants or their acquiring banks can submit "tax documentation" directly to it. Similarly, payment card networks do not currently have the infrastructure or mechanisms to facilitate the transfer of this "necessary tax documentation" to ACBT from merchants' acquiring banks.

21. Assuming ACBT was to receive "tax documentation" from merchants' acquiring banks, ACBT currently does not have systems or processes for reviewing and auditing that documentation. Because the IFPA defines "tax documentation" to include "invoices" and "receipts," manual review of a merchant's documents could be required. Presently, that would represent reviewing over 50,000 transactions on a monthly basis based on ACBT's current card volume.

22. ACBT does not have procedures for resolving disputes with individual merchants in connection with interchange reimbursement. Nor has it negotiated interchange-reimbursement dispute resolution procedures with hundreds of acquiring banks that may be servicing those merchants.

23. ACBT also does not have procedures for reimbursing interchange fees directly to merchants, with whom, again, it generally does not maintain commercial relationships. Nor does it have established protocols for interchange reimbursements with hundreds of acquiring banks that may be servicing those merchants.

24. Based upon the current ACBT volume of over 50,000 debit transactions by its cardholders per month, I estimate that ACBT will have to hire two full-time employees to manage a manual reimbursement process for thousands of merchants. Taking into account salaries, benefits, occupancy, hardware and software costs to support the additional staff, ACBT's costs are estimated to be over $150,000 per year. Combining those costs with the estimated reimbursement amount to merchants, expenses will overtake any revenue received from issuing debit cards to its customers. In light of the IFPA's July 1, 2025 effective date, ACBT must begin investing those resources no later than December 2024. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments would be wasted.

25. A manual reimbursement solution as currently proposed under the legislation creates an unsustainable burden on debit card issuers of our size. If the debit card product becomes unprofitable for banks of our size, they will be forced to consider no longer offering these cards to their consumers. Not offering the debit card product would be harmful not only to banks of our size, but to our consumer clients.

Implementing the IFPA's data processing restrictions

26. The IFPA also provides that an "entity, other than the merchant, involved in facilitating or processing an electronic payment transaction . . . may not distribute, exchange, transfer, disseminate, or use the electronic payment transaction data except to facilitate or process the electronic payment transaction or as required by law."

27. ACBT currently uses electronic payment transaction data from transactions that occur in Illinois for many purposes beyond processing the transaction. Those purposes include providing fraud protection and reward programs to cardholders.

28. ACBT does not have a system for segregating electronic payment transaction data based on the location of the cardholder's transaction or for providing fraud protection without using historical electronic payment transaction data. I estimate that ACBT will have to invest at least $50,000 in 2024 to begin developing a software systems and processes to segregate and limit its use of electronic payment transaction data from transactions that occur in Illinois.

29. In addition to building a software system for automated segregation, I estimate the need for ACBT to hire at least one full-time employee to manually review depositor account activity for fraud identification. The additional costs associated with hiring this employee are estimated at $75,000 annually.

30. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments would be wasted.

31. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 12 day of August 2024 in Woodstock, IL

Rick M. Francois, President

EXHIBIT 5

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

ILLINOIS BANKERS ASSOCIATION, AMERICAN BANKERS ASSOCIATION, AMERICA'S CREDIT UNIONS, and ILLINOIS CREDIT UNION LEAGUE,

Plaintiffs,

v.

KWAME RAOUL, in his official capacity as Illinois Attorney General,

Defendant.

Case No. _____

DECLARATION OF LARRY G. RANDAZZO

I, Larry G. Randazzo, hereby declare:

1. I am a SVP, Senior Operations Officer of CBI Bank & Trust, and have been employed by CBI Bank & Trust since 2021. I submit this declaration in further support of Plaintiffs' motion for a preliminary injunction against the Interchange Fee Prohibition Act ("IFPA").

2. I have personal knowledge of the matters set forth herein, and believe them to be true and correct based on (a) my work for CBI Bank & Trust, and (b) my review of relevant business records.

3. CBI Bank & Trust is a state-chartered bank in the state of Iowa.

4. CBI Bank & Trust has approximately 10 offices and 125 employees in Illinois.

5. In its capacity as an issuing bank, CBI Bank & Trust has approximately 35,000 credit and debit cardholders, including approximately 16,000 cardholders in Illinois.

6. CBI Bank & Trust cardholders who reside in Illinois engaged in approximately 3.5 million credit and debit transactions in 2023, totaling more than $155 million.

Interchange Fee Prohibition Act

7. My employment responsibilities include assisting CBI Bank & Trust in complying with the IFPA.

8. I understand that the IFPA is effective July 1, 2025, and that it provides for two procedures by which merchants can avoid paying interchange fees on those portions of credit or debit card transactions that reflect Illinois taxes and gratuities.

9. First, the merchant can "transmit the tax or gratuity amount data as part of the authorization or settlement process." If the merchant does so, interchange fees cannot be assessed "on the tax amount or gratuity."

10. Second, a merchant that did not follow the first procedure can nonetheless submit "the necessary tax documentation," and then must be "credit[ed]" within 30 days "the amount of interchange fees charged on the tax or gratuity amount of the electronic payment transaction."

11. As I explain below, I believe that neither of these procedures can be implemented by July 1, 2025, without requiring CBI Bank & Trust to commit substantial financial, technological and human resources beginning no later than September 2024. I also believe that these resources will be wasted if the IFPA is subsequently found unlawful (and therefore does not go into effect).

Implementing the IFPA's requirement that interchange fees not be charged when the merchant transmits the tax or gratuity amount data as part of the authorization or settlement process

12. The current process for authorizing and settling debit and credit card transactions involves thousands of issuing banks (cardholders' banks) and hundreds of acquiring banks (merchants' banks). Payment card networks like Visa and Mastercard supply the standards and technical specifications that allow the various network participants to interact seamlessly and process the transaction instantaneously whenever a cardholder presents a debit or credit card to a merchant for payment. These specifications also enable the payment card network participants to accurately assess the interchange fee owed by the acquiring bank to the issuing bank in connection with each transaction.

13. CBI Bank & Trust and its vendors have invested substantial resources to develop software, hardware and various processes that comport with the specifications of the payment

card networks. The electronic payment transaction systems at CBI Bank & Trust must seamlessly interface with other infrastructure dedicated to authorizing and settling transactions.

14. Currently, as an issuing bank, CBI Bank & Trust receives information about the size of a credit or debit card transaction through the relevant payment card network via a message that provides a "transaction amount" field. This field reflects the full amount of the cardholder's transaction, including taxes and gratuities. "Transaction amount" is the industry standard and it serves as the basis for calculating interchange fees. CBI Bank & Trust systems are set up to authorize and settle transactions on the basis of the "transaction amount."

15. CBI Bank & Trust systems are not set up to identify components of the "transaction amount" (such as Illinois taxes and gratuities) as part of the authorization or settlement process. CBI Bank & Trust has not received standards or technical specifications from any payment card networks that, if implemented, would accomplish these changes. CBI Bank & Trust currently issues credit cards on two payment card networks and issues debit cards on two payment card networks, and would need each of these networks to provide standards and specifications before CBI Bank & Trust can fully update its systems for authorizing and settling credit and debit card transactions.

16. In the past, significant new standards and technical specifications initiated by a payment card network have required CBI Bank & Trust to invest substantial resources and have often taken well over a year to be implemented.

17. After a payment card network develops and provides CBI Bank & Trust the necessary standards and specifications, CBI Bank & Trust must update its own technical specifications. CBI Bank & Trust must also adapt its authorization and settlement systems, which facilitate calculating and settling interchange fees. Accomplishing these tasks in time to implement new (yet to be identified) network specifications related to the IFPA before July 1, 2025, would require CBI Bank & Trust so expend extraordinary financial, technological and human resources, if it is even possible.

18. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

Implementing the IFPA's manual process for reimbursing merchants

19. Whether or not a merchant can transmit the tax or gratuity amount data as part of the authorization or settlement process, the IFPA allows it to be reimbursed for "the amount of interchange fees charged on the tax or gratuity amount" within 30 days "after the merchant submits the necessary tax documentation" to its acquiring bank or its designee.

20. CBI Bank & Trust's cardholders can present their cards for payment at any of millions of merchants that accept Visa & Mastercard cards. Merchants that accept cards from CBI Bank & Trust's customers generally do not interact directly with CBI Bank & Trust or maintain a commercial relationship with CBI Bank & Trust. Nor does CBI Bank & Trust, as an issuer, have direct interactions with the hundreds of institutions that serve as acquiring banks for these millions of merchants. CBI Bank & Trust therefore has no procedures by which individual merchants or their acquiring banks can submit "tax documentation" directly to it. Similarly, payment card networks do not currently have the infrastructure or mechanisms to facilitate the transfer of this "necessary tax documentation" to CBI Bank & Trust from merchants' acquiring banks.

21. Assuming CBI Bank & Trust was to receive "tax documentation" from merchants' acquiring banks, CBI Bank & Trust currently does not have systems or processes for reviewing and auditing that documentation. Because the IFPA defines "tax documentation" to include "invoices" and "receipts," manual review of a merchant's documents could be required.

22. CBI Bank & Trust does not have procedures for resolving disputes with individual merchants in connection with interchange reimbursement. Nor has it negotiated interchange-reimbursement dispute resolution procedures with hundreds of acquiring banks that may be servicing those merchants.

23. CBI Bank & Trust also does not have procedures for reimbursing interchange fees directly to merchants, with whom, again, it generally does not maintain commercial relationships.

Nor does it have established protocols for interchange reimbursements with hundreds of acquiring banks that may be servicing those merchants.

24. I estimate that CBI Bank & Trust will have to invest at least $100,000 in 2024 to begin developing systems and processes to accomplish these tasks. I also estimate that CBI Bank & Trust will need to hire (or divert from other tasks) and train at least two employees to accomplish this. In light of the IFPA's July 1, 2025 effective date, CBI Bank & Trust must begin investing those resources no later than September 2024. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments would be wasted.

25. In order to accomplish these tasks, CBI Bank & Trust will also likely have to divert resources from other tasks designed to maintain and improve its electronic payment transaction systems.

26. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

Implementing the IFPA's data processing restrictions

27. The IFPA also provides that an "entity, other than the merchant, involved in facilitating or processing an electronic payment transaction . . . may not distribute, exchange, transfer, disseminate, or use the electronic payment transaction data except to facilitate or process the electronic payment transaction or as required by law."

28. CBI Bank & Trust currently uses electronic payment transaction data from transactions that occur in Illinois for many purposes beyond processing the transaction. Those purposes include providing fraud protection and reward programs to cardholders.

29. CBI Bank & Trust does not have a system for segregating electronic payment transaction data based on the location of the cardholder's transaction or for providing fraud protection without using historical electronic payment transaction data. I estimate that CBI Bank & Trust will have to invest at least $100,000 in 2024 to begin developing systems and processes to segregate and limit its use of electronic payment transaction data from transactions that occur in Illinois.

30. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

31. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 12 day of August 2024 in Muscatine, IA

Larry G. Randazzo
Senior Vice President, Senior Operations Officer
CBI Bank & Trust
301 Iowa Ave
Muscatine, IA 52761

EXHIBIT 6

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

ILLINOIS BANKERS ASSOCIATION, AMERICAN BANKERS ASSOCIATION, AMERICA'S CREDIT UNIONS, and ILLINOIS CREDIT UNION LEAGUE,

Plaintiffs,

v.

KWAME RAOUL, in his official capacity as Illinois Attorney General,

Defendant.

Case No. _____

DECLARATION OF ELIZABETH REED

I, Elizabeth Reed, hereby declare:

1. I am a Senior Vice President of First Federal Savings Bank of Champaign-Urbana and have been employed by First Federal Savings Bank of Champaign-Urbana since 1993. I submit this declaration in further support of Plaintiffs' motion for a preliminary injunction against the Interchange Fee Prohibition Act ("IFPA").

2. I have personal knowledge of the matters set forth herein, and believe them to be true and correct based on (a) my work for First Federal Savings Bank of Champaign-Urbana, and (b) my review of relevant business records.

3. First Federal Savings Bank of Champaign-Urbana is a federally chartered savings bank.

4. First Federal Savings Bank of Champaign-Urbana has 2 offices and 50 employees in Illinois.

5. In its capacity as an issuing bank, First Federal Savings Bank of Champaign-Urbana has approximately 3,800 debit cardholders in Illinois.

6. First Federal Savings Bank of Champaign-Urbana cardholders who reside in Illinois engaged in approximately 901,000 transactions with their debit cards in 2023, totaling more than $37 million.

Interchange Fee Prohibition Act

7. My employment responsibilities include assisting First Federal Savings Bank of Champaign-Urbana in complying with the IFPA.

8. I understand that the IFPA is effective July 1, 2025, and that it provides for two procedures by which merchants can avoid paying interchange fees on those portions of credit or debit card transactions that reflect Illinois taxes and gratuities.

9. First, the merchant can "transmit the tax or gratuity amount data as part of the authorization or settlement process." If the merchant does so, interchange fees cannot be assessed "on the tax amount or gratuity."

10. Second, a merchant that did not follow the first procedure can nonetheless submit "the necessary tax documentation," and then must be "credit[ed]" within 30 days "the amount of interchange fees charged on the tax or gratuity amount of the electronic payment transaction."

11. As I explain below, I believe that neither of these procedures can be implemented by July 1, 2025, without requiring First Federal Savings Bank of Champaign-Urbana to commit substantial financial, technological, and human resources beginning no later than September 2024. I also believe that these resources will be wasted if the IFPA is subsequently found unlawful (and therefore does not go into effect).

Implementing the IFPA's requirement that interchange fees not be charged when the merchant transmits the tax or gratuity amount data as part of the authorization or settlement process

12. The current process for authorizing and settling debit transactions involves thousands of issuing banks (cardholders' banks) and hundreds of acquiring banks (merchants' banks). Payment card networks like Mastercard supply the standards and technical specifications that allow the various network participants to interact seamlessly and process the transaction instantaneously whenever a cardholder presents a debit card to a merchant for payment. These specifications also enable the payment card network participants to accurately assess the interchange fee owed by the acquiring bank to the issuing bank in connection with each transaction.

13. First Federal Savings Bank of Champaign-Urbana has invested substantial resources in software, hardware, and various processes that comport with the specifications of the payment card networks. The electronic payment transaction systems at First Federal Savings Bank of Champaign-Urbana must seamlessly interface with other infrastructure dedicated to authorizing and settling transactions.

14. Currently, as an issuing bank, First Federal Savings Bank of Champaign-Urbana receives information about the size of a debit card transaction through the relevant payment card network via a message that provides a "transaction amount" field. This field reflects the full amount of the cardholder's transaction, including taxes and gratuities. "Transaction amount" is the industry standard and it serves as the basis for calculating interchange fees. First Federal Savings Bank of Champaign-Urbana systems are set up to authorize and settle transactions on the basis of the "transaction amount."

15. First Federal Savings Bank of Champaign-Urbana systems are not currently capable of identifying components of the "transaction amount" (such as Illinois sales or excise taxes and gratuities) as part of the authorization or settlement process. First Federal Savings Bank of Champaign-Urbana has not received standards or technical specifications from any payment card networks that, if implemented, would accomplish these changes. For example, First Federal Savings Bank of Champaign-Urbana currently issues Mastercard-branded debit cards, and would need Mastercard to provide its own standards in order for First Federal Savings Bank of Champaign-Urbana to fully update its systems for all debit card transactions.

16. In the past, significant new standards and technical specifications initiated by a payment card network have required First Federal Savings Bank of Champaign-Urbana to invest substantial resources and have often taken well over a year to be implemented.

17. After a payment card network develops and provides First Federal Savings Bank of Champaign-Urbana the necessary standards and specifications, First Federal Savings Bank of Champaign-Urbana must have these new technical specifications updated through our core system. As a small community bank, First Federal Savings Bank of Champaign-Urbana does not have the

technological resources to make these updates and must rely on the core processor to do so. Additionally, First Federal Savings Bank of Champaign-Urbana's core processor must adapt its authorization and settlement systems, which facilitate calculating and settling interchange fees. Based on past experiences, I expect that First Federal Savings Bank of Champaign-Urbana's core processor will require First Federal Savings Bank of Champaign-Urbana to spend substantial resources to adapt its systems to match the specifications provided by payment card networks. Accomplishing these tasks in time to implement new (yet to be identified) network specifications related to the IFPA before July 1, 2025, would require extraordinary financial resources of First Federal Savings Bank of Champaign-Urbana, if it is even possible.

18. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

Implementing the IFPA's manual process for reimbursing merchants

19. Whether or not a merchant can transmit the tax or gratuity amount data as part of the authorization or settlement process, the IFPA allows it to be reimbursed for "the amount of interchange fees charged on the tax or gratuity amount" within 30 days "after the merchant submits the necessary tax documentation" to its acquiring bank or its designee.

20. First Federal Savings Bank of Champaign-Urbana's cardholders can present their cards for payment at any of millions of merchants that accept Mastercard. Merchants that accept cards from First Federal Savings Bank of Champaign-Urbana's customers generally do not interact directly with First Federal Savings Bank of Champaign-Urbana or maintain a commercial relationship with First Federal Savings Bank of Champaign-Urbana. Nor does First Federal Savings Bank of Champaign-Urbana, as an issuer, have direct interactions with the hundreds of institutions that serve as acquiring banks for these millions of merchants. First Federal Savings Bank of Champaign-Urbana therefore has no procedures by which individual merchants or their acquiring banks can submit "tax documentation" directly to it. Similarly, I do not believe that payment card networks currently have

the infrastructure or mechanisms to facilitate the transfer of this "necessary tax documentation" to First Federal Savings Bank of Champaign-Urbana from merchants' acquiring banks.

21. Assuming First Federal Savings Bank of Champaign-Urbana was to receive "tax documentation" from merchants' acquiring banks, First Federal Savings Bank of Champaign-Urbana currently does not have systems or processes for reviewing and auditing that documentation. Because the IFPA defines "tax documentation" to include "invoices" and "receipts," manual review of a merchant's documents most likely would be required. The IFPA does not specify procedures for transmitting these documents to an issuing bank like First Federal Savings Bank of Champaign-Urbana. The process would likely require First Federal Savings Bank of Champaign-Urbana to match receipts submitted by merchants and their acquiring banks with actual customer account transactions and review the amount of the interchange income per transaction that settled. There will be multiple manual steps for every transaction, instead of the automated process we know today.

22. First Federal Savings Bank of Champaign-Urbana does not have procedures for resolving disputes with individual merchants in connection with interchange reimbursement. Nor has it negotiated interchange-reimbursement dispute resolution procedures with hundreds of acquiring banks that may be servicing those merchants. There are longstanding dispute resolution procedures currently in place for the current automated process, but those will be inapplicable to the manual process provided by the IFPA.

23. First Federal Savings Bank of Champaign-Urbana also does not have procedures for reimbursing interchange fees directly to merchants, with whom, again, it generally does not maintain commercial relationships. Nor does it have established protocols for interchange reimbursements with hundreds of acquiring banks that may be servicing those merchants.

24. I estimate that First Federal Savings Bank of Champaign-Urbana will have to invest at least $50,000 in 2024-2025 to begin developing systems and processes to accomplish these tasks. I also estimate that First Federal Savings Bank of Champaign-Urbana will need to hire (or divert from other tasks) and train at least three to four employees to accomplish this. In light of the IFPA's July 1, 2025 effective date, First Federal Savings Bank of Champaign-Urbana must begin

planning and investing in those resources no later than September 2024. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments would be wasted.

25. Adding three to four employees would be a significant investment for First Federal Savings Bank of Champaign-Urbana because it would be an 8% increase in our full-time staff. The minimum costs for this are estimated to be approximately $200,000 per year in salaries and benefits. We also will have the costs to send employees to any trainings, and establish an entire sub-department of the bank for the purpose of complying with the IFPA, including chains of reporting, policies and procedures. These employees would likely exclusively focus on processing the reimbursements of 75,000 interchange transactions per month. Bankers at a community bank like ours wear many hats and can only be spread so thin. The more time they devote to processing interchange reimbursements, the less time they can spend serving the needs of our customers and protecting the security of their accounts.

26. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

Implementing the IFPA's data processing restrictions

27. The IFPA also provides that an "entity, other than the merchant, involved in facilitating or processing an electronic payment transaction . . . may not distribute, exchange, transfer, disseminate, or use the electronic payment transaction data except to facilitate or process the electronic payment transaction or as required by law."

28. First Federal Savings Bank of Champaign-Urbana currently uses electronic payment transaction data from transactions that occur in Illinois for many purposes beyond processing the transaction. Those purposes include providing fraud protection and reward programs to cardholders.

29. First Federal Savings Bank of Champaign-Urbana does not have a system for segregating electronic payment transaction data based on the location of the cardholder's transaction or for providing fraud protection without using historical electronic payment transaction data. I estimate that First Federal Savings Bank of Champaign-Urbana will have to invest at least an

additional $50,000 in 2024-2025 to begin developing systems and processes to segregate and limit its use of electronic payment transaction data from transactions that occur in Illinois.

30. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

31. Our core processor also acts as our electronic payment processor and provides fraud prevention services. By disallowing the "use" of electronic payment transaction data beyond payment processing, the IFPA would prevent First Federal Savings Bank of Champaign-Urbana from analyzing past, known fraudulent transactions for future fraud prevention. Historical electronic payment transaction data is very important in detecting patterns of fraud which may affect multiple customers and multiple financial institutions. Because the vast majority of First Federal Savings Bank of Champaign-Urbana's cardholders' debit transactions are within the state of Illinois, the IFPA would render our account data virtually useless for fraud prevention, essentially guaranteeing real dollar losses by customers, the bank or both.

32. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 12 day of August 2024 in Champaign, Illinois.

Elizabeth Reed

EXHIBIT 7

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

ILLINOIS BANKERS ASSOCIATION, AMERICAN BANKERS ASSOCIATION AMERICA'S CREDIT UNION, and ILLINOIS CREDIT LEAGUE,

Plaintiffs,

v.

KWAME RAOUL, in his official capacity as Illinois Attorney General,

Defendant.

Case No. _____

DECLARATION OF HOYNE SAVINGS BANK

I, Thomas S. Manfre, hereby declare:

1. I am the Chief Financial Officer of Hoyne Savings Bank and have been employed by Hoyne Savings Bank since 2022. I submit this declaration in further support of Plaintiffs' motion for a preliminary injunction against the Interchange Fee Prohibition Act ("IFPA").

2. I have personal knowledge of the matters set forth herein, and believe them to be true and correct based on (a) my work for Hoyne Savings Bank, and (b) my review of relevant business records.

3. Hoyne Savings Bank is an Illinois savings bank chartered under the Illinois Savings Bank Act.

4. Hoyne Savings Bank has approximately 9 offices and 80 employees in Illinois, many of which are in Chicago.

5. In its capacity as an issuing bank, Hoyne Savings Bank has approximately 900 debit cardholders, including hundreds of cardholders in Chicago, Illinois.

6. Hoyne Savings Bank cardholders who reside in Illinois engaged in approximately 225,300 debit transactions in 2023, totaling more than $9,740,000.

Interchange Fee Prohibition Act

7. My employment responsibilities include assisting Hoyne Savings Bank in complying with the IFPA.

8. I understand that the IFPA is effective July 1, 2025, and that it provides for two procedures by which merchants can avoid paying interchange fees on those portions of credit or debit card transactions that reflect Illinois taxes and gratuities.

9. First, the merchant can "transmit the tax or gratuity amount data as part of the authorization or settlement process." If the merchant does so, interchange fees cannot be assessed "on the tax amount or gratuity."

10. Second, a merchant that did not follow the first procedure can nonetheless submit "the necessary tax documentation," and then must be "credit[ed]" within 30 days "the amount of interchange fees charged on the tax or gratuity amount of the electronic payment transaction."

11. As I explain below, I believe that neither of these procedures can be implemented by July 1, 2025 without requiring Hoyne Savings Bank to commit substantial financial, technological and human resources beginning no later than September 2024. I also believe that these resources will be wasted if the IFPA is subsequently found unlawful (and therefore does not go into effect).

Implementing the IFPA's requirement that interchange fees not be charged when the merchant transmits the tax or gratuity amount data as part of the authorization or settlement process

12. The current process for authorizing and settling debit card transactions involves thousands of issuing banks (cardholders' banks) and hundreds of acquiring banks (merchants' banks). Payment card networks like Visa and Mastercard supply the standards and technical specifications that allow the various network participants to interact seamlessly and process the transaction instantaneously whenever a cardholder presents a debit card to a merchant for payment. These specifications also enable the payment card network participants to accurately assess the interchange owed by the acquiring bank to the issuing bank in connection with each transaction.

13. Hoyne Savings Bank has invested substantial resources to develop software, hardware and various processes that comport with the specifications of the payment card networks. The electronic payment transaction systems at Hoyne Savings Bank must seamlessly interface with other infrastructure dedicated to authorizing and settling transactions.

14. Currently, as an issuing bank, Hoyne Savings Bank receives information about the size of a credit or debit card transaction through the relevant payment card network via a message that provides a "transaction amount" field. This field reflects the full amount of the cardholder's transaction, including taxes and gratuities. "Transaction amount" is the industry standard and it serves as the basis for calculating interchange fees. Hoyne Savings Bank systems are set up to authorize and settle transactions on the basis of the "transaction amount."

15. Hoyne Savings Bank systems are not set up to identify components of the "transaction amount" (such as Illinois taxes and gratuities) as part of the authorization or settlement process. Hoyne Savings Bank has not received standards or technical specifications from any payment card networks that, if implemented, would accomplish these changes. Hoyne Savings Bank currently issues debit cards on three debit card networks, and would need each of these networks to provide standards in order for Hoyne Savings Bank to fully update its systems for all debit card transactions.

16. In the past, significant new standards and technical specifications initiated by a payment card network have required Hoyne Savings Bank to invest substantial resources and have often taken well over a year to be implemented. Prior to the enactment of the IFPA, Visa and Mastercard had each already provided Hoyne Savings Bank their updates to standards and specifications that would need to be implemented by July 1, 2025.

17. After a payment card network develops and provides Hoyne Savings Bank the necessary standards and specifications, Hoyne Savings Bank must update its own technical specifications. Hoyne Savings Bank must also adapt its authorization and settlement systems, which facilitate calculating and settling interchange fees. Accomplishing these tasks in time to implement new (yet to be identified) network specifications related to the IFPA before July 1, 2025 would require

extraordinary financial, technological and human resources of Hoyne Savings Bank, if it is even possible.

18. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

Implementing the IFPA's manual process for reimbursing merchants

19. Whether or not a merchant can transmit the tax or gratuity amount data as part of the authorization or settlement process, the IFPA allows it to be reimbursed for "the amount of interchange fees charged on the tax or gratuity amount" within 30 days "after the merchant submits the necessary tax documentation" to its acquiring bank or its designee.

20. Hoyne Savings Bank's cardholders can present their cards for payment at any of millions of merchants that accept Visa-branded cards. Merchants that accept cards from Hoyne Savings Bank's customers generally do not interact directly with Hoyne Savings Bank or maintain a commercial relationship with Hoyne Savings Bank. Nor does Hoyne Savings Bank, as an issuer, have direct interactions with the many institutions that serve as acquiring banks for these millions of merchants. Hoyne Savings Bank therefore has no procedures by which individual merchants or their acquiring banks can submit "tax documentation" directly to it. Similarly, payment card networks do not currently have the infrastructure or mechanisms to facilitate the transfer of this "necessary tax documentation" to Hoyne Savings Bank from merchants' acquiring banks.

21. Assuming Hoyne Savings Bank were to receive "tax documentation" from merchants' acquiring banks, Hoyne Savings Bank currently does not have systems or processes for reviewing and auditing that documentation. Because the IFPA defines "tax documentation" to include "invoices" and "receipts," manual review of a merchant's documents could be required.

22. Hoyne Savings Bank does not have procedures for resolving disputes with individual merchants in connection with interchange reimbursement. Nor has it negotiated interchange-reimbursement dispute resolution procedures with thousands of acquiring banks that may be servicing those merchants.

23. Hoyne Savings Bank also does not have procedures for reimbursing interchange fees directly to merchants, with whom, again, it generally does not maintain commercial relationships. Nor has it established protocols for interchange reimbursements with thousands of acquiring banks that may be servicing those merchants.

24. I estimate that Hoyne Savings Bank will have to invest at least $50,000 in 2024 to begin developing systems and processes to accomplish these tasks. I also estimate that Hoyne Savings Bank will need to hire (or divert from other tasks) and train at least two employees to accomplish this at an approximate total additional expense to Hoyne Savings Bank of $100,000 per year. In light of the IFPA's July 1, 2025 effective date, Hoyne Savings Bank must begin investing those resources no later than September 2024. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments would be wasted.

25. Additionally, we will need to coordinate with our data processor and other parties to receive detailed data on transactions and the merchants submitting for reimbursement requests. Right now, Hoyne Savings Bank receives limited information about a merchant on a per transaction basis and is often not able to determine the state in which the transaction occurred. It would thus be impossible at this stage to verify that all transactions for which reimbursements are requested truly occurred in Illinois.

26. In order to accomplish these tasks, Hoyne Savings Bank will also likely have to divert resources from other tasks designed to maintain and improve its electronic payment transaction systems. Further development and/or enhancements to the bank's lending capabilities, business/retail online products, mobile banking applications as well as deposit products and services could be impacted as the bank has limited resources for enhancements/upgrades. Pulling resources or delaying developments/enhancements for the aforementioned business lines would have a direct impact to consumers.

27. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

Implementing the IFPA's data processing restrictions

28. The IFPA also provides that an "entity, other than the merchant, involved in facilitating or processing an electronic payment transaction . . . may not distribute, exchange, transfer, disseminate, or use the electronic payment transaction data except to facilitate or process the electronic payment transaction or as required by law."

29. Hoyne Savings Bank currently uses electronic payment transaction data from transactions that occur in Illinois for many purposes beyond processing the transaction. Those purposes include providing fraud protection and reward programs to cardholders. We do not have the ability to provide these services in house and rely on third party services provided by our data processor. If there are items mandated in IFPA that will not be provided by our processor, we will have to spend significant time/money to convert to a different processor who can provide these services or possibly develop internal resources to provide the required services mandated by IFPA.

30. Hoyne Savings Bank does not have a system for segregating electronic payment transaction data based on the location of the cardholder's transaction or for providing fraud protection without using historical electronic payment transaction data. I estimate that Hoyne Savings Bank will have to invest at least $40,000 in 2024 to begin developing systems and processes to segregate and limit its use of electronic payment transaction data from transactions that occur in Illinois.

31. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

32. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 12th day of August, 2024 in Oak Park, IL

THOMAS S. MANFRE

EXHIBIT 8

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

ILLINOIS BANKERS ASSOCIATION, AMERICAN BANKERS ASSOCIATION, AMERICA'S CREDIT UNIONS, and ILLINOIS CREDIT UNION LEAGUE,

Plaintiffs,

v.

KWAME RAOUL, in his official capacity as Illinois Attorney General,

Defendant.

Case No. _____

DECLARATION OF CHRISTOPHER CONRAD

I, Christopher Conrad, hereby declare:

1. I have been a Managing Director of JPMorgan Chase Bank, N.A. ("JPMC") since 2004. I submit this declaration in further support of Plaintiffs' motion for a preliminary injunction against the Interchange Fee Prohibition Act ("IFPA").

2. I have personal knowledge of the matters set forth herein, and believe them to be true and correct based on (a) my work for JPMC, and (b) my review of relevant business records.

3. JPMC is a national bank chartered under the National Bank Act.

4. JPMC has approximately 490 branches and 16,000 employees in Illinois, many of which are in Chicago.

5. In its capacity as an issuing bank, JPMC has more than 80 million customers, including approximately 8 million credit and debit accounts in Illinois, of which more than 2 million are for customers in Chicago, Illinois.

6. JPMC cardholders who reside in Illinois engaged in over $45,000,000,000 worth of credit transactions and more than $25,000,000,000 worth of debit transactions in 2023, totaling more than $70,000,000,000.

Interchange Fee Prohibition Act

7. My employment responsibilities include assisting JPMC in complying with the IFPA.

8. I understand that the IFPA is effective July 1, 2025, and that it provides two options for merchants to avoid interchange fees on those portions of credit or debit card transactions that reflect Illinois taxes and gratuities.

9. First, the merchant can "transmit the tax or gratuity amount data as part of the authorization or settlement process." In practice, this means the transaction total must be itemized. If the merchant does so, interchange fees cannot be assessed "on the tax amount or gratuity."

10. Second, a merchant that did not follow the first process can submit "the necessary tax documentation" within 180 days of any transaction and then must be "credit[ed]" by the card issuer within 30 days "the amount of interchange fees charged on the tax or gratuity amount of the electronic payment transaction."

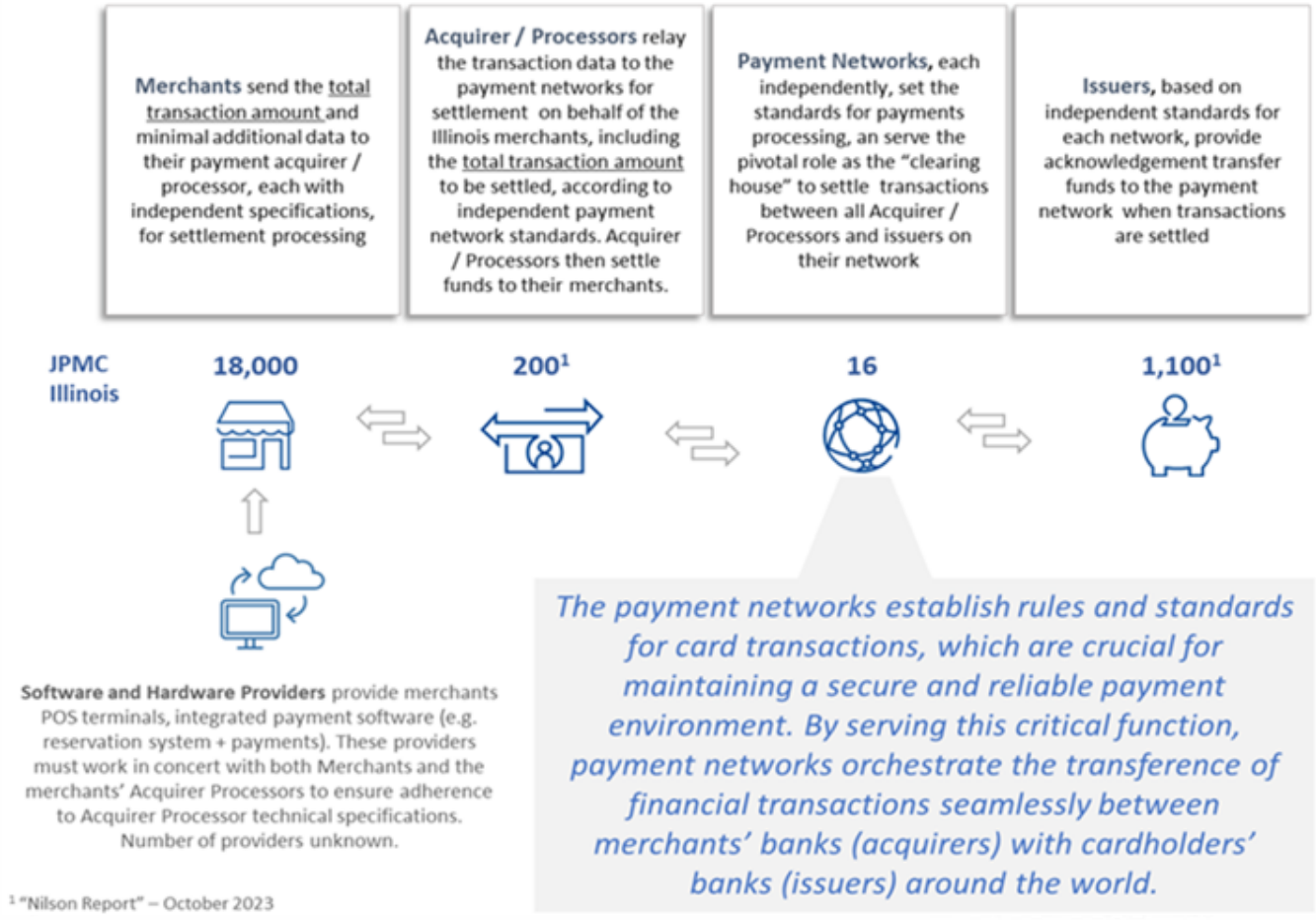
11. As I explain below, despite JPMC's best efforts and its investment of immense resources, I believe that it is unlikely that either of these options can be implemented by July 1, 2025.

Implementing the IFPA's requirement that interchange fees will not be charged when the merchant transmits the tax or gratuity amount data as part of the authorization or settlement process

12. The current process for authorizing and settling transactions from debit and credit cards issued by JPMC involves hundreds of acquiring banks (merchants' banks) and multiple payment card networks, including VISA, Mastercard, and debit card networks like Pulse. Whenever a cardholder presents a debit or credit card to a merchant for payment, payment card networks like Visa and Mastercard supply the standards and technical specifications that allow the various network participants to interact seamlessly and process the transaction instantaneously. These specifications also enable the network participants to accurately assess the interchange owed by the

acquirer and transferred from the acquiring bank to the issuing bank in connection with each transaction.

13. The following outlines the role each of the major participants plays in processing a card transaction.



14. JPMC has invested substantial resources to develop software, hardware, and various processes that comport with the specifications of the payment card networks. The electronic payment transaction systems at JPMC must seamlessly interface with the payment networks' infrastructure dedicated to authorizing and settling billions of transactions worth trillions of dollars across the globe for this processing to function properly for customers.

15. Currently, as an issuing bank, JPMC receives information about the size of a credit or debit card transaction using a "transaction amount" field. This field reflects the full amount of the cardholder's transaction, including taxes and gratuities. "Transaction amount" is the industry standard and it serves as the basis across the lifecycle of a transaction – debiting the consumer's bank account or deducting funds from available credit, calculating fees – including interchange, paying merchants and facilitating post-purchase disputes. JPMC systems are set up to authorize, settle or post transactions on the basis of the "transaction amount."

16. JPMC systems do not currently have the capabilities to identify individual components of the "transaction amount" (such as Illinois sales and excise taxes or gratuities) as part of the authorization or settlement process, so that these components could be excluded from the calculation of interchange fees. I am not aware of any existing standards or technical specifications that would permit JPMC to identify these components and do so in a way that interfaces with point-of-sale terminals at tens of thousands of Illinois merchants. JPMC has not received standards or technical specifications from payment card networks that, if implemented, would accomplish these changes. Further, each network would have the ability to implement its own standards, thereby multiplying the implementation complexity by the number of networks that JPMC works with.

17. In the past, new standards requiring changes to network technical specifications have required JPMC to invest tens of millions of dollars and have often taken well over a year to implement. Visa and Mastercard, the two largest payment card networks, release major technical updates twice a year (October and April) and allow network participants at least six months for implementation. However, based on my previous experience with changes that disrupt and upend the fundamental operability of the payment card ecosystem, as the IFPA proposes, JPMC would have *already* received updates to network standards and specifications in order to meet a July 1, 2025 compliance date. Historically, major changes or modifications to the technical standards (such as those required by the IFPA), have been announced by payment networks several years in advance.

18. After payment card networks develop and provide JPMC the necessary standards and specifications, JPMC must update its own technical specifications across over 100 systems. Even assuming that the necessary standards and specifications existed today, JPMC would have to expend extraordinary financial, technological and human resources to even attempt to accomplish these tasks before July 1, 2025.

19. I estimate that, for JPMC as an issuer, a change of this size in the manner described above will likely cost over $25,000,000 in technical costs, and take years to implement, after standards and specifications have been published by payment card networks. I also estimate that JPMC will need to hire (or divert from other critical infrastructure modernization projects that support both payment authorization and settlement, as well as enhancements to JPMC's transaction clearing system that benefit consumers) and train over 100 development staff to accomplish this. I believe that, if the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

20. As noted above, JPMC would have to divert resources from other tasks designed to improve its electronic payment transaction systems in order to pursue compliance with IFPA. For example, JPMC would have to slow down critical network modernization initiatives aimed at improving the resiliency and stability of its core payment authorization and settlement infrastructure. This would, in turn, result in an overall less stable or resilient JPMC card system and potentially less secure payment experience for consumers.

Implementing IFPA's manual process for reimbursing merchants

21. Regardless of whether a merchant has the capability to transmit the tax or gratuity amount data as part of the electronic authorization or settlement process, the IFPA permits merchants to seek a manual reimbursement of interchange fees through an undefined process where issuers and acquirers must participate once initiated by the merchant.

22. The IFPA does not address the practical challenges of implementing such a manual reconciliation and reimbursement process across the many network participants. It allows

a merchant to submit "tax documentation" (that can take multiple forms, including receipts) to its *acquirer* and for appropriate interchange fees to be reimbursed by the *issuer* (an entirely different entity or company) to the merchant. A direct connection between acquirer and issuer or issuer and merchant – which is necessary for the reimbursement process contemplated by IFPA – does not exist when an issuer like JPMC relies on Visa and Mastercard as networks. And it does not account for a dramatic increase in manual work for reimbursement. For example, there are currently more than 70,000 disputes each month involving JPMC credit card and debit cardholders and Illinois merchants, which would require over 100 people to process if done completely manually. This type of manual process between merchants, acquirers and issuers will remain highly complex and people-intensive, even with the benefit of years to define the necessary standards and operating procedures. I anticipate the manual work that will be required under IFPA will have higher volumes and even more complexity given that it introduces a new and un-tested transaction process.

23. As an issuer, JPMC currently does not have systems or processes for receiving merchant "tax documentation" from acquirers, for reviewing and auditing that documentation, or for disbursing interchange fee reimbursements to Illinois merchants directly or through the hundreds of acquiring banks who may request interchange reimbursements. Indeed, JPMC would also need to establish rigorous reconciliation and audit procedures along with a method to resolve reimbursement disputes with merchants or acquiring banks. And because the manual reimbursement process necessarily means there is no electronic record of the individual components of the total transaction amount, issuers would not have a way to validate whether the tax documentation submitted by the merchant in support of their reimbursement can be reconciled with the amount of interchange charged. Accordingly, with a potential for fraud or overrepresentation of the amounts to be reimbursed, JPMC, as issuer, will need to develop risk management tools to detect and prevent fraudulent manual reimbursement requests. The delays afforded to merchants to submit "tax documentation" to its *acquirer* (up to 180 days) and the much shorter time allowed for the *issuer* to reimburse funds (30 days) make it extremely difficult for issuers to comply with the law.

24. As noted above, there are no established rules or automated methods to guide how issuers would process reimbursement requests from hundreds of acquirers on behalf of thousands of merchants in Illinois. JPMC already expends over $100,000,000 annually to process disputed transactions that are similar to the IFPA's proposed reimbursement requirement; however, it benefits greatly from established rules and a level of automation. The manual reimbursement process contemplated under IFPA would be materially more complex and cumbersome. I estimate that JPMC will need to hire (or divert from other tasks) and train *hundreds of employees* to accomplish this. Considering the IFPA's July 1, 2025, effective date, JPMC must begin investing those resources immediately to ensure earliest possible compliance. I believe that, if the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

Implementing IFPA's data use restrictions

25. The IFPA also provides that an "entity, other than the merchant, involved in facilitating or processing an electronic payment transaction . . . may not distribute, exchange, transfer, disseminate, or use the electronic payment transaction data except to facilitate or process the electronic payment transaction or as required by law."

26. JPMC currently uses electronic payment transaction data from transactions that occur in Illinois for many purposes beyond processing the transaction that benefit consumers and merchants. Those purposes include building predictive fraud and credit models, fraud and credit risk scoring models and decisions, and cardholder loyalty programs.

27. JPMC currently does not have a built-in system to identify, separate, and treat credit and debit payment card transactions by location (e.g., zip-code or state code) differently. While transactions do contain information about the location of the merchant, limiting the use of transaction information in compliance with the IFPA will require extensive technology development. This development would involve updating JPMC's critical banking infrastructure to ensure transactions subject to the IFPA bypass systems that perform functions using electronic payment transaction data beyond those permitted under IFPA. As noted above, these systems include fraud detection and risk mitigation systems that benefit consumers and merchants as well as

systems that utilize transaction information to provide added value to consumers, like rewards. The inability to use electronic payment transaction data to mitigate fraud would significantly impair JPMC's ability to detect and block fraud, resulting in additional harm to Illinois consumers and merchants. JPMC currently prevents over $200 million a year in fraudulent spending activity on Illinois transactions using these tools and models. I estimate that the economic cost of the IFPA's data use restrictions could be up to this amount and potentially more.

28. I believe that, if the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

29. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 12th day of August 2024 in Wilmington, DE

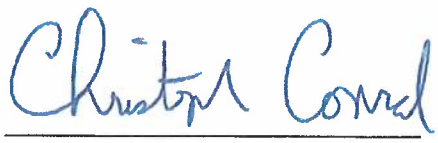


EXHIBIT 9

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

ILLINOIS BANKERS ASSOCIATION, AMERICAN BANKERS ASSOCIATION, AMERICA'S CREDIT UNIONS, and ILLINOIS CREDIT UNION LEAGUE,

Plaintiffs,

v.

KWAME RAOUL, in his official capacity as Illinois Attorney General,

Defendant.

Case No. _____

DECLARATION OF MARK C. WILLIAMS

I, Mark C. Williams, hereby declare:

1. I am a Managing Director of JPMorgan Chase Bank, N.A. ("JPMC") and have been employed by JPMC since September 2022. I submit this declaration in further support of plaintiffs' motion for a preliminary injunction against the Interchange Fee Prohibition Act ("IFPA").

2. I have personal knowledge of the matters set forth herein and believe them to be true and correct based on (a) my work for JPMC, and (b) my review of relevant business records.

3. JPMC is a national bank chartered under the National Bank Act.

4. JPMC has approximately 490 branches and 16,000 employees in Illinois, many of which are in Chicago.

5. In its capacity as an acquiring bank, JPMC processes transactions from approximately 18,000 merchants in Illinois, of which approximately 82% are located in Chicago.

In 2023, JPMC processed over 400 million credit and debit card transactions for Illinois merchants, totaling over $40 billion.

Interchange Fee Prohibition Act

6. My employment responsibilities include assisting JPMC, in its capacity as an acquiring bank, in complying with the IFPA.

7. I understand that the IFPA is effective July 1, 2025, and that it provides two options for merchants to avoid interchange fees on those portions of credit or debit card transactions that include Illinois taxes and gratuities.

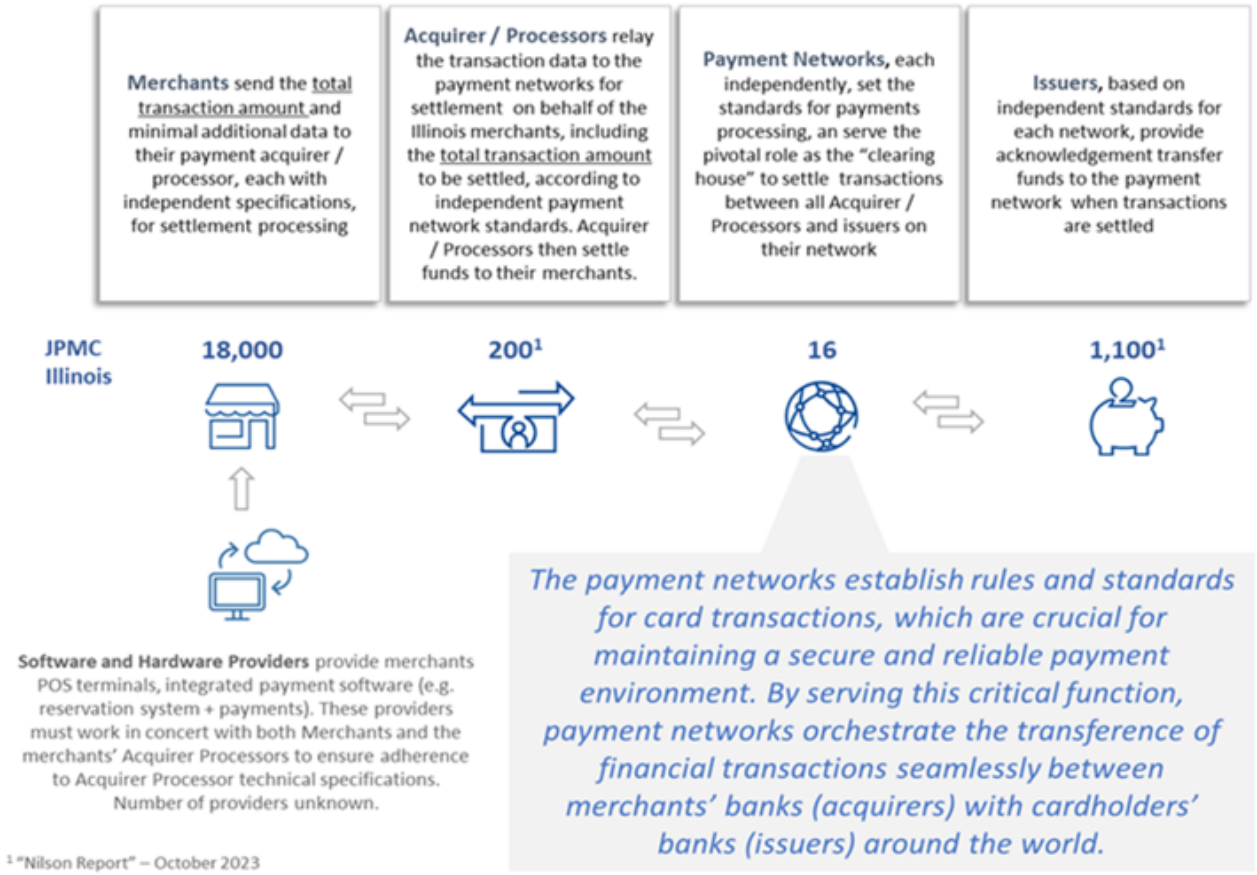
8. First, the merchant can "transmit the tax or gratuity amount data as part of the authorization or settlement process." In practice, this means the transaction total must be itemized. If the merchant does so, interchange fees cannot be assessed "on the tax amount or gratuity."

9. Second, if a merchant does not transmit sales tax and gratuity as part of the authorization or settlement process due to technology limitations or other choices or constraints, the merchant can submit "the necessary tax documentation" within 180 days of any transaction and then must be "credit[ed]" by the card issuer within 30 days "the amount of interchange fees charged on the tax or gratuity amount of the electronic payment transaction."

10. As I explain below, I believe that both of these options may be impossible to implement by July 1, 2025, even with JPMC committing disproportionate financial, technological, and human resources. I also believe that these resources will be wasted if IFPA is subsequently found unlawful (and therefore does not go into effect).

Implementing IFPA's requirement that interchange fees will not be charged when the merchant transmits the tax or gratuity amount data as part of the authorization or settlement process

11. The current process for authorizing and settling debit and credit card transactions involves over 1,100 issuing banks (cardholders' banks) and over 200 acquiring banks (merchants' banks). Acquiring banks often work with a processor to service merchants. Payment card networks like Visa and Mastercard supply the standards and technical specifications that allow the various network participants to interact seamlessly and process the transaction instantaneously whenever a cardholder presents a debit or credit card to a merchant for payment. These specifications also enable the network participants to accurately assess the interchange owed by the acquirer and transferred to the issuing bank in connection with each transaction. Thus, when JPMC serves merchants as an acquiring bank, these specifications allow it to process transactions at those merchants by cardholders from over 1,100 issuing banks across the world that participate in the same network. The following outlines the role each of the major participants plays in processing a card transaction.



[1] "Nilson Report" – October 2023

12. JPMC has invested substantial resources to develop software, hardware, and various processes that comport with the specifications of the 16 payment card networks for which it processes transactions as an acquiring bank, including compliance with the interchange calculation rules set forth by these networks. The electronic payment transaction systems at JPMC must seamlessly interface with other infrastructure dedicated to authorizing and settling transactions—including the merchants' point-of-sale (POS) terminals, e-commerce sites, mobile applications and anywhere consumers swipe, insert, tap or otherwise enter their credit or debit card credentials to initiate a transaction.

13. As an acquiring bank, JPMC's systems are set up to route payment transactions for proper authorization and settlement and to accurately calculate the interchange fee. JPMC's systems receive and transmit information about the size of a credit or debit card transaction using a "transaction amount" field. This field reflects the full amount of the cardholder's transaction, including taxes and gratuities. "Transaction amount" is the industry standard and it serves as the basis for calculating interchange fees. The calculation of interchange involves applying an array of criteria including Card Type (credit or debit), Issuer Type (regulated or exempt), Card Product Type (consumer, small business, or commercial), Merchant Category Code, Authentication Type (EMV, magnetic stripe, or Token), Transaction Amount, and dozens of other variables. As of June 2024, JPMC was maintaining over 1,300 unique interchange price points for just Visa and Mastercard transactions. JPMC depends on the payment networks to publish their processing rules and standards to accurately calculate transaction level interchange rates.

14. JPMC's systems are not set up to interrogate components of the "transaction amount" (such as Illinois taxes and gratuities) as part of the authorization or settlement process, so that these components could be excluded from the calculation of interchange fees. I am not aware of any existing standards or technical specifications that that would permit JPMC to identify these components, much less do so in a way that interfaces with POS terminals or checkout systems at the approximately 18,000 Illinois based merchants we serve. JPMC has not received standards or

technical specifications from any of the 16 payment networks for which it processes payment card transactions that, if implemented, would accomplish these changes.

15. Historically, major payment standards changes, or technical modifications initiated by the payment networks have required JPMC to invest more than **$1 million** for each payment network impacted by the change and have taken 12 to 24 months, or longer, to implement following the receipt of technical specifications from the payment networks. Implementation timelines are often extended further since acquirers can only release major changes during one of the networks major release windows which are in April and October. JPMC's acquiring business estimates it will spend more than **$16 million** on the development, testing and certification of new technical specifications for IFPA. This presupposes that each of the 16 networks (Visa, Mastercard, American Express, Discover, Pulse, Interlink, Maestro, NYCE, ACCEL, AFFN, Shazam, STAR, Culiance, ATH, China Union Pay, Japan Credit Bureau) have also developed and implemented enhancements to their own systems in a reasonable time period to prevent interchange fees from being assessed on the tax and gratuity portions of a transaction in Illinois. To my knowledge, no payment network has developed or implemented such enhancements to support an automated process for IFPA.

16. JPMC's merchant customers will also likely need to expend substantial resources to update or replace the technology they use to process credit and debit card transactions. Most, if not all, merchant POS terminals, are incapable of separately transmitting sales tax or gratuity data as part of the authorization or settlement process. Almost all Illinois merchants will need to work with their hardware and software providers to purchase new POS terminals (likely at a cost of more than $500 per terminal) and/or update their software (e-commerce site, mobile applications, self-checkout terminals, etc.). By comparison, if we assume implementation of the IFPA has a similar scope, complexity, and impact to merchants' hardware and software as the 2015 implementation of EMV (chip cards), despite JPMC's best efforts and its investment of immense resources, adoption by July 1, 2025 will be impossible. Despite the significant fraud

savings EMV adoption affords merchants, it has taken merchants almost a decade to broadly (but not universally) implement EMV acceptance devices and software.

17. In light of IFPA's July 1, 2025 effective date, JPMC and our merchant customers must begin investing those resources now. I believe that, if IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

Implementing IFPA's manual process for reimbursing merchants

18. Whether or not a merchant can transmit the tax or gratuity amount data as part of the authorization or settlement process, IFPA allows it to be reimbursed for "the amount of interchange fees charged on the tax or gratuity amount" within 30 days "after the merchant submits the necessary tax documentation."

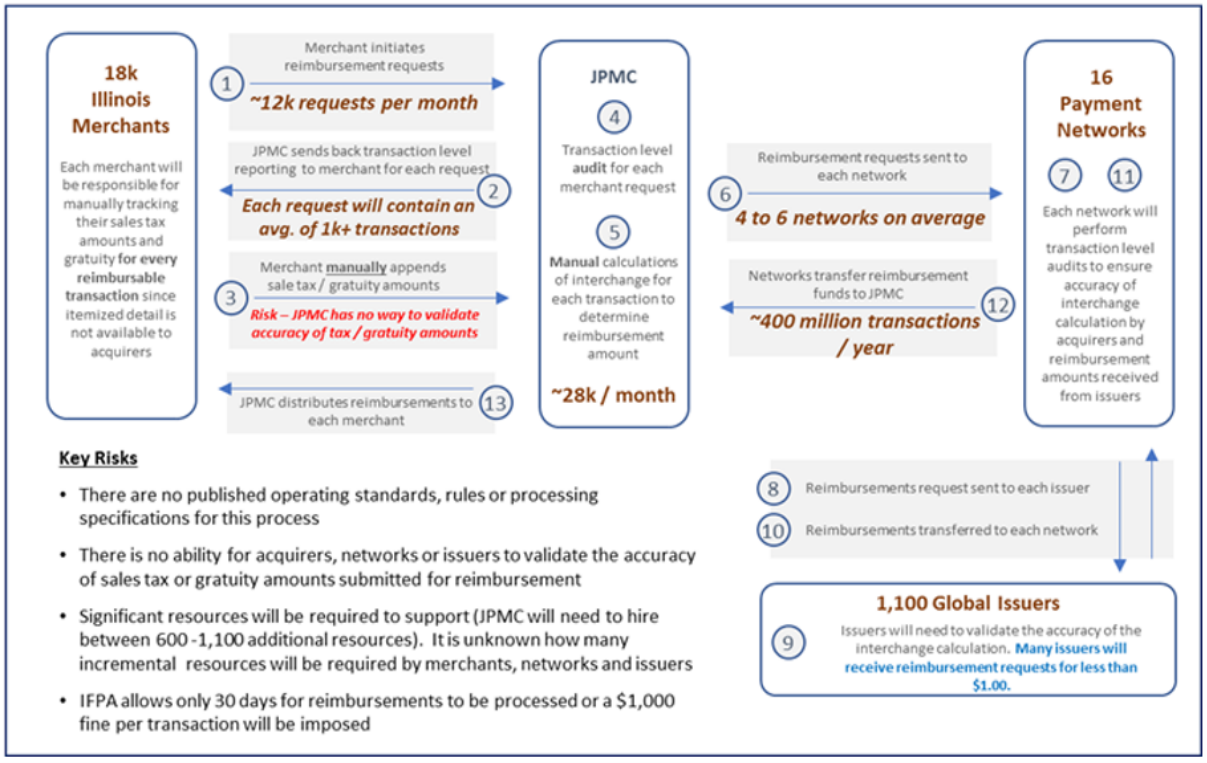
19. JPMC currently does not have systems or processes for receiving "tax documentation" from merchants, for reviewing and auditing that documentation, for seeking interchange fee reimbursements from the thousands of issuing banks across the world whose cardholders may have been involved in the transaction, or for resolving disputes among the relevant parties. JPMC does not have a process for transmitting reimbursement requests to the payment networks or relevant issuing banks, or processing refunds received from the networks or issuing banks.

20. In 2023, JPMC processed over 400 million transactions for approximately 18,000 Illinois merchants of which the vast majority will be eligible for an interchange reimbursement under IFPA. Considering the complexity of how card transactions are processed coupled with the scale of JPMC's acquiring volume in Illinois, supporting a manual process for IFPA represents significant risk to JPMC, its merchants and each of the participants that will be involved in processing these manual reimbursements. Between Illinois merchants, their payment providers (such as Square, PayPal, and Toast), digital wallet providers (such as Amazon Pay and Apple Pay), JPMC, the networks, and the card issuers, there will be at least five parties that will

be manually processing each transaction reimbursement. Without defined industry rules, procedures, or technical specifications, each of the more than 2 billion handoffs associated with JPMC's reimbursement requests represents a potential point of failure.

21. The work required by merchants to submit a manual reimbursement will be significant. Given the complexity of interchange calculations, all merchants will be heavily dependent on their acquirers/processors to develop and provide new transaction level reporting. The cost of building and providing merchants with this level of reporting is unknown at this point but will likely be passed on to merchants. The following chart provides a simplified illustration of the steps that will likely be required to support a manual reimbursement process for transactions that do not include payment providers or digital wallet providers. It shows there will be significant effort required by all parties and reflects the potential risk created by manually processing each reimbursement at each handoff. The cost of these efforts will often exceed the amount a merchant will be reimbursed for a transaction.

Manual Process Flow Illustration



22. Based on the volume and complexity of the process, we estimate JPMC's acquiring business will need to hire as many as 1,100 operations analysts at an annual cost of up to **$50 million** to support this work. This presupposes that each of the 16 networks (Visa, Mastercard, American Express, Discover, Pulse, Interlink, Maestro, NYCE, ACCEL, AFFN, Shazam, STAR, Culiance, ATH, China Union Pay, Japan Credit Bureau) have developed and implemented enhancements to their own systems to receive and process these manual interchange reimbursement transactions. To my knowledge, no payment network has developed or implemented such enhancements to support a manual reimbursement process for IFPA.

23. The operational risks associated with this manual process are significant. JPMC has no systemic way to validate the accuracy of a merchant's reimbursement request since we do not receive itemized detail within existing transaction flows. JPMC will be dependent on the merchants to accurately provide transaction level detail including breakouts of the sales tax and gratuity amounts. The manual reconciliation of millions of small dollar financial transactions represents serious control risks.

24. In light of IFPA's July 1, 2025 effective date, JPMC must begin investing in those resources now. I believe that, if IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

Implementing the IFPA's data processing restrictions

25. IFPA also prescribes data usage limitations whereby the distribution, exchange, transfer, dissemination, or use of the electronic payment data by an entity other than the merchant is forbidden except to facilitate or process the electronic payment transaction or as required by law. This provision is highly ambiguous and may be interpreted in a manner that severely restricts the utilization of electronic payment data for commercially reasonable purposes by acceptable parties within the payment ecosystem. For example, should this provision be interpreted in a manner that restricts or otherwise prevents electronic payment transaction data

from being utilized for such purposes as predictive fraud monitoring, volume trending/velocity checking and merchant analysis/reporting, various parties within the payment ecosystem would be negatively impacted, including the merchants themselves.

26. This data provision is likely to necessitate changes to the networks' core rules and procedures, which must precede any action taken by acquirers or issuers.

27. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 12th day of August 2024 in Wilmington, Delaware.

EXHIBIT 10

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

ILLINOIS BANKERS ASSOCIATION, AMERICAN BANKERS ASSOCIATION, AMERICA'S CREDIT UNION and ILLINOIS CREDIT LEAGUE *Plaintiffs*, v. KWAME RAOUL, in his official capacity as Illinois Attorney General, *Defendant*.	Case No. _____ **DECLARATION OF RAJU SITAULA**

I, Raju Sitaula, hereby declare:

1. I am a Head of Business Execution and Networks – US Branded Cards & Lending at Citibank, N.A. ("CBNA") and have been employed by CBNA since 2003. I submit this declaration in further support of Plaintiffs' motion for a preliminary injunction against the Interchange Fee Prohibition Act ("IFPA").

2. I have personal knowledge of the matters set forth herein, and believe them to be true and correct based on (a) my work for CBNA, and (b) my review of relevant business records.

3. CBNA is a national bank chartered under the National Bank Act.

4. CBNA and its affiliates have two offices, more than 50 branches, and approximately 1,500 employees in Illinois, many of which are in Chicago.

5. In its capacity as an issuing bank, CBNA has more than 100 million credit and debit card accounts, including millions of accounts in Illinois.

6. CBNA cardholders who reside in Illinois engaged in hundreds of millions of credit and debit transactions in 2023, totaling more than tens of billions of dollars.

Interchange Fee Prohibition Act

7. My employment responsibilities include assisting CBNA in complying with the IFPA.

8. I understand that the IFPA is effective July 1, 2025, and that it provides for two procedures by which merchants can avoid paying interchange fees on those portions of credit or debit card transactions that reflect Illinois taxes and gratuities.

9. First, the merchant can "transmit the tax or gratuity amount data as part of the authorization or settlement process." If the merchant does so, interchange fees cannot be assessed "on the tax amount or gratuity."

10. Second, a merchant that did not follow the first procedure can nonetheless submit "the necessary tax documentation" to its acquirer, at which point the issuer must then "credit" the merchant "the amount of interchange fees charged on the tax or gratuity amount of the electronic payment transaction" within 30 days of the merchant's submission.

11. As I explain below, I believe that neither of these procedures can be implemented by July 1, 2025 without acquirers and networks first establishing the standards to facilitate the requirements of IFPA and without requiring CBNA to commit substantial financial, technological, and human resources beginning in the next few months. I also believe that these resources would be wasted if the IFPA is subsequently found unlawful (and therefore does not go into effect).

Implementing the IFPA's requirement that interchange fees not be charged when the merchant transmits the tax or gratuity amount data as part of the authorization or settlement process

12. The current process for authorizing and settling debit and credit card transactions involves thousands of issuing banks (cardholders' banks) and hundreds of acquiring banks (merchants' banks). Payment card networks like Visa and Mastercard supply the standards and technical specifications that allow the various network participants to interact seamlessly and process the transaction instantaneously whenever a cardholder presents a debit or credit card to a merchant

for payment. These specifications also enable the payment card network participants to accurately assess the interchange owed to the issuing bank in connection with each transaction.

13. CBNA has invested substantial resources to develop software, hardware, and various processes that comport with the specifications of the payment card networks. The electronic payment transaction systems at CBNA must seamlessly interface with other infrastructure dedicated to authorizing, settling, and managing transactions.

14. Currently, as an issuing bank, CBNA receives information about the amount of a credit or debit card transaction through the relevant payment card network via a message that provides a "transaction amount" field. This field reflects the full amount of the cardholder's transaction, including taxes and gratuities. "Transaction amount" is the industry standard and it serves as the basis for calculating interchange fees. CBNA systems are set up to authorize and settle transactions on the basis of the "transaction amount."

15. CBNA systems are not set up to identify components of the "transaction amount" (such as Illinois taxes and gratuities) as part of the authorization or settlement process. CBNA has not received standards or technical specifications from any payment card networks that, if implemented, would accomplish these changes. CBNA currently issues credit cards on three credit card networks, issues debit cards on two debit card networks, and would need each of these networks to provide its own standards in order for CBNA to fully update its systems for all credit and debit card transactions.

16. In the past, significant new standards and technical specifications initiated by a payment card network have required CBNA to invest substantial resources and have often taken well over a year to be implemented.

17. After a payment card network develops and provides CBNA the necessary standards and specifications, CBNA must update its own technical specifications. CBNA must also adapt its authorization and settlement systems, which facilitate receiving and settlement of the transaction including the interchange fees. Accomplishing these tasks in time to implement new (yet

to be identified) network specifications related to the IFPA before July 1, 2025 would require extraordinary financial, technological, and human resources of CBNA, if it is even possible.

18. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

Implementing the IFPA's manual process for reimbursing merchants

19. Whether or not a merchant can transmit the tax or gratuity amount data as part of the authorization or settlement process, the IFPA allows it to be reimbursed for "the amount of interchange fees charged on the tax or gratuity amount" within 30 days "after the merchant submits the necessary tax documentation" to its acquiring bank or its designee.

20. CBNA's cardholders can present their cards for payment at any of millions of merchants that accept Visa, Mastercard or American Express cards. Merchants that accept cards from CBNA's customers generally do not interact directly with CBNA or maintain a commercial relationship with CBNA. Nor does CBNA, as an issuer, have direct interactions with the hundreds of institutions that serve as acquiring banks for these millions of merchants. CBNA therefore has no procedures by which individual merchants or their acquiring banks can submit "tax documentation" directly to it. Similarly, I am not aware of any infrastructure or mechanisms from payment card networks to facilitate the transfer of this "necessary tax documentation" to CBNA from merchants' acquiring banks.

21. Assuming CBNA were to receive "tax documentation" from merchants' acquiring banks, CBNA currently does not have systems or processes for reviewing and auditing that documentation and could not reasonably guarantee any such review and processing would be completed within 30 days of the acquirer receiving the documentation as there is no requirement as to when the acquirer must forward the information to CBNA. Further, because the IFPA defines "tax documentation" to include "invoices" and "receipts," manual review of a merchant's documents could be required.

22. CBNA does not have procedures to validate and identify transactions based on invoices or receipts. Nor is it clear such tax documentation will include enough data for CBNA to identify and validate transactions even if such procedures are developed. For example, "necessary tax documentation" such as receipt copies often mask or exclude the account number and other cardholder identifying information making it extremely onerous (if even possible) to identify which CBNA account was used to complete the transaction and, in some cases, whether it was even a CBNA card that was used. If unable to identify the account associated with the receipt, CBNA will be unable to even start the process of interchange reimbursements. Further, not all receipts or other "necessary tax documentation" provide a complete breakdown of the tax or gratuity assessed, especially for excise taxes, which are bundled into the price of a product rather than being separately broken out.

23. CBNA does not have procedures for resolving disputes with individual merchants in connection with interchange reimbursement. Nor has it negotiated interchange-reimbursement dispute resolution procedures with hundreds of acquiring banks that may be servicing those merchants.

24. CBNA also does not have procedures for reimbursing interchange fees directly to merchants, with whom, again, it generally does not maintain commercial relationships as an issuer. Nor has it established protocols for interchange reimbursements with the hundreds of acquiring banks that may be servicing those merchants.

25. CBNA does not have any procedures to address card transactions that result in refunds or disputes after CBNA has already issued interchange credit to merchants. Nor does CBNA have negotiated protocols with merchants for how interchange reimbursements will be paid back for refunded or disputed transactions.

26. A manual process, if it is even possible, will require, at a minimum, building new systems and processes and hiring and training hundreds, if not thousands, of new employees for reviewing and processing of tax documentation. I estimate that CBNA will have to invest tens of millions to accomplish these tasks. In light of the IFPA's July 1, 2025 effective date, CBNA must

begin investing resources in the next few months. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

27. In order to accomplish these tasks, CBNA will also likely have to divert resources from other tasks designed to maintain and improve its electronic payment transaction systems, products, and customer experience. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments would have been foregone for no purpose.

Implementing the IFPA's data processing restrictions

28. The IFPA also provides that an "entity, other than the merchant, involved in facilitating or processing an electronic payment transaction . . . may not distribute, exchange, transfer, disseminate, or use the electronic payment transaction data except to facilitate or process the electronic payment transaction or as required by law."

29. CBNA currently uses electronic payment transaction data from transactions that occur in Illinois for many purposes beyond processing the transaction, to benefit and protect our cardholders. Those purposes include providing fraud protection, anti-money laundering monitoring, credit risk management and reward programs for our cardholders. These uses of electronic payment transaction data are essential to managing electronic payment cards, the integrity and safety of the payment card network and benefit customers, CBNA and merchants alike.

30. CBNA does not have a system for segregating electronic payment transaction data based on the location of the cardholder's transaction or for providing fraud protection without using historical electronic payment transaction data. I estimate that CBNA will have to invest millions of dollars in 2024 to begin developing systems and processes to segregate and limit its use of electronic payment transaction data from transactions that occur in Illinois.

31. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

32. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 13th day of August 2024.

Raju Sitaula, Head of Business Execution and Networks – US Branded Cards & Lending
Citibank, N.A.

EXHIBIT 11

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

ILLINOIS BANKERS ASSOCIATION, AMERICAN BANKERS' ASSOCIATION, AMERICA'S CREDIT UNIONS, and ILLINOIS CREDIT UNION LEAGUE, *Plaintiffs*, v. KWAME RAOUL, in his official capacity as Illinois Attorney General, *Defendant.*	Case No. _____ **DECLARATION OF JONETTE SULLIVAN**

I, Jonette Sullivan, hereby declare:

1. I am a Managing Director and the Head of Merchant Services at Wells Fargo Bank, N.A. ("WFB," "Wells Fargo," or "the Bank"), and have been employed by the Bank since 2021. I submit this declaration in further support of plaintiffs' motion for a preliminary injunction against the Interchange Fee Prohibition Act ("IFPA").

2. I have personal knowledge of the matters set forth herein and believe them to be true and correct based on (a) my work for the Bank, and (b) my review of relevant business records.

3. The following was prepared without knowledge or awareness of the changes to the technology, processes, and operations the payment card networks (such as Visa and Mastercard) may make, if any, in connection with the requirements of the IFPA, or how the language of the statute may be interpreted after its effective date.

4. WFB is a national bank chartered under the National Bank Act and regulated by the Office of the Comptroller of the Currency. In terms of Illinois presence, Wells Fargo has 13 branches and employs more than 1,900 people in Illinois. In October 2023, the Bank announced an expected expansion of its retail branch footprint in Chicago to at least 30 branches in the coming

years. The new bank branches are expected to bring nearly 200 job opportunities and will be in and around downtown and in historically underinvested areas.

5. The Bank conducts its merchant services acquiring business through Wells Fargo Merchant Services, LLC, which is majority-owned by WFB. In its capacity as an acquiring bank, WFB facilitates transactions for hundreds of merchants with which the Bank has a direct relationship and thousands more via sponsorship relationships in Illinois. Many of these merchants are in Chicago. Additionally, in 2023 the Bank facilitated millions of credit and debit card transactions for Illinois merchants, exceeding 80,000 transactions per day. These credit and debit card transactions represent the customers of more than 4,000 unique bank issuers.

6. In its capacity as an issuing bank, the Bank has tens of millions of credit and debit cardholders, including over 400,000 in Illinois. In 2023, the Bank had more than 80 million debit and credit transactions in Illinois among cardholders located within the state. Importantly, this number includes an estimate of non-Illinois based merchants (some of which may be WFB's merchants but the vast majority of which are merchants which have relationships with other acquirers) where Illinois residents or visitors purchase goods online and such transactions are assessed Illinois state, or even local and excise, taxes (e.g. purchases from large online retailers).

Interchange Fee Prohibition Act

7. My employment responsibilities include assisting the Bank in preparing to comply with components of the IFPA, which prohibits banks, payment networks, and payment processors from receiving or charging interchange fees on state and local taxes (including excise) and gratuities. The IFPA contemplates an automated process by which a merchant will not be assessed interchange on the newly exempt portions of a transaction, as well as a manual process by which a merchant can request a refund of that portion of any interchange fee charged by the acquirer, set by the networks, and given to the issuer. The refund is to be requested by the merchant from the acquiring bank but is paid by the cardholder's issuing bank for each transaction.

8. As I explain below, I am concerned by the IFPA because the law i) does not account for the complex reality of payments systems and the roles of the various participants, ii) has introduced a very high level of technological and operational burdens with multiple layers of complexity for all participants, including merchants, and iii) requires all participants to immediately develop and implement a fully-compliant solution by July 1, 2025. Further, the IFPA's broad definition of state and local taxes across hundreds of jurisdictions creates additional complexity and additional burden to achieving compliance.

9. Taken as a whole, implementation of the IFPA will have myriad significant impacts on the Bank and its respective lines of business. Even with the Bank's best efforts and commitment of massive financial, technological, and human resources very soon, compliance with the law as written will be incredibly challenging, in part because the payment networks must decide how to respond to the law before the Bank can fully assess how to implement each network's requirements. The outsized burdens of the law create extraordinary economic and operational challenges to the acquiring business in the state of Illinois and card issuing business related to transactions conducted at any merchant in the state of Illinois, not limited to WFB's merchant customers. Moreover, these investments and human resources will be entirely wasted if the IFPA is subsequently found unlawful.

10. There are two methods for merchants to not pay interchange under the IFPA. First, the merchant can "transmit the tax or gratuity amount data as part of the authorization or settlement process." If the merchant does so, interchange fees cannot be assessed "on the tax amount or gratuity." This is described below as the "Automated Process."

11. Second, a merchant that did not follow the first procedure can nonetheless submit "the necessary tax documentation," and then must be "credit[ed]" within 30 days "the amount of interchange fees charged on the tax or gratuity amount of the electronic payment transaction." This is described below as the "Manual Process."

12. Payment networks, broadly, define the electronic transaction message set required to process transactions. These technology specifications are unique to each network, not

only the four major brands (Visa, MasterCard, American Express and Discover) but also the ten PIN debit networks as well. Merchants, acquirers and issuers must make their systems conform to those specifications for the entire ecosystem to work seamlessly. Neither issuers nor acquirers establish electronic transaction specifications used in a payment card transaction.

13. The Bank is either a direct member or an authorized participant for all major credit and debit payment networks and would need each of these networks to provide its own standards for the Bank to fully update its issuing and acquiring systems for all credit and debit card transactions.

Implementing the IFPA's requirement that interchange fees will not be charged when the merchant transmits the tax or gratuity amount data as part of the authorization or settlement process (Automated Process)

14. The current process for authorizing and settling debit and credit card transactions involves thousands of issuing banks (cardholders' banks) and hundreds of acquiring banks (merchants' banks). Payment card networks supply the technical standards, rules and operating regulations that allow merchants, point-of-sale providers, acquirers, and issuers to interact seamlessly and process the transaction instantaneously when a cardholder presents a debit or credit card to a merchant for payment. These specifications also enable the appropriate payment card network participants (acquirers and their processors) to accurately assess the network interchange rate/fee that is owed by the acquiring bank to the issuing bank in connection with each transaction. Thus, when WFB serves merchants as an acquiring bank, these specifications allow it to process transactions at those merchants by cardholders from thousands of issuing banks that participate in the same network without needing to interact directly.

15. The Bank has invested substantial resources to develop software, hardware, and various processes that comport with the specifications of the various payment card networks, specifically infrastructure dedicated to authorizing and settling transactions—including the merchants' point-of-sale terminals where consumers swipe, insert, or tap their credit or debit cards to initiate a transaction.

16. Currently, when acting as an acquiring bank, WFB receives and transmits information about the credit or debit card transaction using a "transaction amount" field. This field reflects the full amount of the cardholder's transaction, including taxes and gratuities, and represents the amount that will appear on the cardholder's statement and is the basis for the amount issuers will pay to the Bank who will then pay the merchant. "Transaction amount" is the industry standard and it is one of the principal factors in calculating interchange fees. The Bank's systems are set up to authorize and settle transactions based on the single field "transaction amount." There is no additional field in the payment card networks' electronic transaction specification for "tax and gratuities" that is validated and used for the calculation of interchange and therefore there is no additional field for such data within the Bank's systems.

17. I am not aware of any existing payment network standards or technical specifications that that would permit the Bank to identify these components on consumer card transactions, much less do so in a way that interfaces with point-of-sale terminals at hundreds of Illinois merchants the Bank serves, or with approximately 4,000 banks that issue cards to those merchants' customers. The Bank's systems are simply not designed to identify the individual components of the "transaction amount" (such as Illinois taxes and gratuities) as part of the authorization or settlement process, so that these components could be excluded from the calculation of interchange fees, which raises the stark question of how the automated process option could be operationally viable for the Bank in the current system. Moreover, the Bank has not received any standards or technical specifications from the payment card networks—nor do I believe that any such standards exist—that would allow a merchant to directly disaggregate the transaction amount.

18. These standards will be incredibly challenging to develop. For example, the IFPA defines "tax" as "any use and occupation tax or excise tax imposed by the State or a unit of local government in the State." However, Illinois has hundreds of local jurisdictions that could each impose several different taxes even at the local level and excise taxes are often embedded in the actual price of the good being purchased. I am not aware of networks or any other participant in the payment

system having developed standards and specifications to accommodate this complex taxation scheme. The Bank itself has no process whereby it can house, validate, continually monitor, and revise all state and local tax structures, including excise, such that it can ensure a transaction is appropriately processing the actual amount of the actual goods or services purchased and the amount of the various taxes separately.

19. Even assuming such standards and specifications did exist, in the past when far less substantial changes have been initiated by a payment card network, implementing them has required the Bank, merchants, point-of-sale providers, and issuers to invest substantial resources; and the implementation processes have often taken well over a year to complete. All payment networks have regularly scheduled technology and product changes. These changes are issued in technical letters, with detailed requirements, to all members and processors in the ecosystem at least six months in advance of implementation. Changes as significant as those required by the IFPA would be rolled out over several releases and technology solutions discussed in open forums to assess timing and feasibility for all participants in the payment system, as well as to test the solutions to ensure they function properly.

20. Only after a payment card network developed and provided the Bank with the necessary standards and specifications, would the Bank be able to update its own technical specifications. At that point, the Bank would also need to adapt its pricing, billing and settlement systems, which facilitate calculating and settling interchange fees.

21. Additionally, the Bank's merchant customers will likely need to expend substantial resources and incur potentially significant costs to replace the technology they use to process credit and debit card transactions today. I do not believe that point-of-sale terminals for the Bank's merchant customers are set up in a way that would allow them to isolate the tax or gratuity amount data as part of the authorization or settlement process.

22. Based on the foregoing, and in part given the need for action by others in the payment system both before and after the Bank acts, it is unlikely that the automated process will be a feasible option by July 1, 2025.

Implementing the IFPA's manual process for reimbursing merchants (Manual Process)

23. The manual process option in the IFPA neither accurately nor adequately reflects the roles of the participants in the payment ecosystem that currently enable consumers to easily complete electronic transactions. Under the manual process option, the IFPA requires a merchant to be reimbursed for "the amount of interchange fees charged on the tax or gratuity amount" within 30 days "after the merchant submits the necessary tax documentation." Given the seeming nonviability of the automated process option as described above, the manual process will likely be the sole way in which merchants seek reimbursement for interchange fees on Illinois taxes and gratuities when the IFPA becomes effective on July 1, 2025.

24. Currently, there is no mechanism for acquiring banks and issuing banks to interact with each other to effectuate the refunds manually in the manner apparently contemplated by the IFPA. What is contemplated by the IFPA is outside and in conflict with existing payment network standards, rules, and operating regulations (e.g., cardholder dispute process). While some acquiring banks are also issuing banks, the vast majority of transactions conducted in Illinois involve separate issuing and acquiring banks. Any cardholder from any issuing bank worldwide can present a debit or credit card for electronic payment to be processed at an Illinois merchant or any merchant outside of Illinois shipping to Illinois that processes transactions through an acquiring bank that participates in the same network. There is no separate clearinghouse or other mechanism for issuing banks and acquiring banks to perform any of the manual reimbursement tasks required by the IFPA. Moreover, issuers do not generally have direct relationships with merchants to provide the requested refunds even if they were able to calculate the amount.

25. The IFPA's manual process option is thus at odds with the "four-party model" of the payment network. Under that model, merchants have relationships with their acquiring banks; acquiring banks have relationships with networks; networks have relationships with issuing banks; and by extension cardholders. But the IFPA requires issuers and acquirers to exchange information, and issuers and merchants to exchange funds, without itself providing any infrastructure through which these parties can meet the law's requirements.

26. In addition, the IFPA defines "tax documentation" broadly, including "but not limited to, invoices, receipts, journals, ledgers and tax returns." But many documents that fall into these categories may not identify the cardholder, cardholder's 16-digit credit or debit card number, the transaction amount and the tax amount associated with the transaction. For the Bank to adequately and effectively manage its risk, the Bank would need to verify that the provided documentation is both accurate and provides enough information to determine i) the amount of gratuity and taxes paid, including excise; and ii) the interchange fee on each transaction. Neither of these facts will necessarily be readily apparent from many of the documents permitted under the law.

27. Effective implementation of the IFPA's manual process, if it is possible, would first require mandated implementation of standards by the payment networks and subsequent consultation with all parties in the ecosystem. Experience tells me that changes of this magnitude require years to complete.

28. In its capacity as an acquiring bank, WFB currently does not have systems or processes to support the manual process option for: receiving and processing "tax documentation" from individual merchants, reviewing and auditing that documentation, calculating interchange fee reimbursements for hundreds of thousands of transactions from thousands of issuing banks whose cardholders may have been involved in the transaction, submitting requests for reimbursements to the thousands of issuing banks for refund, or resolving disputes among the relevant parties. Additionally, while the IFPA permits merchants to request reimbursement within 180 days of the transaction, nothing precludes merchants from submitting daily receipts placing an immense burden on acquirers and issuers to review, calculate, verify and reimburse merchants daily. If a merchant were to pursue such an approach, the work required would increase by orders of magnitude for all parties. Within the four-party model, payment networks would typically outline appropriate timing and rules of engagement between all parties. With the manual process, standards regarding timing and rules of engagement would all need to be created for the first time.

29. Similarly, in its capacity as an issuing bank, WFB does not have systems or processes for: managing or auditing any requests received from acquiring banks for individual merchants seeking reimbursements, providing interchange fee reimbursements to merchants seeking reimbursements (with most of which the Bank has no direct relationship to effectuate such payments), or resolving disputes among the relevant parties. These processes would also need to be created for the first time.

30. As noted above, IFPA's broad definition of "tax documentation" creates significant operational challenges for the Bank's issuing businesses. As previously mentioned, there are currently no standards in place for the merchant requests or communication between issuers and acquirers directly, and so there is no guarantee that all acquiring banks will provide a common data set for the issuing banks to refund merchants with whom they have no relationship. There is also no deadline for acquiring banks to provide information about requested refunds to issuing banks; there is only a 30-day deadline for the issuing bank to provide a refund after the *acquirer* receives the relevant "tax documentation." Accordingly, some acquiring banks may simply pass the refund request itself to the issuer, while others could spend 28 of the 30 days before the refund deadline determining the refund amount before sending the refund request to the issuing bank, which would then have to revalidate the transaction information and provide the refund to the merchant. Within the four-party model, payment networks would typically outline appropriate timing and rules of engagement between all parties in order to facilitate a seamless process between all parties. Considering the volume of transactions processed by the Bank for Illinois merchants daily, this unpredictable process will create extraordinary operational challenges.

31. With respect to cardholder disputes, I am concerned that the mismatch between the time the IFPA allows for merchants to submit tax documentation (180 days post-transaction) and the payment-network established time limits for consumer transaction disputes (e.g., chargebacks) poses additional complexity to the calculation of rebates owed. Acquirers and issuers will not only have to review documentation provided by merchants, but also reconcile those requests with trailing activity to ensure that no party is either paying or receiving more monies

than they are properly due, as could be the case if the underlying transaction involved merchandise that was subsequently returned or was fraudulent in the first place.

32. The impact of the IFPA in terms of the resource and financial burden on the Bank is extraordinary. To even attempt to comply with the manual process, I estimate that the Bank will have to begin investing tens of millions of dollars very soon to develop the systems and processes as detailed herein. I also estimate that, in the absence of guidance and assistance from the networks, the Bank may need to hire (or divert from other tasks) and train thousands of employees just to develop the infrastructure and operate the manual processes across our acquiring and issuing businesses. Considering the IFPA's July 1, 2025 effective date, the Bank must begin investing in those resources very soon.

33. Given the foregoing dependencies, operational incompatibilities, staffing needs, and economic burdens, the IFPA will impose very large near-term personnel, technology, and economic burdens on the Bank.

Implementing the IFPA's data use restrictions

34. The IFPA's data restriction provisions will separately create an additional significant technological and resource burden—if even possible to implement. The Bank currently uses electronic payment transaction data from transactions that occur in Illinois for many permissible and essential purposes beyond processing the transaction, including transaction monitoring and analysis for the purposes of preventing fraud, analysis of the performance of the Bank's overall business, acquisition and attrition trending, processing and monitoring cardholder disputes, and performing any other internal analysis necessary for the safety and soundness of our businesses, including reporting requirements to the payment networks. The Bank also uses transaction data for its rewards programs to calculate points or cash back offers to its cardholders—consistent with rewards program disclosures and market and customer expectations.

35. The Bank uses electronic payment transaction data to create fraud models in order to spot concerning, potentially illicit activity, for financial reporting, and to administer

card rewards programs. In order to comply with the IFPA, the Bank would need to be able to isolate Illinois data, but the Bank does not have a system for segregating electronic payment transaction data based on the transaction location. I estimate that the Bank will have to make substantial and costly changes, if even technically and operationally feasible, to begin developing systems and processes to segregate and prevent the use of electronic payment transaction data from transactions that occur in Illinois to support existing processes required by the payment network rules.

36. The work required to isolate and exclude Illinois transaction data from fraud/risk models along with other systems/uses permitted under current payment network standards would be significant and far reaching. All systems within the acquiring, debit issuing, and credit issuing lines of business would have to be evaluated and Illinois transaction data specifically excluded. These systems would include fraud and risk monitoring, which could reduce the efficacy of the models, driving additional risk for all parties, including cardholders, merchants, and the Bank. Other applications and business practices impacted could include performance reporting/trend analysis, financial reporting/analysis, customer insights, personalization, market research and more, including the ability to offer cash back rewards to cardholders for purchases in the state of Illinois.

37. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 14 day of August 2024 in Des Moines, Iowa.

Jonette Sullivan

EXHIBIT 12

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

ILLINOIS BANKERS ASSOCIATION, AMERICAN BANKERS ASSOCIATION, AMERICA'S CREDIT UNIONS, and ILLINOIS CREDIT UNION LEAGUE, Plaintiffs, v. KWAME RAOUL, in his official capacity as the Attorney General of Illinois, Defendant.	Case No: XX-cv-XXXX

DECLARATION OF CHIRO AIKAT IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

I, Chiro Aikat, provide this declaration in support of the Plaintiffs' Motion for Preliminary Injunction. I have personal knowledge of the facts set forth in this declaration, and am familiar with matters at issue in this case, and if called to testify to them would do so.

BACKGROUND

1. I submit this declaration to explain how the global payment card network operated by Mastercard International Incorporated ("Mastercard") works today, to explain how that global network would have to be modified to accommodate the requirements of the Illinois Interchange Fee Prohibition Act ("IFPA" or the "Act"), and to voice concern about the significant harms that the IFPA would cause to Mastercard and network participants if it is permitted to take effect.

2. I am Co-President, United States, for Mastercard. My responsibilities include oversight of Mastercard's payment card acceptance business activities in the United States. In my role, I engage with merchants, acquiring banks, governments, processors, and fintechs. Throughout my two decades at Mastercard, I have played an integral role in helping customers implement a wide range of products and programs across the U.S. market. Previously, I led the U.S. market development and product and engineering teams, where I focused on management of the company's priority initiatives in North America, including cyber security services. I also helped lead a team that co-created and customized solutions for some of the largest issuing banks across the globe. Earlier in my career, I was part of the leadership effort to migrate the U.S. market to payment cards that include a micro-processing (EMV) chip as well as the introduction of contactless payments in North America. I hold a Bachelor of Science in Business Administration from Saint Louis University.

3. Mastercard operates a global payment card network that facilitates and processes credit, debit and prepaid card transactions initiated by cardholders to purchase goods and services from Mastercard-accepting merchants. For more than 50 years, Mastercard has developed and maintained the physical infrastructure to authorize, clear, and settle payment card transactions initiated by cardholders.

4. Mastercard has established network procedures and rules to ensure that transactions among millions of distinct merchants and financial institutions can be made quickly and efficiently. Mastercard also makes rules, policies and standards for participants in the network, and facilitates the authorization, clearing, and settlement of payment card transactions and other functions such as fraud detection and prevention.

5. Mastercard contracts with financial institutions, referred to interchangeably as "issuing banks" or "issuers," that issue Mastercard-branded credit, debit or prepaid cards to consumers, businesses and others. Separately, Mastercard contracts with financial institutions, referred to interchangeably as "acquiring banks" or "acquirers," that contract with merchants to accept Mastercard-branded payment cards.

6. The Mastercard network facilitates the electronic transfer of data and funds among merchants, acquirers, and issuers when credit, debit and prepaid cards are used to make purchases.

7. When a cardholder uses a Mastercard payment card to make a purchase from a merchant, the acquirer transmits information about the purchase through the network to the issuer of the card and requests the issuer's authorization for the transaction. If the issuer authorizes (or approves) the transaction, the merchant may complete the transaction in seconds.

8. The Mastercard network clears the transaction by sending a transaction record (*i.e.*, financial transaction details) to the issuing bank and settles the transaction by facilitating the transfer of funds from the issuing bank to the acquiring bank. The acquiring bank pays settlement funds to the merchant in accordance with the terms of the contract between the acquiring bank and the merchant.

9. The issuer then typically bills the cardholder in the case of credit card transactions, or subtracts the funds directly from a deposit account or prepaid account in the case of debit or prepaid card transactions.

10. Mastercard operates a "four-party" network in which merchant acquiring and cardholder issuing activities are performed by financial institutions that are separate from the payment card network operator, but which contract directly with the network operator.

11. Four-party payment card systems involve issuing banks, acquiring banks, and the payment card network operators, who collectively provide services to merchants and cardholders.

12. In these systems, issuing banks market cards to prospective cardholders, and then issue cards to acceptable cardholders that agree to the issuer's terms and conditions. Issuers bear the risk that cardholders do not pay their account balances.

13. Acquiring banks recruit merchants to accept cards and reimburse merchants for transactions made using cards. They bear the risk that merchants do not pay amounts that they owe, for example due to cardholder disputes that are resolved between the issuing banks and acquiring banks through the Mastercard payment network (so-called chargebacks). Acquirers in turn obtain reimbursement for those transactions from issuers through the network.

14. Network operators such as Mastercard connect acquirers and issuers (and, indirectly, cardholders and merchants) and provide the infrastructure for processing payments, including the associated rules and fees for acquirers and issuers that choose to join the network.

15. A central purpose of the Mastercard network is to provide the technological and organizational infrastructure for debit, credit and prepaid transactions to occur. This involves not only organizing the physical and technological infrastructure through which transactions are processed, but also the organizational infrastructure necessary to manage the interests of the Mastercard network's participants. Both are necessary for Mastercard to work efficiently, and create value for its ultimate users, cardholders and merchants.

16. In addition to performing routine network functions to process payments, including transaction authorization and clearing and settlement, Mastercard creates value for its ultimate

users—cardholders and merchants—by establishing and enforcing rules to govern the system's operation.

17. Mastercard also provides advertising, statistical analysis, industry studies, and advisory and other services, and promotes innovation and infrastructure improvements.

18. Finally, Mastercard assists in the handling of post-sale issues, such as chargebacks.

19. Mastercard (and other four-party network operators) obtain revenues for payment card network services through fees collected from issuers and acquirers.

20. Acquiring banks contract with merchants for processing and paying for card transaction services. These services include capturing sales information from the merchant, obtaining authorization for the transaction, paying the merchant for card receipts and collecting funds from the issuing bank. Acquiring banks also manage the chargeback process with merchants and ultimately may be liable to the issuer for the chargeback amount if the merchant is unable (or unwilling) to pay. Acquiring banks may use service providers to assist with sales, services and payment processing provided to merchants. Acquirers charge the merchant a "merchant discount fee" for acquired transactions and pay "interchange" to issuers on these transactions. Merchants also commonly contract with payment processors that assist merchants with the technology and processes necessary to integrate with acquiring banks (or acquiring banks' payment processors).

21. Issuers recruit, screen and contract with prospective cardholders. Issuers also provide credit lines to cardholders for credit cards. Issuers compete for cardholders on various dimensions including fees, rewards, finance charges, and other card features.

22. The cardholder's agreement with the issuer sets out the terms of their contractual relationship, including annual fees (if any), finance charges, and other fees, such as cash-

advance and over-the-limit fees. The cardholder agreement also specifies the benefits that the issuer will provide, such as fee rebates, rewards, or discounts, as well as insurance, dispute resolution, and other features.

23. Merchants whose transactions are processed through a payment card network agree to accept cards with that network's mark and to seek reimbursement for card transactions from their acquirer, less the merchant discount fee. The merchant discount fee is specified in the merchant's contract with the acquirer and usually is expressed as a percentage (typically in the range of one to three percent) of the purchase amount, possibly with a minimum amount. The merchant discount fee can cover fees that the acquirer pays the network and interchange fees that the acquirer pays to issuers. Merchants generally have no direct contractual relationship with issuers or networks for transaction authorization, clearing or settlement. Some merchants have contracts with issuers in relation to branding arrangements (e.g., airline cards) or other marketing arrangements.

24. Mastercard receives per-transaction network fees from both issuers and acquirers. These fees represent the vast majority of Mastercard's revenue and compensate it for providing services that make the payment system attractive to merchants, acquirers, cardholders and issuers through safety, security, convenience and economic certainty.

25. Issuers receive per-transaction interchange fees paid by acquirers. Mastercard sets a schedule of default interchange rates that apply to transactions, unless the issuing bank or Mastercard has negotiated a different interchange rate with the merchant. Interchange fees apply to the all-in purchase amount paid by the cardholder, inclusive of any tax and gratuity amount.

26. In sum, Mastercard is at the center of the payment system. Mastercard supplies the infrastructure hardware, software, protocols, and rules that enable instantaneous, secure payments for transactions between millions of cardholders and merchants across the globe. It contracts with issuers, which in turn contract with and issue cards to cardholders; it contracts with acquirers, which in turn contract with merchants and provide them access to the payment system. Mastercard also promulgates rules that protect the value of the Mastercard brand, advance the security of payment card transactions, encourage merchants to accept Mastercard payment cards, and encourage cardholders to use Mastercard payment cards.

27. I am familiar with the IFPA, which appears as Article 150 of the Illinois Legislature's omnibus budget bill, H.R. 4951. I understand the IFPA to broadly prohibit the charging of interchange fees on the state and local tax and gratuity portion of any Illinois electronic payment transaction (the "Interchange Prohibition"), IFPA § 150-10(a), and to establish a mechanism for refunding the portion of interchange fees applied to these taxes and gratuity (the "Interchange Rebate"). IFPA §150-10(b). I also understand the IFPA to prohibit entities like Mastercard from using the data from Illinois transactions for any purpose except facilitating and processing the transaction itself, the refunding of interchange fees applied to tax and gratuity pursuant to the Act, and such other uses as are required by law (the "Data Use Prohibition"). IFPA § 150-15(b). I understand that the IFPA has an effective date of July 1, 2025.

28. The text of the IFPA does not specify the intended scope of the transactions to which the law applies. However, I understand the Act's terms to apply to covered transactions involving non-Illinois cardholders, both foreign and domestic (*e.g.*, a traveler from St. Louis or Mumbai who is visiting Chicago) and to apply to non-Illinois issuing and acquiring banks,

both foreign and domestic (*e.g.*, a bank in Missouri or India that issues a card to the hypothetical St. Louis or Mumbai traveler and a bank in Wisconsin that contracts to provide acquiring services to an Illinois merchant).

29. As I explain below, each of the IFPA's substantive provisions would impose extraordinary demands on Mastercard. Moreover, Mastercard would need significant lead-time and would be forced to make many of millions of dollars in upfront investments to reconfigure its systems to meet Illinois' novel demands. To my understanding, those expenditures would not be recoverable from Illinois, which is shielded by sovereign immunity, if the IFPA is subsequently invalidated by a court.

THE IFPA'S IMPLICATIONS FOR THE MASTERCARD PAYMENT CARD NETWORK

Section 150-10(a) of the IFPA Would Require Mastercard to Make Significant Changes to its Systems for Clearing and Settling Payment Transactions

30. Section 150-10(a) presupposes that Illinois merchants would be using a system that does not currently exist within the Mastercard network.

31. Specifically, Section 150-10(a) provides that these entities "may not receive or charge a merchant any interchange fee on the tax amount or gratuity of an electronic a payment transaction if the merchant informs the acquirer bank or its designee of the tax or gratuity amount as part of the authorization or settlement process for the electronic payment transaction." The same provision further states that "[t]he merchant must transmit the tax or gratuity amount data as part of the authorization or settlement process to avoid being charged interchange fees on the tax or gratuity amount of an electronic payment transaction."

32. At present, however, Mastercard's payment card network does not have the capacity to differentiate between the tax and gratuity amounts and other amounts that make up

the whole amount of the transaction. In the case of the tax amount, Mastercard would need to create new data fields and processes; in the case of the gratuity, Mastercard would need to create new processes. In either case, Mastercard would have to create that functionality in order for Section 150-10(a) to work as it is described in the text of the law.

33. Mastercard's present estimate is that it would cost millions of dollars in technical work alone for Mastercard to develop a system for real-time exclusion of tax and gratuity amounts from the processing of interchange fees. Mastercard does not believe that the July 2025 effective date provides sufficient time for it to develop the necessary technological and standards changes (including the necessary cooperation with U.S. and international standards organizations) and then for acquiring banks and others throughout the payment system to take steps of their own to implement those changes. Even if Mastercard were to develop a system to process the exclusion in real-time (*i.e.*, at the point of sale), that system will not work unless Illinois merchants also make significant upfront investments in their own systems so that they can, in the IFPA's language, "transmit the tax or gratuity amount data as part of the authorization or settlement process to avoid being charged interchange fees on the tax or gratuity amount of an electronic payment transaction."

34. Mastercard operates in over 200 countries and territories worldwide. The Interchange Prohibition is a first-of-its kind provision that has not been enacted by any other jurisdiction in the United States or elsewhere.

35. In general (*i.e.*, under the status quo), when Mastercard processes a payment transaction in real-time, it receives only a single transaction amount (representing the entire amount charged to the card) from the acquirer. Interchange applies to this undivided amount. To comply with the Interchange Prohibition, Mastercard would have to incur significant costs

to update its coding and transaction logic to parse out and exclude tax and gratuity from the total transaction amount for transactions at Illinois merchants and then apply the interchange calculation to the portion of the Illinois merchant transactions that excludes tax and gratuity.

36. As part of that process, Mastercard would have to modify its systems and also adopt new technical standards and rules for transmission of transaction data across its network, then push those new standards and rules out to issuing and acquiring banks.

37. Moreover, to ensure uniformity and interoperability of the card acceptance process for Illinois merchants, the technical standards to be used by Mastercard would need to be agreed among various interested parties, including several payment card networks that operate credit, debit and prepaid systems.

38. Only once the issuing banks, acquiring banks and various payment processors receive Mastercard's technical standards and rules for data transmission could these parties make their own updates to align their systems with Mastercard's and then conduct testing to determine that the purpose of the updates has in fact been achieved through the system updates.

39. It is also important to understand that Mastercard's significant effort and expenditure in creating a new process for disaggregating tax and gratuity amounts from the overall purchase amount will be largely fruitless unless merchants make upfront investments of their own. Put simply, it will not matter that Mastercard's systems can receive and process disaggregated tax and gratuity information unless merchants send disaggregated tax and gratuity information in their authorization messages. And, to send transaction authorization information in the disaggregated real-time format contemplated by Section 150-10(a), merchants would need to reformat and recode their own systems, and potentially upgrade

point-of-sale terminals, either relying on their own in-house expertise or on third-party vendors. The IFPA does not require them to do so.

40. Small merchants, in particular, are unlikely to incur these costs, and may have difficulty identifying vendors willing and able to implement those changes in the short term.

Section 150-10(b) of the IFPA Would Require Mastercard to Establish an Enormously Costly and Time-Consuming Manual Process to Facilitate the Retroactive Rebate of Interchange Fees by Issuing Banks.

41. The IFPA also allows merchants that do not provide tax and gratuity amounts in real time, as the transaction is being authorized, to seek a rebate of interchange fee amounts after the fact.

42. Specifically, Section 150-10(b) allows a merchant to submit "tax documentation" to the acquiring bank or its designee within 180 days of a transaction. Within 30 days of when the acquiring bank or its designee receives that tax information, "the issuer must credit to the merchant the amount of interchange fees charged on the tax or gratuity amount of the electronic payment transaction." IFPA § 150-10(b).

43. The IFPA does not specify how the "tax documentation" information should move between the acquiring bank (which receives the information) and the issuing bank (which must, swiftly, rebate appropriate interchange fees). The definition of "tax documentation" provided by the statute is broad. IFPA § 150-5 ("Examples of tax documentation include, but are not limited to, invoices, receipts, journals, ledgers, and tax returns filed with the Department of Revenue or local taxing authorities."). The IFPA also does not specify how the acquiring bank will even identify the correct issuing bank. The statute's text seems to contemplate that the information that a merchant possesses, such as what it can identify from receipt or ledger, specifying the amount of tax and gratuity, will be sufficient for the acquiring bank to determine

which issuing bank was involved in the transaction. In nearly all circumstances, however, that will not be true. This is because modern payment card transaction receipts include only a truncated payment card number, specifically the last four digits of the 16-digit payment card number, to minimize the risk of payment card number theft (and as specifically permitted by applicable banking law). But, the issuer of a payment card is not identifiable from the last four digits. Rather, it is the first six digits of a payment card number that identify the issuing bank.

44. The Interchange Rebate provision contemplates that Illinois merchants may claim a rebate on interchange by transmitting "tax documentation" – perhaps entire boxes of receipts – to acquirers or their designees within 180 days of a transaction. The transmission of "tax documentation" then triggers an obligation of issuer banks to rebate interchange charged on tax and gratuity portions of those transactions within 30 days.

45. That statutory structure creates a practical problem that the statute itself does nothing to resolve. The acquiring banks will receive the tax documentation, but will not owe the rebate. The issuing banks will owe the rebate, but will not receive the tax documentation.

46. Some of the more than 15,500 banks that participate in the Mastercard payment card network may seek to resolve this problem on their own. Others may seek the help of Mastercard, even though the IFPA does not require payment card networks to participate in the manual Interchange Rebate process. To the extent certain banks request that Mastercard use its network infrastructure to help facilitate the manual process, Mastercard expects many of the necessary technological and standards changes to be significantly more complex than those required to facilitate Section 150-10(a), and does not expect that they can be achieved by July 2025, if they can be achieved at all.

47. For one, my present understanding is that there is no feasible way to automate the task, in significant part because the law allows a merchant to provide information necessary to process the interchange rebate in any form, so long as it is "sufficient for the payment card network to determine the total amount of the electronic payment transaction and the tax or gratuity amount of the transaction." IFPA § 150-5 (defining "Tax Documentation"). "[I]nvoices" and "receipts" explicitly qualify. *Id.* And as common experience demonstrates, merchant invoices and receipts vary greatly in size, format, and detail.

48. Consequently, to facilitate the Interchange Rebate, Mastercard would need to establish a highly manual process for processing whatever paperwork any merchant in Illinois chooses to remit to its acquirer. This is a staggering task, particularly because, accounting for only domestic banks, there are thousands of banks and credit unions that could be implicated as either issuer or acquirer for any one transaction. Raising the scope to a global level could pull in thousands more additional issuers.

49. Moreover, merchant receipts that a merchant provides to its acquirer and that the acquirer provides to Mastercard will include only the last four digits of the card number, so they will need to be matched to issuing banks without the benefit of the portion of the 16-digit card number that identifies the issuing bank. At present, it is not clear how Mastercard would reasonably be able to do this for a large number of Illinois merchant transactions.

50. While each full 16-digit card number is unique, the last four digits alone are not unique. Consequently, Mastercard would need to use the name of the merchant, the transaction amount and the date that are printed on the receipt to *manually* perform a search in its records for a transaction authorization message record that matches those data elements. If the authorization message record could be identified, Mastercard would have to use the

authorization message record to find the corresponding clearing message record, because the clearing message record indicates the interchange that applied to the transaction. Then Mastercard would have to calculate the rebate based on the identified interchange, the transaction amount and the tax and gratuity amount information provided by the merchant. Mastercard estimates that this process could require at least fifteen minutes per transaction and possibly as much as four or more hours for certain transactions, depending on the quality of information provided by the merchant and the difficulty of tracing that information through the several steps described above.

51. Worse still, Mastercard would need a highly manual process for issuers to contest an Interchange Rebate, *e.g.*, on the basis that a transaction was later reversed by a subsequent transaction, the amount of the transaction was later adjusted downward or the issuer subsequently charged back the transaction. Transaction reversals, adjustments and chargebacks are routine and occur many times every day.

52. A further complication is that there is no one interchange amount. Mastercard operates hundreds of different interchange programs within the United States alone (and many more internationally), which reflect different card types (*e.g.*, business-purpose company credit card vs. personal credit card), card level (*e.g.*, entry level vs. platinum), and type of merchants (*e.g.*, grocery store vs. hotel), as well as other commercial arrangements. Hence, to calculate the Interchange Rebate, Mastercard would need more than just the tax and gratuity amounts stated on the face of a receipt. It would also need to match the receipt to a specific prior transaction and identify the applicable interchange applied to that transaction. Only then could Mastercard do the math to determine how much interchange was charged on the particular transaction and calculate a rebate.

Section 150-15(b) of the IFPA Would Degrade Critical Security Protections and Constrain Mastercard's Ability to Support Rewards Programs on Behalf of Cardholders, While Also Imposing Massive Costs and Operational Restraints on Mastercard

53. Section 150-15(b) establishes a significant and discriminatory restriction on the use of electronic payment transaction data. The provision states that, in general, no party to an electronic payment transaction, "other than the merchant," may "distribute, exchange, transfer, disseminate, or use the electronic payment transaction data." Only two exceptions are expressly provided. First, covered data may be used to "facilitate or process the electronic payment transaction." Second, covered data may be used "as required by law."

54. Nothing in the Act explains why the legislature chose to categorically exempt merchants from these restrictions.

55. If permitted to take effect, the Data Use Prohibition described in Section 150-15(b) would be highly disruptive for Mastercard, would massively increase fraud risk, and would degrade the cardholder experience in Illinois and elsewhere.

56. At present, Mastercard uses transaction data associated with payments on its network to facilitate and process transactions themselves. In addition, Mastercard uses that data for other purposes that benefit the entire payment ecosystem and cardholders in particular.

57. For example, Mastercard's Decision Intelligence (DI) and Safety Net (SN) are algorithmic level programs that leverage data collected from all Mastercard transactions to help acquirers, issuers and merchants assess and avoid authorizing fraudulent transactions. The DI and SN programs use artificial intelligence applied to Mastercard's global network to generate fraud scores, identify high-risk or high-approvability transactions, and decline suspicious authorization attempts. These anti-fraud programs also provide system-level insights that can identify and flag potential patterns of fraud such as an as of yet undiscovered

hack or data leak. If the Data Use Prohibition required Mastercard to exclude Illinois transaction data from these programs, that would meaningfully undermine the anti-fraud system.

58. While the Data Use Prohibition's scope is in some respects ambiguous, if it precludes Mastercard from running Illinois transaction data through DI as an adjunct to processing a transaction at an Illinois merchant, Illinois merchants would be harmed, because DI could not be used to prevent fraudulent transactions from occurring in Illinois. Similarly, the DI score for transactions at non-Illinois merchants will be of diminished accuracy because it will not account for transactions at Illinois merchants. Likewise, cardholders and merchants in Illinois and elsewhere would be harmed because Mastercard's systems such as SN would be less capable of identifying large-scale fraud (*e.g.*, theft of a cache of card numbers) and notifying issuers and acquirers before criminals use the stolen card information to make fraudulent transactions at merchants in Illinois and elsewhere. Other Mastercard anti-fraud services also would be adversely impacted by a prohibition on using Illinois transaction data, such as services that rely on common point of purchase analysis (a technique that helps determine the source of a card breach and indicates the likelihood that specific cards have been compromised).

59. Requiring Mastercard to exclude Illinois transaction data from its anti-fraud programs would have significant downstream effects for Mastercard's efforts to prevent fraud. Data from Illinois transactions is a non-insignificant portion of the underlying U.S. data driving the DI and SN anti-fraud programs. Scrubbing Illinois transactions from these programs will create a blind spot within Mastercard's anti-fraud efforts, which criminals will likely exploit, to the detriment of every legitimate participant in the payment card network.

60. Mastercard's services for issuers that offer rewards programs is another example of a benefit that would be affected by the Data Use Prohibition.

61. The Data Use Prohibition's plain language would constrain Mastercard's ability to assign reward points to card transactions at Illinois merchants. Rewards programs (*i.e.*, the awarding of points, airline miles, and similar benefits) are driven by consumer purchases and are one of cardholders' most highly valued card benefits. But because the IFPA prohibits using transaction data except for "facilitating or processing an electronic payment transaction," IFPA § 150-15(b), Mastercard may not be able to calculate rewards points on Illinois transactions.

62. The Data Use Prohibition would most severely impact rewards programs for Illinois cardholders, many of whom have the lion's share of their transactions at home in Illinois. It would also affect non-Illinois cardholders who make purchases at Illinois merchants. This may encourage cardholders to choose to purchase a greater share of goods and services with non-Illinois merchants – such as by crossing the border to neighboring states.

63. The Data Use Prohibition will require Mastercard to make up-front investments to wall off data covered by the IFPA from general transactional data. For example, Mastercard will need to apply access limitations so that only the Mastercard teams with a permissible basis for accessing the transactions (*e.g.*, calculating the Interchange Rebate) have access, while the teams and programs that the Act prohibits from accessing the information (e.g., the Rewards team) cannot. The wall will also have to screen incoming data from flowing into impermissible programs (*e.g.*, Decision Intelligence and Safety Net).

IFPA compliance is complicated further by imprecise merchant location information

64. Compliance with each aspect of the IFPA discussed above is significantly complicated by the threshold challenge of identifying with certainty which card transactions

occur at Illinois merchants. Whether addressing the Interchange Prohibition or the Data Use Prohibition, it is crucially important to know which transactions occur at Illinois merchants.

65. In many instances, it is difficult to quickly pinpoint whether a transaction qualifies as an Illinois transaction.

66. Although Mastercard often receives location information associated with transactions, it is up to the merchants through their acquirers to provide that information. Many do so without great care for accuracy because few (if any) adverse consequences for merchants turn on the accuracy of that information.

67. Mastercard already employs teams of people tasked with attempting to pinpoint a transaction's origin. This is a tedious task and, in many instances, one which cannot be determined with absolute certainty. Moreover, it does not occur in real time. To put this challenge into perspective, while Mastercard may be able to conclude with 95% certainty that a transaction occurred in Zion, Illinois, there is an outstanding possibility that the transaction occurred somewhere else – such as Kenosha, Wisconsin (10 miles further north).

68. Yet, a great deal will ride on knowing for certain that a merchant is located in Illinois. This will likely mean in practical terms that issuers will demand that Mastercard build systems and processes to correct erroneous denials, or rebates, of interchange on tax and gratuities based on after-the-fact pinpointing of merchant locations and Mastercard will need to determine how the Data Use Prohibition applies when available transaction information indicates a high probability, but not a certainty, that a transaction is (or is not) from an Illinois merchant.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: Aug 15, 2024, 2024

C. Aikat
Chirodeep Aikat (Aug 15, 2024 10:24 EDT)

Chiro Aikat

EXHIBIT 13

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

ILLINOIS BANKERS ASSOCIATION, AMERICAN BANKERS ASSOCIATION, AMERICA'S CREDIT UNIONS, and ILLINOIS CREDIT UNION LEAGUE, Plaintiffs, v. KWAME RAOUL, in his official capacity as the Attorney General of Illinois, Defendant.	Case No: XX-cv-XXXX

Declaration of Deirdre Paone Cohen
Pursuant to 28 U.S.C. § 1746

1. I currently work as Senior Vice President, Acceptance Client Services at Visa. In my role, I am responsible for design and execution of the operational support for acquirers, merchants and technology partners globally. As part of my work, I have gained extensive experience with the Visa payment network, including transaction processing capabilities and requirements. I have knowledge of the matters set forth in this declaration based on my experience and position at Visa.

2. Visa provides payment services to over 14,500 financial institution and other members worldwide, so that their customers may safely, securely, and reliably transact at more than 130 million merchant locations across the globe. Visa's financial institution members in the United States are largely federally regulated financial institutions, or state-chartered banks and credit unions.

3. The Interchange Reimbursement Fee ("interchange") is a fee paid by acquirers (the merchant's bank) to card issuers for each purchase transaction. Interchange helps cover,

among other things, the costs and risks that issuers incur when issuing cards to consumers and businesses (e.g., credit risk, fraud, and administrative costs for managing cardholder accounts).

4. I understand that the Illinois Interchange Fee Prohibition Act (the "IFPA" or the "Act") restricts the assessment of interchange on the: (a) state and local sales and excise tax in Illinois; and (b) voluntary gratuity portions of a transaction when the merchant submits this information to its acquiring bank in one of two ways:

- By transmitting the tax or gratuity data as part of the authorization or settlement process, in which case interchange cannot be assessed on the tax or gratuity amount (§ 150-10(a), hereinafter referred to as "Automatic Process"); or
- By sending "tax documentation" showing the tax or gratuity amount to the acquirer within 180 days (about 6 months) of the transaction date (§ 150-10(b), hereinafter referred to as "Manual Process"). The term "tax documentation" is broadly defined to include receipts, invoices, journals, ledgers, and tax returns. The issuing bank then has 30 days after the documentation is submitted to the acquirer to reimburse the merchant for interchange charged on the tax or gratuity amount of the electronic payment transaction.

Finally, I understand that the law also restricts any entity (other than the merchant) from using payment transaction data for any purpose other than to facilitate or process the transaction. § 150-15(b).

5. While the full scope of the Act is ambiguous, the Act appears to assume that payment systems can identify and isolate Illinois sales tax and gratuity information for purposes of transaction processing, and reliably and accurately adjust the applicable interchange amount based on that information. This apparent assumption is inconsistent with how the Visa payment system operates.

6. In fact, before Visa (as well as any other participant in the transaction chain) could even begin the technical work necessary to accommodate the Automatic Process outlined in the Act, the payments industry and other stakeholders would have to work with the relevant U.S. and international standards bodies to update the existing standards that apply to payment transaction messages. This coordination with the relevant standards bodies is critical to maintaining the interoperability of payments across the country and globe. The ultimate approval of any such changes by a domestic or international standards body is not something Visa or any other individual organization controls.

7. Finally, designing, testing and implementing the capability contemplated under the Act would impose significant burdens and costs on each participant in the payments value chain, including globally interoperable payment networks like Visa, the issuers, acquirers, processors, and any other participants in the chain both within Illinois' borders and beyond. More specifically, it is my understanding that the Act will apply to all transactions where the merchant has an obligation to collect and remit sales tax to the State of Illinois. This would include e-commerce transactions where the merchant and/or cardholder may sit outside Illinois, but the item purchased is being shipped into Illinois. Furthermore, the Act would not only impact every card issuer in the U.S., but foreign institutions as well. For example, if a tourist from Europe is travelling and shopping in Illinois, or shipping a good or service into Illinois, and completing their purchase with a card issued in their home country, the foreign institution that issued that card would need to have mechanisms in place to address Illinois' unique processes.

I. Payments Ecosystem: The Four-Party Model

8. When a consumer swipes, dips, or taps a debit or credit card at a payment terminal, the merchant receives a message potentially within even milliseconds indicating

whether the issuer has approved or declined the transaction. If the transaction is approved, the payment transaction is completed, and the consumer can receive their purchased good or service.

9. Behind the scenes of that seemingly simple transaction, however, lies intricate computer code, processing logic, and fraud and security protocols, largely based on international standards, that are carefully designed to work together across a multi-layered, multiparty ecosystem – allowing the transaction to flow from the merchant's point-of-sale terminal to the cardholder's bank and then back to the merchant seamlessly. A hiccup in any of these processes could bring significant disruption to the electronic payments ecosystem.

10. At its most basic, payment processing in the Visa system involves four parties in addition to the cardholder: the merchant, the merchant's bank (the "acquirer"), the bank that issued the consumer's credit or debit card (the "issuer"), and the payment network (Visa).

11. When a consumer uses a card at a merchant's terminal, the card information is transmitted to the acquirer, which sends it to the network, which transmits it to the issuer. The issuer determines whether to approve or decline the transaction (a process called "authorization"). The issuer then transmits an "authorization message" back to the network, which passes the response to the acquirer, which then transmits it to the merchant. If the transaction is authorized by the issuer and the purchase is completed by the consumer, a subsequent "clearing message" is transmitted from the merchant and acquirer to the network, which then passes it to the issuer. The "clearing message" contains the final transaction amount.[1] It is important to note that both the authorization and clearing messages consist of a standardized set of data fields along with detailed processing requirements. Transactions that don't meet these

[1] In some cases, authorization and clearing occur in a single, online request/response interaction.

processing requirements, including formats, data quality and other components will generally fail to process correctly, or at all.

12. The issuer is then responsible, typically via card network processes that aggregate net settlement positions of issuers and acquirers across all transactions on the network, for transmitting funds to the acquirer, which deposits any amounts due in the merchant's bank account. This is referred to as the "settlement" process of the transaction. More specifically, settlement is typically performed on an aggregate basis and not transaction by transaction.

II. Payments Ecosystem: Other Players

13. Beyond the four key parties described above, the actual processing of a transaction involves many additional players across a complex value chain designed to accommodate the needs of a wide and diverse range of merchants and business models. Each of these players maintains its own systems that need to be in sync with the processing requirements of the network to ensure the system operates seamlessly.

14. For example, the process of a purchase transaction involves several key components. First, it starts at the Point of Sale (POS) terminal, where the consumer completes the transaction. The sophistication of the POS terminal can determine how much information is transmitted in the purchase process, like certain tax or gratuity details. The transaction then involves an acquirer, which is a regulated financial institution. Acquirers may contract with processors to route transaction data from the POS terminal to the network. Processors de-encrypt and transmit the transaction so it's readable by the network. Issuers may also rely on processors for connection with payment networks. For smaller merchants, Payment Facilitators (PayFacs) are often involved. PayFacs establish a single aggregate acquirer account for multiple merchants,

serving as the link between the merchants and the acquirer. They collect and submit transaction information to the acquirer for processing and remit funds from the acquirer to the merchants.

III. International Standard Setting

15. International standards are critical to the payments and financial services industries. It is these standards that allow millions of consumers, businesses, and financial institutions around the world to interact with one another in an interoperable, seamless, and secure manner. For example, because of internationally set standards, it does not matter where you are using your Visa card in the world, it always works the same way. Similarly, because payment processing is based on a common set of standards, a merchant does not maintain separate POS terminals for different card networks. Rather, a single POS terminal can accept and process payments from any card a cardholder may choose to present – Visa, Mastercard, American Express, Discover, etc.

16. The International Organization for Standardization ("ISO") has developed a standard to facilitate information exchange for financial transactions using cards. The ISO standard defines a message format so that different parties and systems in a card transaction (banks, payment networks, processors and point-of-sale devices) can exchange information in a consistent and interoperable manner.

17. More specifically, the ISO message format consists of a series of fields. Each field within the transaction message is defined by ISO to serve a specific purpose and is populated by the merchant and/or its acquirer with different pieces of information about the transaction.[2]

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[2] Although all card payment networks assemble their collection of fields in their respective transaction messages from the common "template of fields" defined by ISO, each network maintains the flexibility to decide which specific fields they will adopt in their own messaging.

18. As discussed below, the IFPA's Automated Process will require the creation of new fields in the transaction message. The creation of these fields will initially require the U.S. based payment cards industry and other stakeholders to work alongside U.S standards bodies, Accredited Standards Committee (ASC) X9 and American National Standards Institute (ANSI), to discuss and debate the changes and new fields necessary for card transaction messages to accommodate the IFPA. This process could take up to several months.

19. U.S. standards bodies then must present the proposed standards to the relevant ISO committee, which consists of representatives from multiple countries. The U.S. position will be discussed and debated among committee members and ultimately be voted on. Depending on how these discussions unfold, the process could take anywhere from a few months to up to a year. There is also no guarantee that the ISO committee(s) would approve a U.S. proposal, especially because it focuses on the requirements of a single state yet imposes significant burdens and potential risks globally.

IV. The Visa Payments Ecosystem Is Not Equipped to Distinguish Tax and Gratuity Amounts Separate from the Total Transaction Amount as Contemplated by the Act.

20. Even assuming there is ISO approval, IFPA's Automatic Process would require significant changes to Visa's transaction messages with the introduction of new fields, and corresponding changes from participants across the payments value chain. But even if Visa were to reconfigure its transaction messages and implement the necessary data fields to capture local Illinois tax and voluntary gratuity information, substantial and lengthy investment in design, testing, coordination and development of validation models would be required from end to end in order to help ensure the accuracy and integrity of transaction data. To the extent accommodation of the IFPA's Automatic Process is even possible, Visa does not believe that it can go through

the standard setting process described above and address all the technical complexity introduced by the IFPA by July 1, 2025.

21. With respect to the Manual Process, it is not clear whether compliance could ever be feasible, but it would regardless take much longer than the Automatic Process as the necessary connections and processes to support the Manual Process do not exist within Visa or, to my knowledge, elsewhere in the payments ecosystem today. Accordingly, the balance of this declaration relates to the possible implementation of the Automatic Process.

22. I understand that the IFPA permits merchants to "transmit the tax or gratuity amount as part of the authorization or settlement process" to avoid being charged interchange on those portions of the transaction amount. § 150-10.

23. There is currently no field for reporting the portion of a transaction amount attributable to *voluntary* gratuity in Visa's transaction messages.[3] And while Visa's transaction messages do contain fields that can accommodate inclusion of certain tax-related information, these fields are used for informational purposes, and are not designed or used for complex calculations to reduce interchange amounts applicable to the transaction. Furthermore, in the U.S., these fields are intended for use in commercial cards (as opposed to consumer transactions). It is not feasible to simply "repurpose" these fields to support the IFPA. That would undermine the existing purposes and use of these fields and introduce significant confusion in the system as different parties from across the Visa ecosystem would be using the same fields for different purposes. Finally, because these fields are not required to process transactions, the data is not validated for accuracy.

[3] Visa's transaction messages do not contain a general gratuity field. Separately, it's important to note that even when a consumer adds gratuity after swiping their card and receiving a receipt, only the total amount is transmitted through the payments ecosystem when the merchant "closes out" the "ticket."

24. Additional issues that would likely add further complexity to accommodating the IFPA's processes include, based on my understanding, the fact that Illinois has hundreds of different taxing jurisdictions, each of which may have their own various rates and exemptions. With respect to excise taxes, it would be very difficult to account for these tax amounts in the transaction message, as these taxes are often built into the price of a product or service. I also understand that federal taxes and mandatory gratuities are not subject to the IFPA.

25. The existing fields also do not provide the information needed to determine whether the Act even applies to a transaction. Transaction messages may not indicate the true physical location of the purchase, nor do they include the shipping location, which would be necessary for determining whether the IFPA applies to online purchases shipped into Illinois and services performed in the state. Today, information about merchant location is part of the authorization message, but this location information does not always match a merchant's physical location or whether that specific transaction involves application of an eligible Illinois tax or gratuity amount. For instance, a large department store chain may be headquartered in Texas but have an outlet in Illinois. In this instance, the merchant might identify its location as either Texas or Illinois. Furthermore, for eCommerce transactions, the industry standard is for acquirers to populate the merchant location information field with the merchant phone number or merchant URL.

26. Finally, any changes to the information that must be conveyed in the transaction message would require extensive testing and vetting, because a glitch or failure to transmit information properly could disrupt the operation of the payments system and create potential fraud and security gaps. It is for this reason that Visa generally provides the payments ecosystem with extensive advance notice so that participants may plan for, make and test the changes. It is

important to note that the mere availability of a standardized data field in a transaction message that's being transmitted is only the first step. In Visa's experience, it can take many years to ensure that new fields are being used correctly, to monitor the types of errors and problems that can occur, and to implement refinements and communications to address issues over time. Even then, assuming clean, validated, consistent data is submitted, the complex software and processing logic used to assess transactions for validity, accuracy, fraud, and risk, among other factors, would need to be redesigned, tested, and upgraded to effectively understand, manage, and act upon the new data inputs.

IV. The Act Will Impose Significant Collateral Burdens on the Ecosystem, Consumers, and the Public.

27. Although the Act appears to permit networks to rely on merchants' reported tax and gratuity amounts, § 150-10(c), networks must, as the service provider to issuers, ensure the integrity of transactions they facilitate.

28. Validating the tax and gratuity amounts, and the locations of the sale and delivery of purchased products and services, even if theoretically feasible, would drastically increase complexity and introduce new costs at every level of the payments ecosystem. In the interim, particularly for transactions covered by the Act, the failure to validate the tax and gratuity amounts with a high degree of accuracy could lead to significantly higher levels of authorization declines and undermine the efficiency and convenience of card payments for cardholders and merchants. Visa and its financial institution clients typically require a high degree of accuracy, validity, and ability to confirm and audit any information used in connection with payment processing, approval and settlement. Without this, the opportunity for fraud and misuse would be significantly increased.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was signed in San Francisco, California on August 14, 2024.

Deirdre Paone Cohen

EXHIBIT 14

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

ILLINOIS BANKERS ASSOCIATION, AMERICAN BANKERS ASSOCIATION, AMERICA'S CREDIT UNIONS, and ILLINOIS CREDIT UNION LEAGUE,

Plaintiffs,

v.

KWAME RAOUL, in his official capacity as Illinois Attorney General,

Defendant.

Case No. _____

DECLARATION OF HOPE M. GARRETT

I, Hope M. Garrett, hereby declare:

1. I am the CEO of Education Personnel Federal Credit Union and have been employed by Education Personnel Federal Credit Union since 2009. I submit this declaration in further support of Plaintiffs' motion for a preliminary injunction against the Interchange Fee Prohibition Act ("IFPA").

2. I have personal knowledge of the matters set forth herein, and believe them to be true and correct based on (a) my work for Education Personnel Federal Credit Union, and (b) my review of relevant business records.

3. Education Personnel Federal Credit Union is a federal credit union chartered under the Federal Credit Union Act with 2 offices and 15 employees in Illinois. Education Personnel Federal Credit Union is a member of America's Credit Unions and the Illinois Credit Union League.

4. In its capacity as an issuer, Education Personnel Federal Credit Union has 4,890 credit and debit cardholders, most of whom reside in and transact business in Illinois. These cardholders engaged in approximately 741,000 credit and debit transactions in 2023, totaling more than $30,735,000.

5. Education Personnel Federal Credit Union expects it will earn $158,000 in net income during 2024. As explained below, the full additional expenses that I believe Education Personnel Federal Credit Union will incur in order to begin implementing the IFPA in the next few months would reduce our net income by over 145%.

Interchange Fee Prohibition Act

6. My employment responsibilities include assisting Education Personnel Federal Credit Union in complying with the IFPA.

7. I understand that the IFPA is effective July 1, 2025, and that it provides for two procedures by which merchants can avoid paying interchange fees on those portions of credit or debit card transactions that reflect Illinois taxes and gratuities.

8. First, the merchant can "transmit the tax or gratuity amount data as part of the authorization or settlement process." If the merchant does so, interchange fees cannot be assessed "on the tax amount or gratuity."

9. Second, a merchant that did not follow the first procedure can nonetheless submit "the necessary tax documentation," and then must be "credit[ed]" within 30 days "the amount of interchange fees charged on the tax or gratuity amount of the electronic payment transaction."

10. As I explain below, I believe that neither of these procedures can be implemented by July 1, 2025, without requiring Education Personnel Federal Credit Union to commit substantial financial, technological and human resources beginning no later than September 2024. I also believe that these resources will be wasted if the IFPA is subsequently found unlawful (and therefore does not go into effect).

Implementing the IFPA's requirement that interchange fees not be charged when the merchant transmits the tax or gratuity amount data as part of the authorization or settlement process

11. The current process for authorizing and settling debit and credit card transactions involves thousands of issuing banks (cardholders' banks) and hundreds of acquiring banks (merchants' banks). Payment card networks like Visa and Mastercard supply the standards and technical specifications required of the various network participants to interact seamlessly and process

the transaction instantaneously whenever a cardholder presents a debit or credit card to a merchant for payment. These specifications also enable the payment card network participants to accurately assess the interchange owed by the acquiring bank to the issuing bank in connection with each transaction.

12. Education Personnel Federal Credit Union has invested substantial resources to procure software and hardware, and develop various processes that comport with the specifications of the payment card networks. The electronic payment transaction systems used by Education Personnel Federal Credit Union must seamlessly interface with other infrastructure dedicated to authorizing and settling transactions.

13. Currently, as an issuer, Education Personnel Federal Credit Union receives information about the size of a credit or debit card transaction through the relevant payment card network via a message that provides a "transaction amount" field. This field reflects the full amount of the cardholder's transaction, including taxes and gratuities. "Transaction amount" is the industry standard and it serves as the basis for calculating interchange fees. Education Personnel Federal Credit Union systems are set up to authorize and settle transactions on the basis of the "transaction amount."

14. Education Personnel Federal Credit Union systems are not set up to identify components of the "transaction amount" (such as Illinois taxes and gratuities) as part of the authorization or settlement process, because this information is currently only communicated as a single, aggregate amount.

15. Education Personnel Federal Credit Union has not received standards or technical specifications from any payment card networks or processors that, if implemented, would accomplish these changes. Education Personnel Federal Credit Union currently issues credit cards on two credit card networks and issues debit cards on two debit card networks, and would need each of these networks to provide its own standards and specifications in order for Education Personnel Federal Credit Union to fully update its card processing systems for all credit and debit card transactions.

16. After a payment card network develops and provides Education Personnel Federal Credit Union the necessary standards and specifications, Education Personnel Federal Credit Union must work with its card processor to update its technical specifications. Education Personnel Federal Credit Union must also adapt its authorization and settlement systems, which facilitate calculating and settling interchange fees. Accomplishing these tasks in time to implement new (yet to be identified) network specifications related to the IFPA before July 1, 2025, would require extraordinary financial, technological and human resources of the card processor, if it is even possible. I estimate the costs associated with this work that would be billable to Education Personnel Federal Credit Union would be at least $45,000.

17. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

Implementing the IFPA's manual process for reimbursing merchants

18. Whether or not a merchant can transmit the tax or gratuity amount data as part of the authorization or settlement process, the IFPA allows it to be reimbursed for "the amount of interchange fees charged on the tax or gratuity amount" within 30 days "after the merchant submits the necessary tax documentation" to its acquiring bank or its designee.

19. Education Personnel Federal Credit Union's cardholders can present their cards for payment at any of millions of merchants that accept Visa-branded cards. Merchants that accept cards from Education Personnel Federal Credit Union's customers generally do not interact directly with Education Personnel Federal Credit Union or maintain a commercial relationship with Education Personnel Federal Credit Union. Nor does Education Personnel Federal Credit Union, as an issuer, have direct interactions with the many institutions that serve as acquiring banks for these millions of merchants. Education Personnel Federal Credit Union therefore has no procedures by which individual merchants or their acquiring banks can submit "tax documentation" directly to it. Similarly, payment card networks do not currently have the

infrastructure or mechanisms to facilitate the transfer of this "necessary tax documentation" to Education Personnel Federal Credit Union from merchants' acquiring banks.

20. If Education Personnel Federal Credit Union was to receive "tax documentation" from merchants' acquiring banks, Education Personnel Federal Credit Union currently does not have systems or processes for reviewing and auditing that documentation. Because the IFPA defines "tax documentation" to include "invoices" and "receipts," manual review of a merchant's documents could be required.

21. Education Personnel Federal Credit Union does not have procedures for resolving disputes with individual merchants in connection with interchange reimbursement. Nor has it negotiated interchange-reimbursement dispute resolution procedures with hundreds of acquiring banks that may be servicing those merchants.

22. Education Personnel Federal Credit Union also does not have procedures for reimbursing interchange fees directly to merchants, with whom, again, it generally does not maintain commercial relationships. Nor does it have established protocols for interchange reimbursements with hundreds of acquiring banks that may be servicing those merchants.

23. I estimate that Education Personnel Federal Credit Union will have to invest at least $90,000 in 2024 to begin developing systems and processes to accomplish these tasks. I also estimate that Education Personnel Federal Credit Union will need to hire (or divert from other tasks) and train at least three employees to accomplish this. In light of the IFPA's July 1, 2025 effective date, Education Personnel Federal Credit Union must begin investing those resources no later than September 2024.

24. In addition, Education Personnel Federal Credit Union's core data processing system will require custom programming in order to implement the processing requirements of the IFPA. I estimate that this programming would cost at least $50,000 and work would need to begin immediately following receipt of specifications from Education Personnel Federal Credit Union's card processors.

25. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

Implementing the IFPA's data processing restrictions

26. The IFPA also provides that an "entity, other than the merchant, involved in facilitating or processing an electronic payment transaction . . . may not distribute, exchange, transfer, disseminate, or use the electronic payment transaction data except to facilitate or process the electronic payment transaction or as required by law."

27. Education Personnel Federal Credit Union currently uses electronic payment transaction data from transactions that occur in Illinois for many purposes beyond processing the transaction. Those purposes include providing fraud protection and reward programs to cardholders.

28. Education Personnel Federal Credit Union does not have a system for segregating electronic payment transaction data based on the location of the cardholder's transaction or for providing fraud protection without using historical electronic payment transaction data. I estimate that Education Personnel Federal Credit Union will have to invest at least $45,000 in 2024 to begin developing systems and processes to segregate and limit its use of electronic payment transaction data from transactions that occur in Illinois.

29. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

Reallocation of strategic resources to implement the requirements of the IFPA by July 1, 2025

30. Education Personnel Federal Credit Union has initiated a strategic plan for the 2024-2025 calendar years that includes a member growth objective. Growing Education Personnel Federal Credit Union's membership base generates more revenue, which Education Personnel Federal Credit Union uses to bring additional products to its members. Membership growth also allows Education Personnel Federal Credit Union to gain economies of scale to reduce its expenses and return more equity to the members. The program and benefits Education Personnel Federal Credit Union intends to offer its members through these initiatives include a series of product usage and financial literacy "classes" and a program to eliminate most overdraft fees. I estimate

that failure to execute these objectives from its strategic plan, due to resources being reallocated to implementing the IFPA, would cost Education Personnel Federal Credit Union at least $45,700 in lost revenue and cost its members the opportunity to benefit from these programs.

31. Education Personnel Federal Credit Union's strategic plan also includes a loan growth objective. Loan growth results in additional revenue for Education Personnel Federal Credit Union, which it uses to bring additional products to the members. Loan growth also allows Education Personnel Federal Credit Union to lend money to consumers at lower interest rates. For example, in the first seven months of 2024, Education Personnel Federal Credit Union initiated over a third of its new loans for less than $10,000, filling a need in our community for small loans. I estimate that failure to execute this objective, due to resources being reallocated to implementing the IFPA project, would cost Education Personnel Federal Credit Union at least $115,000 in lost revenue and reduce its capacity to grant many low dollar loans upon which its members depend.

32. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 12th day of August 2024 in Danville, IL.

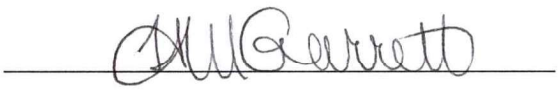

EXHIBIT 15

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

ILLINOIS BANKERS ASSOCIATION, AMERICAN BANKERS ASSOCIATION, AMERICA'S CREDIT UNIONS, and ILLINOIS CREDIT UNION LEAGUE, *Plaintiffs*, v. KWAME RAOUL, in his official capacity as Illinois Attorney General, *Defendant*.	Case No. _____ **DECLARATION OF PETER FAUTH**

I, Peter Fauth, hereby declare:

1. I am the President-CEO of Financial Plus Credit Union and have been employed by Financial Plus Credit Union since 1989. I submit this declaration in further support of Plaintiffs' motion for a preliminary injunction against the Interchange Fee Prohibition Act ("IFPA").

2. I have personal knowledge of the matters set forth herein, and believe them to be true and correct based on (a) my work for Financial Plus Credit Union, and (b) my review of relevant business records.

3. Financial Plus Credit Union is a state-chartered, federally-insured credit union. Financial Plus Credit Union is a member of America's Credit Unions and Illinois Credit Union League.

4. Financial Plus Credit Union has 5 offices and approximately 100 employees in Illinois.

5. In its capacity as an issuing financial institution, Financial Plus Credit Union has approximately 35,000 credit and debit cardholders, the vast majority of which are in Illinois.

6. Financial Plus Credit Union cardholders who reside in Illinois engaged in approximately 8 million credit and debit transactions in 2023, totaling more than $392,582,000.

Interchange Fee Prohibition Act

7. My employment responsibilities include assisting Financial Plus Credit Union in complying with the IFPA.

8. I understand that the IFPA is effective July 1, 2025, and that it provides for two procedures by which merchants can avoid paying interchange fees on those portions of credit or debit card transactions that reflect Illinois taxes and gratuities.

9. First, the merchant can "transmit the tax or gratuity amount data as part of the authorization or settlement process." If the merchant does so, interchange fees cannot be assessed "on the tax amount or gratuity."

10. Second, a merchant that did not follow the first procedure can nonetheless submit "the necessary tax documentation," and then must be "credit[ed]" within 30 days "the amount of interchange fees charged on the tax or gratuity amount of the electronic payment transaction."

11. As I explain below, I believe that neither of these procedures can be implemented by July 1, 2025, without requiring Financial Plus Credit Union to commit substantial financial, technological and human resources beginning no later than September 2024. I also believe that these resources will be wasted if the IFPA is subsequently found unlawful (and therefore does not go into effect).

Implementing the IFPA's requirement that interchange fees not be charged when the merchant transmits the tax or gratuity amount data as part of the authorization or settlement process

12. The current process for authorizing and settling debit and credit card transactions involves thousands of issuing banks (cardholders' banks) and hundreds of acquiring banks (merchants' banks). Payment card networks like Visa and Mastercard supply the standards and technical specifications that allow the various network participants to interact seamlessly and process the transaction instantaneously whenever a cardholder presents a debit or credit card to a merchant for payment. These specifications also enable the payment card network participants to accurately

assess the interchange owed by the acquiring bank to the issuing bank in connection with each transaction.

13. Financial Plus Credit Union has invested substantial resources to develop software, hardware and various processes that comport with the specifications of the payment card networks. The electronic payment transaction systems at Financial Plus Credit Union must seamlessly interface with other infrastructure dedicated to authorizing and settling transactions.

14. Currently, as an issuing financial institution, Financial Plus Credit Union receives information about the size of a credit or debit card transaction through the relevant payment card network via a message that provides a "transaction amount" field. This field reflects the full amount of the cardholder's transaction, including taxes and gratuities. "Transaction amount" is the industry standard and it serves as the basis for calculating interchange fees. Financial Plus Credit Union systems are set up to authorize and settle transactions on the basis of the "transaction amount."

15. Financial Plus Credit Union systems are not set up to identify components of the "transaction amount" (such as Illinois taxes and gratuities) as part of the authorization or settlement process. Financial Plus Credit Union has not received standards or technical specifications from any payment card networks that, if implemented, would accomplish these changes. Financial Plus Credit Union currently issues credit cards on two credit card networks and issues debit cards on two debit card networks, and would need each of these networks to provide its own standards in order for Financial Plus Credit Union to fully update its systems for all credit and debit card transactions.

16. In the past, significant new standards and technical specifications initiated by a payment card network have required Financial Plus Credit Union to invest substantial resources and have often taken well over a year to be implemented.

17. After a payment card network develops and provides Financial Plus Credit Union the necessary standards and specifications, Financial Plus Credit Union must update its own technical specifications. Financial Plus Credit Union must also adapt its authorization and settlement systems, which facilitate calculating and settling interchange fees. Accomplishing these tasks in time to implement new (yet to be identified) network specifications related to the IFPA before July 1, 2025,

would require extraordinary financial, technological and human resources of Financial Plus Credit Union, if it is even possible.

18. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

Implementing the IFPA's manual process for reimbursing merchants

19. Whether or not a merchant can transmit the tax or gratuity amount data as part of the authorization or settlement process, the IFPA allows it to be reimbursed for "the amount of interchange fees charged on the tax or gratuity amount" within 30 days "after the merchant submits the necessary tax documentation" to its acquiring bank or its designee.

20. Financial Plus Credit Union's cardholders can present their cards for payment at any of millions of merchants that accept Visa or Accel cards. Merchants that accept cards from Financial Plus Credit Union's customers generally do not interact directly with Financial Plus Credit Union or maintain a commercial relationship with Financial Plus Credit Union. Nor does Financial Plus Credit Union, as an issuer, have direct interactions with the hundreds of institutions that serve as acquiring banks for these millions of merchants. Financial Plus Credit Union therefore has no procedures by which individual merchants or their acquiring banks can submit "tax documentation" directly to it. Similarly, payment card networks do not currently have the infrastructure or mechanisms to facilitate the transfer of this "necessary tax documentation" to Financial Plus Credit Union from merchants' acquiring banks.

21. Assuming Financial Plus Credit Union was to receive "tax documentation" from merchants' acquiring banks, Financial Plus Credit Union currently does not have systems or processes for reviewing and auditing that documentation. Because the IFPA defines "tax documentation" to include "invoices" and "receipts," manual review of a merchant's documents could be required.

22. Financial Plus Credit Union does not have procedures for resolving disputes with individual merchants in connection with interchange reimbursement. Nor has it negotiated

interchange-reimbursement dispute resolution procedures with hundreds of acquiring banks that may be servicing those merchants.

23. Financial Plus Credit Union also does not have procedures for reimbursing interchange fees directly to merchants, with whom, again, it generally does not maintain commercial relationships. Nor does it have established protocols for interchange reimbursements with hundreds of acquiring banks that may be servicing those merchants.

24. I estimate that Financial Plus Credit Union will have to immediately begin investing towards spending an ultimate sum of at least $1,296,000, to begin developing systems and processes to accomplish these tasks by July 1, 2025. I also estimate that Financial Plus Credit Union will need to hire (or divert from other tasks) and train at least 28 employees to accomplish this. In light of the IFPA's July 1, 2025 effective date, Financial Plus Credit Union must begin investing those resources no later than September 2024. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

25. The process for reviewing and auditing the "tax documentation" and "invoices" from the acquiring banks and merchants would likely be manual, and while I am not convinced that it would even be possible to adequately do, I have estimated what the effort and cost would look like if the IFPA was not enjoined based on the information I currently know. Financial Plus Credit Union processed 8,060,266 debit and credit card transactions in 2023. That computes to over 22,000 transactions per day. A manual validation effort to review this many transactions might be accomplished at a rate of three transactions per minute during the prospective employee's workday. At this rate, 28,000 transactions in a typical 7 hour (420 minutes) workday would require Financial Plus Credit Union to hire and train 18 new analysts. In addition to the 18 new analysts, Financial Plus Credit Union would have to hire 6 additional support staff, including in the accounting, human resources, IT, training and management departments, bringing the total to 24 new employees that Financial Plus Credit Union would have to hire. This is a 25% increase from the current Financial Plus Credit Union staff. The average cost of an hourly employee, including wages, benefits, retirement and insurance is $54,000, so this would cost Financial Plus Credit Union $1,296,000 in

additional payroll expenses. I believe this to be a conservative estimate, as human resources, IT, and management employees wages would likely double the average hourly wage rate paid to Financial Plus Credit Union's current employees. This does not even factor in the costs associated with providing adequate space and equipment for these new employees, which Financial Plus Credit Union does not currently have.

26. While Financial Plus Credit Union is in the process of ramping up its investments to build a manual process to review and audit "tax documentation" provided by merchants' acquiring banks, I am certain we will also invest resources to explore a technological solution to more efficiently manage the process in the future. Financial Plus Credit Union employs a large firm that provides core data processing services. Our recent experience for projects with this processor is that they are tremendously expensive and projects require long lead times. For example, one recent solution this processor provided for an online account opening solution costs Financial Plus Credit Union more than $350,000 per year and took longer than nine months to develop and implement. I expect that this processor would charge Financial Plus Credit Union many millions to develop a technological solution for reviewing "tax documentation," if a technological solution is even feasible. In summary, I anticipate that we would need both a manual process to be implemented and staffed to comply with the IFPA initially, incurring tremendous costs to do so, while also exploring a technological solution that likely would have a long lead time and be tremendously costly.

27. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments will be wasted.

28. In order to accomplish these tasks, Financial Plus Credit Union will also likely have to divert resources from other tasks designed to maintain and improve its electronic payment transaction systems and its services to its members. We are currently working on a strategic plan to implement and enhance our digital banking strategy. Elements of this strategy include digital solutions like online account opening, lending, card issuance and payments systems. These enhancements are being done in an effort to improve the quality of service that Financial Plus Credit

Union delivers to its members. Delivery of these enhancements to members would undoubtedly be delayed as our staff focuses efforts on complying with the IFPA.

Implementing the IFPA's data processing restrictions

29. The IFPA also provides that an "entity, other than the merchant, involved in facilitating or processing an electronic payment transaction . . . may not distribute, exchange, transfer, disseminate, or use the electronic payment transaction data except to facilitate or process the electronic payment transaction or as required by law."

30. Financial Plus Credit Union currently uses electronic payment transaction data from transactions that occur in Illinois for many purposes beyond processing the transaction. Those purposes include providing fraud protection and reward programs to cardholders.

31. Financial Plus Credit Union does not have a system for segregating electronic payment transaction data based on the location of the cardholder's transaction or for providing fraud protection without using historical electronic payment transaction data. The amount of money and other resources that Financial Plus Credit Union will have to invest, at least in 2024, to begin developing systems and processes to segregate and limit its use of electronic payment transaction data from transactions that occur in Illinois would be tremendous.

32. Financial Plus Credit Union's current fraud control program that uses cardholder transaction data to establish a profile of spending patterns to predict potentially fraudulent transactions is invaluable. In fact, the IFPA's data processing restrictions, in conjunction with the other burdensome provisions of the IFPA that I have already addressed would likely cause Financial Plus Credit Union to exit the market and cease offering card services to members. The detrimental effects of that occurrence will have a negative impact on Financial Plus Credit Union and its entire membership. The fraud tools we currently use, which utilize cardholder data to develop spending patterns, helped to block fraud activity for our debit and credit cardholders totaling $108,008 in April 2024. Assuming that is a typical month, that is nearly $1.3 million a year in potential fraud losses that were avoided by having these controls in place. Incurring those fraud losses, in addition to the anticipated expenses to comply with the IFPA would make our card programs unprofitable and we

would likely have to discontinue offering valuable card services to members. In doing so, we would be forcing these consumers to go elsewhere to obtain these services, potentially at a greater cost, thus hurting consumers in our communities. At the same time, Financial Plus Credit Union will earn considerably less non-interest income and experience economic hardship to its profitability.

33. If the IFPA is subsequently found unlawful (and therefore ultimately does not go into effect), these investments would be wasted, and the harm imposed on Financial Plus Credit Union and its members would be needless.

34. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.

Executed this 13th day of August 2024 in Ottawa, Illinois