Office of the
Comptroller of the Currency

Washington, DC 20219

June 9, 2025

Brandon Milhorn
President and CEO
Conference of State Bank Supervisors
1300 I Street NW, Suite 700 East
Washington, DC 20005

Subject: Preemption

Dear Mr. Milhorn:

This is in response to your letter dated May 8, 2025, requesting the OCC rescind its preemption regulations in light of Executive Orders (EO) 14219—*Ensuring Lawful Governance and Implementing the President's "Department of Government Efficiency" Deregulatory Initiative* and 14267—*Reducing Anti-Competitive Regulatory Barriers.*

The OCC's regulations are consistent with federal law, Supreme Court precedent, and the EOs. The OCC will not rescind its regulations and will continue to vigorously support and defend federal preemption.

I. The OCC's Preemption Regulations Are Lawful

Your letter claims that the OCC's preemption regulations are unlawful because they are not consistent with the best reading of the Dodd–Frank Wall Street Reform and Consumer Protection Act (Dodd–Frank).[1]

Contrary to your assertions, the OCC's preemption regulations are wholly consistent with Dodd–Frank and Supreme Court precedent and thus meet the requirements of EO 14219. For your awareness, the OCC reviewed its preemption regulations following Dodd–Frank's enactment. The OCC considered the relevant statutory language, legislative history, and judicial precedent and concluded that Dodd–Frank codified the conflict preemption standard in *Barnett Bank of Marion County, N.A. v. Nelson*, including the antecedent cases it cited. This conclusion is consistent with the Supreme Court's subsequent decision in *Cantero v. Bank of America, N.A.*, which rejects arguments that Dodd–Frank created a new preemption standard and instead notes that "Dodd–Frank adopted *Barnett*" and that *Barnett* "was also the governing preemption

[1] 12 U.S.C. § 25b(b)(1)(B). For additional information regarding Dodd–Frank's procedural requirements, refer to OCC Interpretive Letter 1173 (Dec. 18, 2020) (Chief Counsel's Interpretation issued by Senior Deputy Comptroller and Chief Counsel Jonathan V. Gould).

standard before Dodd–Frank."[2] The OCC applied this same standard when it identified certain preempted and non-preempted state laws in its regulations in 2004 and again when it reviewed the regulations in 2011.[3] The OCC's regulations are consistent with applicable law.

II. The OCC's Regulations Support Efficient and Effective Operations

You also suggest that the OCC's preemption regulations are anti-competitive. This is not the case. In addition, the OCC's regulations are consistent with EO 14267. Federal preemption is a cornerstone of the dual banking system, under which federally and state-chartered banks operate alongside one another. As the Supreme Court recognized in *Cantero*, this system allows federally and state-chartered banks to "co-exist and compete."[4]

Federal preemption has proven to be a powerful enabler of local and national prosperity and growth. As the Supreme Court noted at the beginning of the twentieth century, federal legislation and regulation "has in view the erection of a system extending throughout the country, and independent, so far as powers conferred are concerned, of state legislation which, if permitted to be applicable, might impose limitations and restrictions as various and as numerous as the [s]tates."[5] Federally chartered banks, many of which operate across state lines, therefore may rely on preemption to remove barriers and achieve efficiencies associated with a uniform set of rules. Thus, federal preemption has helped to foster the development of national products and services and multi-state markets, which have benefitted individuals and businesses in every state and powered this Nation's economy.

III. Conclusion

Thank you for sharing your views on this important matter. The OCC has thoroughly considered the points you raised and, as set forth above, reaffirms that its preemption regulations are valid under applicable law and are critical to ensuring the continued strength of our Nation's banking system.

Sincerely,

/signed/

Rodney E. Hood
Acting Comptroller of the Currency

---

[2] 602 U.S. 205, 214 n.2 (2024).
[3] 69 Fed. Reg. 1904 (Jan. 13, 2004); 76 Fed. Reg. 43549, at 43557 (July 21, 2011) (discussing the Agency's efforts "to confirm that the specific types of laws cited in the rules are consistent with the standard for conflict preemption in the Supreme Court's *Barnett* decision" and addressing the Agency's assessment of the effects of state law on, for example, lending and deposit-taking by OCC-regulated banks). *See also* 12 C.F.R. §§ 7.4007, 7.4008, 34.4.
[4] 602 U.S. at 210.
[5] *Easton v. Iowa*, 188 U.S. 220, 229 (1903).