Regulatory Dispatch

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February 4, 2026

Reports Suggest CFPB Plans Full Notice-and-Comment Rulemaking for Open Banking Rewrite – Cooley LLP

Reportedly, the Consumer Financial Protection Bureau (CFPB) now plans to pursue a notice-and-comment rulemaking process for its rewrite of the Biden-era open banking rule, marking a shift from prior indications that the CFPB would issue an interim final rule.

In December 2025, reports suggested that the Section 1033 open banking rulemaking might be advanced through an interim final rule ahead of the CFPB's expected funding lapse. By issuing an interim final rule, the CFPB could have bypassed soliciting public comment as required under the Administrative Procedure Act (APA) and steps required under the Dodd-Frank Act, such as convening a Small Business Review Panel[1] to consider the potential economic impact of the proposal on small businesses. Now, with the CFPB agreeing to seek and subsequently receiving additional funding from the Federal Reserve, reports suggest that the CFPB is reverting to a traditional rulemaking track.

Even if the CFPB ultimately maintains the substantive direction of the Trump-era revisions – including allowing banks to charge limited fees to data aggregators – a return to full notice and comment will extend the timeline before a final rule is issued. The more deliberative process could help the CFPB limit challenges to the final rule stemming from legal vulnerabilities, especially at a moment when CFPB rulemakings continue to face significant litigation risk (including as to whether the rulemaking process violates the APA).

[1] As outlined in the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996.

Comment: Section 1033 is the "open banking" rule that would require banks to provide consumers and authorized third parties access to consumer financial data through secure interfaces. This marks a significant change as all signs pointed to the CFPB issuing an interim final rule by the end of 2025 that would have reworked the rule issued in October 2024.

CBAK Insights (Ask Anything)

Q: Since the IRS is going to eliminate or reduce paper checks for refunds, my operations department is concerned if we need to be monitoring tax refunds to make sure that the person receiving the refund is an owner of the account it is being direct deposited to.   We are concerned that if a person were to get a refund and not receive the funds from the owner of the account, then the person could file with the IRS to cancel the refund and the IRS issue another refund.

A: While there are no IRS rules that expressly prohibit a taxpayer from having a refund deposited into someone else's account, taxpayers are told not to direct their refund to accounts not in their name, their spouse, or a joint account with their spouse.

What types of accounts are eligible to receive my refund via direct deposit?
You can direct your refund to any of your checking or savings accounts with a U.S. financial institution as long as your financial institution accepts direct deposits for that type of account and you provide valid routing and account numbers. Examples of savings accounts include: passbook savings, individual development accounts, individual retirement arrangements, health savings accounts, Archer MSAs, and Coverdell education savings accounts.

You can direct deposit your refund to a reloadable prepaid debit card or mobile app by using a valid routing and account number associated with that card or app.

However, some financial institutions will accept direct deposits for some types of accounts, but not others. Contact your financial institution to ensure they will accept your direct deposit and verify your account and routing number.

IRS also encourages taxpayers and their preparers to ensure account and routing numbers are accurately entered on returns so your funds can be deposited as intended and remember that your refund should only be deposited directly into accounts that are in your own name, your spouse's name or both if it's a joint account. Source link.

The Bureau of the Fiscal Service addresses the duty and liability issues of the RDFI on their Tax Refund Frequently Asked Questions page.

No. An RDFI is not liable for an IRS tax refund sent through the ACH network to an erroneous or fraudulent account since the IRS provided incorrect account information.

The incorrect banking information may have been supplied to the IRS by the taxpayer on his/her signed tax return which authorized Direct Deposit. Also, an RDFI is not liable in the event IRS directed a refund to an account based on a fraudulently filed tax return.

If possible, financial institutions should encourage their customers that wish to receive their tax refund by direct deposit to double check their bank account and the institution's routing number they enter on their return to prevent a misdirected payment.

If the RDFI learns that an IRS tax refund has been misdirected to the wrong account, the RDFI is required under 31 CFR Part 210 to notify the Government of the error.

An RDFI can satisfy this requirement by returning the original ACH credit entry to IRS with an appropriate return reason code. Alternatively, if account information is incorrect but the payment can be posted to the correct account an RDFI may choose to originate a Notification of Change (NOC) with the correct account and/or routing and transit number.

Although an RDFI is not liable for a misdirected IRS tax refund sent to the wrong account because of IRS or taxpayer error, the RDFI is encouraged after it becomes aware of the error to return those funds to the IRS if the funds are still available in the account. Source link.

Bank Management

	FRB [Outlook for the Economy and Monetary Policy Vice Chair for Supervision Michelle W. Bowman] (01/30/2026) – Update on the Most Recent FOMC Meeting - At our FOMC meeting this week, my colleagues and I voted to hold the federal funds rate target range at 3-1/2 to 3-3/4 percent. Let me explain why I agreed to support this decision. I continue to see policy as moderately restrictive, and, looking ahead to 2026, my Summary of Economic Projections includes three cuts for this year. In my mind, the question at this meeting was about the timeline for implementing these cuts, essentially choosing between continuing to remove policy restraint and arriving at my estimate of neutral by the April meeting, or moving policy to neutral at a more measured pace throughout this year. I do not consider downside risks to the employment side of our mandate to have diminished, and I see several indications that the labor market remains vulnerable. I could have voted in favor of continuing to remove policy restraint in order to hedge more against the risk of further labor market deterioration. But we have seen some signs of stabilization, and, after lowering the policy rate by a total of 75 basis points in the latter part of last year, in my view, we can afford to take time and "keep policy powder dry" for a little while in order to carefully assess how the lower degree of policy restraint is flowing through to broader financial conditions and strengthening the labor market. I am also reluctant to take meaningful signal from the latest data releases given the statistical noise introduced by the government shutdown. And, given that by the time of our March meeting we will have received two additional inflation and employment reports, I saw merit in waiting to take action. It was not a straightforward decision. Ultimately, also considering that inflation remains somewhat elevated, at this meeting I decided to lean in favor of waiting for the upcoming sequence of data releases in order to gain more certainty about how the economy is likely to evolve in the coming months. ***Comment: Current economic data from major agencies like the U.S. Bureau of Economic Analysis (BEA) remains the global standard for accuracy, though, as of late 2025, their perceived reliability is under pressure due to political tension, frequent revisions, and budget-related staff changes. While initial releases are crucial for market timing, they are often revised, making them, at best, a "work in progress."***
	FRB [Federal Open Market Committee reaffirms its "Statement on Longer-Run Goals and Monetary Policy Strategy"] (01/28/2026) – The Federal Open Market Committee, at its annual organization meeting this week, unanimously reaffirmed its "Statement on Longer-Run Goals and Monetary Policy Strategy," often known as the consensus statement, which articulates its approach to monetary policy. The reaffirmed statement is identical to the version adopted in August 2025. The Committee first adopted a [similar statement in 2012]. [Statement on Longer-Run Goals and Monetary Policy Strategy (PDF)] Reaffirmed January 27, 2026

Deposit / Retail Operations

	Sheppard Mullin [CLARITY Act Proposed Ban on Stablecoin Yield Sparks Congressional Debate] (01/30/2026) – Recent congressional debate over the proposed CLARITY Act has highlighted a pivotal issue in stablecoin regulation: whether stablecoin issuers, or the

exchanges and other third parties that distribute their tokens, should be permitted to offer yield to stablecoin holders. On January 12, the Senate Banking Committee released an updated draft of the CLARITY Act including Section 404, a provision prohibiting digital asset service providers from paying any form of interest or yield “solely in connection with the holding of a payment stablecoin.” While the legislation seeks to establish clearer federal rules for digital asset markets, the treatment of stablecoin yield has emerged as a central point of contention.

Section 404 is designed to address a gap left by the GENIUS Act, which established a federal framework for the issuance of payment stablecoins (previously discussed here, here and here). While the GENIUS Act prohibits stablecoin issuers from paying interest or yield directly to stablecoin holders, it does not expressly bar exchanges, custodians, or other affiliated third parties from offering yield funded indirectly by the issuer. Section 404 would close this gap by extending the ban to digital asset service providers and their affiliates, which would prohibit stablecoin products from offering yield indirectly and ensure the ban applies regardless of how the product is structured.

The banking industry has advocated for closing the GENIUS Act’s “affiliate loophole.” In a January 5 letter to Senators, the American Bankers Association’s Community Bankers Council argued that allowing stablecoin-related entities to offer yield would siphon deposits away from community banks, undermining their ability to provide relationship-based lending to small businesses, farmers, and households. The letter includes a state-by-state analysis showing potential outflows of community bank deposits totaling $6.6 trillion.

The Blockchain Association, a trade group representing the digital asset industry, has released its own letter to Congress opposing efforts to broaden the GENIUS Act’s ban on stablecoin yield. The letter argues that Congress deliberately preserved third-party rewards in the GENIUS Act as part of a negotiated compromise, and that expanding the yield ban would depart from that legislative intent. The letter further contends that banks assume significantly greater balance-sheet risk through deposit-taking and lending than GENIUS-regulated stablecoin issuers, which are required to maintain one-to-one reserve backing. The letter also emphasizes that limiting rewards would impose real costs on consumers at a time when bank deposit yields remain low despite a higher-rate environment.

The Senate debate over Section 404 of the CLARITY Act remains unresolved, and the bill has slowed in committee while the banking industry and the crypto industry continue to press their respective sides of this issue. The Senate Banking Committee has postponed its planned markup of the bill, with no new date yet set.

Putting It Into Practice: Ultimately, the fight over Section 404 will reveal where Congress draws the line between payments innovation and bank-like activity. How lawmakers resolve this tension will signal whether the U.S. intends to regulate stablecoins solely as payment instruments or as a more flexible financial tool with the potential to disrupt existing payment and banking models. Stablecoin issuers, banks, and fintechs should closely monitor how Congress ultimately resolves the yield question.

Comment: On January 13, 2026 the Senate committee on Banking, Housing and Urban Affairs released Myth vs. Fact: The CLARITY Act in an attempt to address some of the perceived misconceptions about the Act.

Lending

CFPB The OCC Overreaches with State Escrow Preemption Proposals (01/29/2026) – **Washington, D.C. –** The Office of the Comptroller of the Currency's (OCC's) proposals to preempt state interest-on-escrow laws exceed its authority, ignore legal precedent, and would benefit national banks at the expense of homeowners, the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) said in a joint comment letter today, asking for the proposals to be withdrawn immediately.

The OCC's proposals would exempt national banks from paying interest to homeowners on funds held in mortgage escrow for taxes and insurance, preempting 12 state laws designed to discourage banks from inflating escrow-account balances as a source of interest-free funding. The 12 states in question – Calif., Conn., Maine, Md., Mass., Minn., N.Y., Ore., R.I., Utah, Vt., and Wis. – represent 30% of the nation's mortgages.

"No matter how hard they try, the OCC cannot regulate around Congress and the courts," said CSBS President and CEO Brandon Milhorn. "The OCC's interest-on-escrow regulatory proposals would erode 50 years of state law designed to protect consumers. These OCC proposals are not only bad law – falling well below the *Cantero* preemption standard – but they are also horrible policy. Taking money out of the pockets of homeowners and giving it to national banks is a callous response to the housing affordability crisis."

In addition to undermining housing affordability, the proposals would create a competitive disadvantage for state-chartered banks and nonbank mortgage servicers, which must continue to pay interest under applicable state consumer protection laws. Making matters worse, consumers do not get to choose who services their mortgage, resulting in the potential loss of hundreds or thousands of dollars based solely on the fact that a national bank services the consumer's loan.

The OCC proposals also fail to meet the requirements set by Congress and the U.S. courts governing preemption of state consumer protection laws. More concerning, the OCC seeks to erode the statutory preemption standard by regulation – manufacturing a conflict with state law and then asserting, without authority, that any state consumer protection law is void simply because it might impose an "unnecessary burden" on national banks. This "unnecessary burden" standard – pronounced unilaterally by the OCC – falls well below the "prevents or significantly interferes" preemption standard actually embodied in the National Bank Act, reaffirmed in *Cantero*, and applied by multiple courts to find that interest-on-escrow laws cannot be preempted.

For more information, view the OCC Preemption Backgrounder.

Comment: Comment from the National Conference of State Legislators - On behalf of the National Conference of State Legislatures (NCSL), the nation's bipartisan voice of state legislatures in the federal system, we respectfully submit these comments in opposition to the Office of the Comptroller of the Currency's (OCC) proposed rule, "Preemption Determination: State Interest-on-Escrow Laws"(Docket ID OCC-2025- 0735). The proposal would preempt longstanding laws in 12 states that require mortgage servicers to pay interest on consumer escrow accounts, an action inconsistent with both the National Bank Act and the principles of federalism that animate our constitutional system. We urge the OCC to withdraw this proposal.

Open for Comment

Included only when specific to or relevant for community banks to comment on. Date posted may not be the same as the Federal Register Date.

12.17.2025 **FDIC** Approval Requirements for Issuance of Payment Stablecoins by Subsidiaries of FDIC-Supervised Insured Depository Institutions SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is soliciting comments on a proposal that would establish procedures to be followed by an insured State nonmember bank or State savings association (each, an FDIC-supervised institution) that seeks to obtain FDIC approval to issue payment stablecoins through a subsidiary pursuant to the Guiding and Establishing National Innovation for U.S. Stablecoins Act (GENIUS Act). **DATES: Comments must be received by the FDIC no later than February 17, 2026.**

12.04.2025 **FRB** Requests Public Input on the Impact of Potential Strategic Changes to Check Services Provided by the Fed, as Well as Check Usage and Preferences SUMMARY: The Board of Governors of the Federal Reserve System (Board) seeks public input on questions related to the future of the Federal Reserve Banks' (Reserve Banks') check services. The Board will use responses to this request for information (RFI) to assess possible strategies for the future of the Reserve Banks' check services, including potentially substantial changes that may have longer run effects on the payments system. In addition, the Board will use responses to this RFI to analyze other actions that the Federal Reserve System could consider with respect to checks, in partnership with the industry, to support the overall safety and efficiency of the payments system. **DATES: Comments must be received by March 9, 2026.**