



## OCC PRE-EMPTION

The California Bankers Association (CBA) supports the recent adoption of regulations by the Office of the Comptroller of the Currency (OCC) clarifying the states' rights with respect to the regulation of national banks. This is an area that has led to significant litigation over the years. The OCC's final regulation governing pre-emption and visitorial powers is based on existing case law and is intended to give states direction in this area by clarifying to what extent the operations of national banks are subject to state laws.

The pre-emption of state laws that limit the powers and activities of federally chartered banks is not a new phenomenon. Those who argue that the proposed regulations undermine state rights are ignoring federal legal precedent going back more than 130 years. Precedents of the United States Supreme Court dating back to 1869 have addressed pre-emption in the context of national banks and have consistently and repeatedly recognized that national banks were created by Congress to operate, throughout the nation, under uniform, federally set standards of banking operations.

CBA believes that the new OCC rules are consistent with these prior legal rulings and the regulatory structures governing other nationally chartered financial institutions. If the states followed the guidelines set forth in the OCC rules, the expense of needless litigation could be avoided by the states and industry.

The dual banking system created by Congress when it passed the National Banking Act has served our nation well. Attempts to undermine the integrity and independence of federal regulation are a direct assault on the dual banking system. Without uniform federal regulation, national banks operating on a multistate basis would be subject to a balkanized regulatory scheme that would be confusing, contradictory, and expensive for national banks and their customers. It would be "national" banking in name only.

For these reasons CBA opposes the efforts by Senator Edwards (**S.J. Res. 31 and 32**) and Representative Luis Gutierrez (**H.R. 4236 and H.R. 4237**) to overturn the OCC rules on pre-emption and visitorial powers.

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