



---

Comptroller of the Currency  
Administrator of National Banks

---

Washington, DC 20219

August 2, 2005

Richard Blumenthal  
Attorney General  
State of Connecticut  
55 Elm Street, P.O. Box 120  
Hartford, CT 06141-0120

**Interpretive Letter #1055**  
**March 2006**  
**12 USC 24(7)**

Dear Attorney General Blumenthal:

Thank you for your letter concerning a complaint you received from a Connecticut resident. The complaint concerns fees charged by a national bank for cashing a check presented for payment by a non-accountholder that is drawn upon the account of one of the bank's customers. Fees a bank charges for cashing a check presented by a non-accountholder are sometimes described as convenience fees charged for the service of making funds immediately available to non-customers. The fees also are referred to as "on-us check cashing fees" or "on-us fees." I appreciate this opportunity to explain national banks' authority to charge such fees.

The OCC has issued several letters explaining that Federal law authorizes national banks to charge on-us fees.<sup>1</sup> As these letters describe, a Federal statute, 12 U.S.C. § 24(Seventh), authorizes national banks to engage in activities that are part of, or incidental to, the business of banking, as well as to engage in certain specified activities listed in the statute. Cashing checks is part of the business of banking. A national bank's authority to provide products or services, such as check cashing, to its customers encompasses the ability to charge a fee for the product or service.<sup>2</sup> This authority to charge fees for services is expressly set forth in the OCC's regulations at 12 C.F.R. § 7.4002, and our interpretive letters concluded that on-us fees are included in this authority.

That conclusion was subsequently upheld by the U.S. Court of Appeals for the Fifth Circuit. In a case concerning the applicability to national banks of a Texas statute prohibiting on-us fees, the

---

<sup>1</sup> OCC Interpretive Letters Nos. 932, 933, and 934 (May 2002). These letters are publicly available on the OCC's website at [www.occ.treas.gov/interp/monthly.htm](http://www.occ.treas.gov/interp/monthly.htm).

<sup>2</sup> See *Bank of America, N.A. v. City and County of San Francisco*, 309 F.3d 551 (9<sup>th</sup> Cir. 2002), *cert. denied*, 123 S. Ct. 2220 (2003) (city ordinances prohibiting ATM fees held preempted and permanently enjoined); *Metrobank v. Foster*, 193 F. Supp. 2d 1156 (S.D. Iowa 2002) (national bank authority to charge fees for ATM use preempted Iowa prohibition on such fees). See also *Bank One v. Guttau*, 190 F.3d 844 (8<sup>th</sup> Cir. 1999) (various restrictions on the operation of ATMs imposed by Iowa law held preempted and permanently enjoined).

Fifth Circuit confirmed that the OCC had the authority to determine that Federal law authorized a national bank to charge such fees and expressly upheld the OCC's determination. Moreover, the appeals court affirmed the lower court's decision that the Texas statute prohibiting on-us fees was preempted by Federal law. As the Fifth Circuit's decision thus makes clear, state statutes that prohibit the fees do not apply to national banks.<sup>3</sup>

I trust this explanation is helpful in understanding national banks' authority to charge on-us fees. If you have any further questions, please do not hesitate to contact me or Michele Meyer, an attorney on my staff, at (202) 874-5090.

Sincerely,

*signed*

Julie L. Williams  
Acting Comptroller of the Currency

---

<sup>3</sup> *Wells Fargo Bank of Texas, N.A. v. James*, 321 F.3d 488 (5<sup>th</sup> Cir. 2003), *aff'g* 184 F. Supp. 2d 588 (W.D. Tex 2001).