

IN THE SUPREME COURT OF THE UNITED STATES

No. 22-529

ALEX CANTERO, ET AL., PETITIONERS

v.

BANK OF AMERICA, N.A.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

MOTION OF THE UNITED STATES FOR LEAVE TO
PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE
AND FOR DIVIDED ARGUMENT

Pursuant to Rule 28 of the Rules of this Court, the Solicitor General, on behalf of the United States, respectfully moves that the United States, as amicus curiae supporting vacatur, be granted leave to participate in the oral argument in this case and for divided argument, and respectfully requests that the United States be allowed 10 minutes of argument time. Petitioners have consented to this motion and agreed to cede ten minutes of their argument time to the United States. Accordingly, if this motion is granted, the argument time would be divided as follows: 20 minutes for petitioners, 10 minutes for the United States, and 30 minutes for

respondent.

This case presents the question whether the National Bank Act (NBA), 12 U.S.C. 1 et seq., as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Pub. L. No. 111-203, 124 Stat. 1376, preempts a state law that requires banks to pay interest on mortgage escrow account balances. Specifically, the parties dispute whether New York's requirement that national banks pay 2% annual interest on residential-mortgage escrow accounts "significantly interferes with the exercise" of national banks' powers and therefore is preempted under 12 U.S.C. 25b(b) (1) (B).

The United States has a substantial interest in the resolution of that question. The United States, through the Office of the Comptroller of the Currency (OCC), is the primary regulator of banks chartered under the NBA. The Consumer Financial Protection Bureau also has enforcement responsibilities under the Dodd-Frank Act. At the Court's invitation, the Solicitor General filed an amicus brief on behalf of the United States at the petition stage of this case. After this Court granted certiorari, the United States filed an amicus brief on the merits supporting vacatur of the decision below.

The United States has previously presented oral argument as amicus curiae in cases concerning the interpretation and application of the Dodd-Frank Act and the NBA. See e.g., Digital Realty Tr., Inc. v. Somers, 583 U.S. 149, 152 (2018); Watters v.

Wachovia Bank, N. A., 550 U.S. 1 (2007); Barnett Bank v. Nelson, 517 U.S. 25 (1996). Oral presentation of the views of the United States would materially assist the Court in its consideration of this case.

Respectfully submitted.

ELIZABETH B. PRELOGAR
Solicitor General
Counsel of Record

JANUARY 2024