venture
BANK
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Response to the FDIC's Proposed Rulemaking
12 CFR Part 337
Interest Rate Restrictions on Institutions
That Are Less Than Well-Capitalized

1. Should the FDIC amend its definition of a "market area"? Should the FDIC add a definition of "normal market area"? If so, what should be the definition of an insured depository institution's "normal market area"?

   Specifically for deposits that are gathered via a branch network; banks gather these deposits so that they can reinvest them back in to the communities they serve. Therefore a normal market area should be defined by a bank's geographical footprint in the areas it serves ie; within 3-5 miles of each of their branches.

2. Should the FDIC create a presumption that the prevailing rate in any "market area" or "normal market area" is the national rate? If not, how should the FDIC determine the prevailing rate in a particular "market area" or "normal market area"?

   There needs to be a recognition of the fact that community banks are now competing not only where they are physically located, but also with on line banks. Due to this more community banks are now trying to be competitive in both areas. Therefore there are actually two different definitions of market area for these banks.

   The prevailing rate for a market area that involves a branch network should be based on the rates offered in the bank's normal market area (see definition above). Rates in these geographic market areas can vary greatly from the average rates nationally.

For example, in this notice, the FDIC listed rates as of January 4. These are significantly lower than the rates for the same terms at that time in our market area:

	National Rate	Local Market Area
3 month CD	1.22	1.31
6 month CD	1.55	1.82
12 month CD	1.95	2.05
24 month CD	2.15	2.41

If banks have to comply with a lower national average rate, it puts them at a competitive disadvantage at a time when they cannot afford to lose deposits.

We recommend three possible options for determining the prevailing rates in a market area:

1) A rate analysis of other banks in the market area
2) Subscribe to a rate watch service that provides average rates in the market area
3) Use information online to determine average rates in the market area.

When it comes to competing on the internet for on line deposits, we submit that the market area in which such deposits are being solicited is the internet. The market area in which on line deposits are being solicited should not be tied to a geographic area rather the market should be defined by the media used. The rates banks offer on line do not affect the rates of the local banks where it's customers are located, but rather it affects the rates of other institutions that solicited deposits on line.

It is imperative that the FDIC recognize that community banks are now in competition with on line banks for deposits nationally.
Financial research and consulting firm Celent estimates that $120 billion in deposits were gathered online as of the end of 2005 and expects that figure to more than triple to $380 billion by 2010. These are deposits that are being moved from traditional banks.

There is a demographic of customers who want to bank online. They are not looking for a bank with a physical location. When banks solicit deposits online, they are appealing to a different type of customer, and we are not competing against banks in those areas. The competition is other banks offering online only accounts.

Banks that offer deposits online operate and compete on a different level. Accounts are opened online, and customers are not required to visit a branch to complete the process. Deposits and withdrawals are done electronically. There are no physical locations.

Because of this low-cost model for providing banking services, these online only banks are able to offer more competitive rates than most brick and mortar banks. For example, money market rates in one local market area average 1.69%, while the average rates for online money market and savings account is 2.40%.

There are several online rate boards that provide online rates including: Bankrate.com, and bankdeals.blogspot.com. Online banks should be considered as its own market area because the rates offered by online only banks do not affect rates in the local market area. The rates provided by online only banks should be considered as the prevailing rates for this market area.

3. Should the FDIC, in addition to publishing a "national rate" that can be used as a proxy for the "normal market area" rate, also provide a schedule that lists prevailing rates for maturities by state for those institutions soliciting deposits only in those states?

The FDIC should not use a national rate as proxy for the "normal market rate." We do agree that the FDIC should provide the prevailing rates for maturities by state for reference, but banks should be able to rely on their own market area analysis for purposes of establishing rates.

4. Should the FDIC redefine the "national rate"? If so, should the FDIC define the "national rate" as "a simple average of rates paid by all insured depository institutions and branches for which data are available"? If not, how should the FDIC define the "national rate"?

The national rates should be used for national banks, not community banks that only compete in specific market areas. For national bank's using a national rate by surveying other national bank's rates would seem appropriate.

Even though some community banks do compete for on line deposits nationally, the competition is then other on line bank rates, not the brick and mortar locations of the national banks.

5. Should the definition of the "national rate" be made more flexible? For example, in the event of changes in market conditions, should the FDIC possess the discretion to add or remove a multiplier to the "national rate" (so that the "national rate" might be the "average of rates times 1.20" or some other multiplier)?

Using a multiplier would not be the answer as it would be arbitrary and not specific to any market area.

6. Should the FDIC set forth a specific procedure for determining average or prevailing rates? For example, should the FDIC specify that data may be obtained from one or more private companies as to the rates paid by insured depository institutions?

Yes – as long as each market can be treated independently.

7. Should the FDIC establish a procedure for disseminating information about average rates or rate caps? For example, should the FDIC post such information on its Web site for use by insured depository institutions and examiners?

Yes – having a procedure for sharing this information about average rates would be helpful with the banks that need to comply.

8. Should the FDIC establish a procedure through which an insured depository institution could present evidence about the prevailing or average rates in a particular market?

Yes – banks need to be given a way to present evidence of the average rates in its area. For example, we had been determining the average rate for our market area by surveying a group of banks in our market area. In order to demonstrate that this rate survey was a true representation of all rates in our market, we did a rate survey of every bank in our market. This comprehensive survey showed that the smaller survey we were doing periodically accurately represented the average rate of all banks in our market.

9. Under the FDIC's regulations, a rate of interest "significantly exceeds" another rate, or is "significantly higher" than another rate, if the first rate exceeds the rate by more than 75 basis points. Should the FDIC change this standard?

No. This is one of the few parts of the regulation that is clear and should be left alone.

10. Should the FDIC adopt restrictions in addition to the current restrictions based on a depository institution's capital category? \

No. The current restrictions are difficult enough to comply with, but do meet the intent of the regulation.