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Attachments: FDIC NPR on Special Assessment Public Comments submitted by CBB 6 15 23.pdf

[redacted]

CITIZENS BUSINESS BANK

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Comments by Citizens Business Bank, Ontario, California, on

FDIC's Notice of Proposed Rulemaking on Special Assessments

RIN 3064-AF93

June 15, 2023

We wish to provide comments on three specific and important issues related to the FDIC's Notice of Proposed Rulemaking on Special Assessments dated May 11, 2023. In addition, we wish to comment on one of the three options for deposit insurance reform outlined in the FDIC's Report on Options for Deposit Insurance Reform dated May 1, 2023.

A. Comments on Proposed FDIC Special Assessments

1. Collateralized Deposits

- First and foremost, for purposes of calculating the assessment base for the proposed special assessment, we believe that the FDIC should exclude all deposits from the calculation of an insured depository institution's "Estimated Uninsured Deposits" (EUD) that are required by federal, state, local or tribal governments to be collateralized with government-issued securities or other acceptable collateral at levels of 100% or greater relative to the value of the uninsured portion of such deposits.

- The total deposits constituting Government and State deposits are reported in Schedule RC-E, items 2 and 3 respectively, and the uninsured deposits of the States and political subdivisions in the U.S., is reported in Schedule RC-E, item 1.e of the FFIEC 031 Report form as part of the Insured Depository Institution's (IDI's) quarterly submission of the Consolidated Reports of Condition and Income and Call Report.

Collateral Requirements – U.S. Government
Financial institutions are required to ensure that deposits of uninsured public money by the U.S. Government are secured at all times by acceptable collateral with a market value equal to at least 100 percent of such uninsured public money, in accordance with the Public Money Regulations, 31 C.F.R. Sections 202.3, 202.4, 202.5, 202.6 and 202.7.

Collateral Requirements – California State Funds

Core Deposits
California Government Code Section 16611 requires all financial institutions to deposit securities as collateral with the California State Treasurer valued at least 110 percent of the uninsured portion of the collected funds deposited with the financial deposit institutions.

Repurchase Agreements
California Government Code Section 53601 (j) (2) requires that the market value of securities that underlie a repurchase agreement shall be valued at 102 percent or greater of the funds borrowed against those securities and the value shall be adjusted no less than quarterly.

As of December 31, 2022, the U.S. Government deposits total for Citizens Business Bank (CBB) was [redacted] (Column A & Column B of Schedule RC-E, item 2) and CBB's Collateral Value for such U.S. Government deposits was [redacted] As of December 31, 2022, the Local Agency Funds (State Funds) deposits total for CBB was [redacted] (Column A & Column B of Schedule RC-E, item 3) and the uninsured deposits total was [redacted] which is reported in Schedule RC-E, item 1.e. CBB's Collateral Value for State Funds as of December 31, 2022, was [redacted]

CBB's total deposits as of December 31, 2022, were [redacted] and the EUD total was [redacted] These totals are reported in Schedule RC-O, item 1, and Memorandum item 2, respectively. Based on the information provided above, we believe that CBB's EUD total for purposes of the FDIC's proposed assessment should be considered over-stated by [redacted] (with [redacted] representing State Funds and [redacted] representing U.S. Government Funds).

- Additionally, CBB maintains deposits of Tribal Funds for which CBB has pledged collateral security in accordance with the Title 25 of United States Code 162a. As of December 31, 2022, CBB's EUD total for Tribal Funds was [redacted] and the collateral value of securities pledged by CBB to support such Tribal Funds was [redacted]

- Accordingly, CBB maintains deposits that are not insured by the FDIC, but which instead are secured by investment grade securities pledged by CBB itself in the aggregate amount of [redacted]. We believe that this amount should be excluded from the FDIC's assessment base of uninsured deposits, because the depositors in question are NOT relying upon FDIC deposit insurance or on any implicit decision or policy on the part of the FDIC to effectively insure such deposits, and the collateral security in question has been provided wholly by CBB and not by the FDIC.

- Accordingly, if collateralized deposits are taken into account as we are proposing above, the EUD total for CBB, measured as of December 31, 2022, would be [redacted] and not [redacted].

2. **Measurement Date for Uninsured Deposits**

- We believe that the Special Assessment for each insured institution subject to the special assessment should be calculated using the EUD total, less pledged collateralized deposits, held by such institution as of March 31, 2023, as opposed to December 31, 2022. The simple reason for this is that the FDIC did not announce its decision to extend a guarantee of deposit insurance to the full amounts of all customer deposits at Silicon Valley Bank and Signature Bank until March 13, 2023, and during the intervening period between December 31, 2022, and late March 2023, community and regional banks experienced significant deposit runoff as a result of these two regional bank failures.

- This high level of deposit runoff occurred because depositors were uncertain, at least prior to mid-March 2023, whether their uninsured deposit balances would in fact be treated as insured by the FDIC. Accordingly, any benefit that community and regional banks would have received with respect to the stabilization of their deposit balances, by virtue of the FDIC's decision to insure all outstanding customer deposits of the two failed regional banks, would not have been realized until mid-March or later. That being so, it would be patently unfair for the FDIC to assess insured institutions based on deposit levels that were subsequently subject to substantial run-off between December 31, 2022, and March 31, 2023, due to the delayed timing of the FDIC's public announcement of its systemic risk exception in this situation. While the respective levels of deposits on March 31, 2023 versus December 31, 2022 varied more dramatically for many insured institutions on a percentage basis, for Citizens Business Bank in particular, CBB's total deposits were $12,306,000,000 as of March 31, 2023, compared to $12,875,454,000 on December 31, 2022, and the Bank's total uninsured deposits were $7,068,000,000 as of March 31, 2023, compared to $8,409,287,000 on December 31, 2022. This is a meaningful difference in relative uninsured deposit levels, and we believe Citizens Business Bank and other similarly situated banks should not be penalized by being required to pay a supplemental assessment based on an assumption that such banks benefitted from phantom deposit insurance that in reality did not exist on the date in question.

- On May 31, 2023, FDIC Chairman Gruenberg released his comments regarding the 2023 first quarter results for FDIC insured financial institutions, via Quarterly Banking Profile Press Release. According to the press release, Chairman Gruenberg stated that IDIs' deposits declined for a fourth consecutive quarter. Total deposits at the end of first quarter 2023 were $18.7 trillion, down 2.5 percent from the level reported in the fourth quarter 2022, the largest reduction reported in the Quarterly Banking Profile since data collection began in 1984. Further analysis indicates that a reduction in uninsured deposits was the driver of the quarterly decline since insured deposits for the same period increased. This is another important reason why a March 31, 2023, measurement date for uninsured deposits would be more appropriate than a December 31, 2022, measurement date.

3. **New Assessment Base Methodology for the Special Assessment**

The FDIC's Notice of Proposed Rulemaking (NPR) provides that IDIs with greater than $5 billion in assets shall be subject to the special assessment, with IDIs with assets over $50 billion incurring over 95% of the anticipated amount of the special assessment. The rationale provided by the FDIC for imposing the special assessment on larger banks is based on the assumption that large banks with larger amounts of uninsured deposits received the most benefit from the FDIC's systemic risk determination. However, as previously stated above, we believe the NPR fails to take into account that these larger banks, commonly referred to as "Systemically Important Banks," benefitted disproportionately from the deposit runs experienced by smaller community and regional banks. In simple terms, it was the very largest banks, and not Citizens Business Bank, that directly benefited from deposit inflows during the disrupted period by virtue of being perceived as "too big to fail." This is further supported by the analysis included in the NPR, which states "Following the March 2023 bank failures and the determination of systemic risk, deposits of the top 25 commercial banks grew slightly while deposit outflows rapidly accelerated, with banks outside of the top 25 experiencing a 4 percent decline in two weeks."

Additionally, we would like to highlight that on March 19, 2023, Flagstar Bank, Hicksville, New York, purchased and assumed substantially all deposits and certain loan portfolios of Signature Bridge Bank. The total assets of Flagstar Bank as of December 31, 2022, and March 31, 2023, are $90 billion and $123.6 billion, respectively. On March 26, 2023, First-Citizens Bank and Trust Company, Raleigh, North Carolina, purchased and assumed all deposits and loans of Silicon Valley Bridge Bank. The total assets of First-Citizens Bank and Trust as of December 31, 2022, and March 31, 2023, are $109 billion and $214.6 billion, respectively. Most recently, on May 1, 2023, JPMorgan Chase Bank, National Association, Columbus, Ohio assumed all deposits and substantially all of the assets of First Republic Bank. The total assets of JPMorgan Chase Bank as of December 31, 2022, and March 31, 2023, are $3.20 trillion and $3.27 trillion, respectively.

Accordingly, we believe that using an asset size threshold of at least $100 billion is a more equitable methodology for the establishment of the special assessment base. This recommended asset threshold of at least $100 billion also aligns with the proposed reinstatement of the Dodd-Frank Act's liquidity requirements and enhanced liquidity stress testing for banks with assets over $100 billion.

B. FDIC Report on Options for Deposit Insurance Reform

We believe that the FDIC's Targeted Coverage option should be preferred for several reasons:

- First, ensuring the stability of business payment accounts is critical not only to the safety and soundness of our banking system but also to the larger economy and workforce of our country.

- Second, as the FDIC is well aware, there are literally millions of businesses throughout the United States that rely on their deposit accounts for making everyday transactions, including purchases and sales, vendor payments, and routine payroll for their managers and employees. It is simply not practical for the typical business to fragment its banking relationships and to make payments and payroll from multiple accounts at multiple insured institutions. This is the case because the FDIC standard insurance amount of $250,000 per depositor, per insured depository bank, for each ownership category, is insufficient for the operating bank accounts of businesses of any significant size.

- Unlike individuals, businesses have limited ownership categories available to them to increase the FDIC insurance coverage limit. The current FDIC insurance limit for corporations (S, LLC, C), partnerships, or unincorporated associations is only $250,000.

- Third, community and regional banks play a crucial role in serving business customers in every state and region of the United States. Targeted higher deposit insurance coverage for business accounts will prevent a small group of giant banks who are perceived to be "too big to fail" from gaining a disproportionate competitive advantage over community and regional banks with respect to business checking and deposit accounts. It is widely recognized that community and regional banks play a critical role in ensuring the availability of credit to small and medium-sized businesses throughout the United States.

- Fourth, we believe that business accounts, relative to other types of accounts, carry objectively identifiable characteristics that can be utilized to prevent deposit insurance fraud from occurring if deposit insurance is expanded to cover such accounts. Examples of such objectively identifiable characteristics, which we believe should be employed in combination, would be (1) proof of the incorporated status (business entity) of the account holder, (2) proof of regular deductions for payroll payments from such accounts, (3) average balances maintained in the business account for the prior calendar year, as all the foregoing information is readily available and maintained by IDFs.

The foregoing constitutes the comments of Citizens Business Bank, based in Ontario, California, and we appreciate the FDIC's taking our comments into account prior to adopting a final proposal regarding reform of deposit insurance.