ZIONS BANCORPORATION

July 17, 2023

Via E-mail: comments@fdic.gov

James P. Sheesley, Assistant Executive Secretary
Attention: Comments – RIN 3064-AF93
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: Special Assessments Pursuant to Systemic Risk Determination
(FDIC: PR-37-2023; RIN 3064-AF93)

Ladies and Gentlemen:

Zions Bancorporation, N.A. appreciates the opportunity to comment on the Federal Deposit Insurance Corporation's proposed rulemaking on the Special Assessment Pursuant to Systemic Risk Determination (the "proposed rulemaking").

We are one of the nation's premier financial services companies with approximately $90 billion of total assets at December 31, 2022, and annual net revenue of $3.2 billion in 2022. Our emphasis on small business and middle-market banking has afforded us a high quality, granular deposit franchise, with total deposits exceeding $70 billion at year end 2022.

The Federal Deposit Insurance Act requires that the expected loss to the Deposit Insurance Fund ("DIF") must be recovered from one or more special assessments, including consideration of the types of entities that benefited from the actions taken by the FDIC to protect the uninsured depositors of Silicon Valley Bank and Signature Bank following their respective failures (the "Bank Failures").

As currently drafted, we believe the proposed rulemaking does not appropriately identify the banks which benefited from the assistance provided under the systemic risk determination, or the extent to which they benefited; nor does it fairly distribute the resolution costs in using uninsured deposit estimates as of December 31, 2022, as the assessment base.

Beneficiaries of the Systemic Risk Determination

Although banking industry deposits were already decreasing following the Federal Reserve's initiation of a program of quantitative tightening in mid-2022, the outflow of deposits was exacerbated by the Bank Failures. The Notice of Proposed Rulemaking includes the statement that, "Following the announcement of the systemic risk determination, the FDIC observed a significant slowdown in uninsured deposits leaving certain institutions, evidence that the systemic risk determination helped stem the outflow of these deposits while providing stability to the banking industry." In point of fact, the systemic risk determination was made on March 12, 2023, and most all of the outflows precipitated by the bank failures occurred *after* the systemic risk determination, and in particular during the latter half of March.

The systemic risk determination may well have helped suppress a more widespread panic. Nevertheless, following the Bank Failures there were immediate and pronounced shifts in uninsured deposits from regional and community banks into banks thought by the public and large depositors to in fact be systemically important and "too big to fail," and whose *total* deposits would, implicitly, be fully insured.

Indeed, the most immediate beneficiaries of the systemic risk declaration were the handful of Category I-III banks whose sheer size suggests to large depositors that their uninsured deposits will, in a time of crisis, be fully covered by the FDIC. The actions taken to protect all depositors at the failed banks served to confirm this assumption.

Because the systemic risk exception (SRE) to least-cost resolution requires the concurrence of the Federal Reserve Board of Governors, the FDIC Board of Directors, and the Secretary of the Treasury (in concurrence with the President of the United States), the bar for its use is high, and it is unclear what the threshold is for its employment. Unless one were to read the proposed exemption of $5 billion of uninsured deposits from the special assessment as simply a political imperative, one would reasonably infer that the SRE would not be employed in the case of a failure of a bank with such a limited sum of uninsured deposits. But it is hardly sensible to think that the likelihood of its employment in the failure of a bank with $10 billion in such deposits would be the same as in the case of a failed bank with $1 trillion in uninsured deposits. The flow of deposits in the immediate aftermath of the bank failures would suggest that the benefit attributable to the uninsured deposits in the very largest banks has been quite different than in those that are smaller.

A closer review of deposit fund flows subsequent to March 12, and changes in the pricing of large uninsured deposits, may provide a more accurate picture with respect to the banks that benefited from the systemic risk declaration, and the extent to which they benefited.

Reliance on Backward-Looking Data

The use of December 31, 2022, as the date for establishing the assessment base is also highly problematic. Using December 31, 2022, as the assessment date unfairly assesses banks, particularly regional banks that experienced higher levels of deposit outflows subsequent to the bank failures, for uninsured deposits they may no longer have.

Between December 31, 2022, and March 31, 2023, 10 banks that face special assessment charges saw their uninsured deposits drop below the $5 billion threshold described in the proposed rulemaking. Excluding those banks, an additional 31 banks, or 28% of the remaining population, would have declines greater than 15% of their assessment expense due to uninsured deposits which they no longer held at March 31, 2023. The impact among these 41 banks is a combined assessment of $475 million more than if the assessment was based on reported uninsured deposits as of March 31, 2023.

Furthermore, use of the December date ignores recent acquisition activity. Ironically, two of the largest beneficiaries of the proposed December 31, 2022, assessment date are the banks which purchased Silicon Valley Bank and Signature Bank on favorable terms from the FDIC. If the proposed assessment date was changed to March 31, 2023, we estimate that First Citizens and New York Community Bancorp would pay an additional $109 million and $32 million, respectively, toward the FDIC special assessment. As proposed, the portion of the special assessment attributable to the uninsured deposits these two banks acquired would be apportioned among the remaining banks paying a special assessment.

Reliance on a Single Data Point

Finally, employing uninsured deposits as reported on the Call Report as the basis for the special assessment is problematic in that the measure is, by definition, an estimate. The Call Report instructions explicitly note that "the capabilities of a bank's information systems to provide an estimate of its uninsured deposits will differ from bank to bank at any point in time and, within an individual institution, may improve over time."

It is also our understanding that some large banks have already begun to amend their year-end Call Reports to reduce their reported uninsured deposits. The proposed rule suggests that Call Report amendments which impact reported uninsured deposits made prior to the finalization of the rule would be included in the assessment, while amendments made after the adoption of the final rule would not impact the assessment. Additional guidance and standards are needed to improve the consistency in reporting of these estimates given the proposed use.

We ask that the FDIC reconsider the proposed rule which 1) erroneously presumes all large and regional banks benefited equally from the systemic risk determination, 2) relies on backward-looking data as of December 31, 2022, and 3) uses a single data point - uninsured deposits - as the basis for the assessment.

Thank you for your consideration.

Respectfully,

[redacted]

Paul Burdiss
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Zions Bancorporation, N.A.
FDIC Certificate #2270