From: Ashley Peterson
To: Comments

Subject: [EXTERNAL MESSAGE] August 23, 2024 Unsafe and Unsound Banking Practices: Brokered Deposits Restrictions; Comment Request (RIN 3064-AF99)
Date: Thursday, October 10, 2024 8:28:35 PM

[redacted]

Dear FDIC,

I appreciate the opportunity to provide feedback on the proposed rule to strengthen brokered deposit regulations. While I understand the FDIC's intent to enhance regulatory clarity and ease risks associated with brokered deposits, I have several concerns regarding the proposed changes, along with a suggested alternative.

Concerns with Key Proposals

1. **Revised Definition of "Deposit Broker":**
    - The merging of the "placing" and "facilitating" definitions into a single framework may lead to an overly broad interpretation of what constitutes a deposit broker. This could unintentionally capture entities that engage in legitimate financial activities but do not pose the risks the rule aims to mitigate. A more nuanced approach is necessary to prevent regulatory overreach.
2. **Elimination of the Exclusive Deposit Placement Arrangement Exception:**
    - Removing this exception could have unintended consequences, particularly for less-capitalized insured depository institutions (IDIs) that rely on specific third-party arrangements for funding. This change may limit their ability to operate effectively and could disproportionately impact smaller institutions that do not have the same level of access to capital markets as larger banks. It would be beneficial to retain this exception under certain conditions to allow for more flexibility in funding arrangements.
3. **Revised Primary Purpose Exception Analysis:**
    - The proposed changes to the primary purpose exception may complicate compliance for many institutions. By focusing heavily on the relationship between the IDI and the third party, the FDIC risks creating a regulatory burden that could suppress innovation in deposit placement strategies. A clearer description of what constitutes a primary purpose is necessary to avoid uncertainty and unnecessary regulatory hurdles.

4. **Impact on Passive Listing Services:**
    - While clarifying the role of passive listing services is important, the proposed rule may still create confusion about what constitutes acceptable marketing practices. A more defined boundary is needed to differentiate legitimate listing services from those that could be classified as deposit brokers.

Proposed Alternative

To address these concerns, I propose the following alternative framework:

- **Define a Tiered Approach to Deposit Brokers:**
    - Implement a tiered regulatory framework that distinguishes between different types of deposit brokers based on their activities and risk profiles. For example, entities that primarily facilitate deposits without taking on significant financial risk could be subject to a less stringent regulatory regime than those engaging in higher-risk activities. This would allow for better regulatory oversight where it is most needed while providing operational flexibility for legitimate financial activities.
- **Retention of Key Exceptions:**
    - Revisit the decision to eliminate the Exclusive Deposit Placement Arrangement Exception. Instead, consider retaining it with specific criteria to ensure that it supports smaller institutions without compromising regulatory integrity. This could include limits on the volume of deposits placed through such arrangements or requiring enhanced disclosures to regulators.
- **Clear Guidelines on Marketing Practices:**
    - Develop comprehensive guidelines that clearly outline acceptable practices for passive listing services. This should include specific examples of what constitutes legitimate marketing activities versus those that may inadvertently classify an entity as a deposit broker. By providing clarity, the FDIC can help ensure compliance while fostering innovation in the marketplace.

Conclusion

While I appreciate the FDIC's efforts to strengthen the regulatory framework surrounding brokered deposits, I urge the agency to reconsider the implications of these proposed changes and I encourage the FDIC to engage in further dialogue with stakeholders. Striking a balance between regulatory oversight and operational flexibility is essential, especially for smaller institutions that play a crucial role in our financial system.

Thank you for considering my comments.

Ashley Peterson