December 6, 2024

Via Electronic Mail

Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Attention: James P. Sheesley, Assistant Executive Secretary
RIN 3064-ZA42

Re: Request for Information on Deposits. RIN 3064-ZA42.

Ladies and Gentlemen:

The Bank Policy Institute[1] submits this letter in response to the Federal Deposit Insurance Corporation's July 30, 2024 Request for Information on Deposits. The FDIC is soliciting comments on deposit data that is not currently reported in the Federal Financial Institutions Examination Council's Consolidated Reports of Condition and Income (Call Report) or other regulatory reports, including for uninsured deposits, and is seeking to evaluate whether and to what extent certain types of deposits may behave differently from other types of deposits, particularly during periods of economic or financial stress.[2]

BPI appreciates the opportunity to provide comments to the FDIC in connection with its RFI, and appreciates the FDIC providing an opportunity for interested parties to share their perspectives as to which deposit data is most useful in understanding the stability and franchise value of different types of deposits, to support future decisions regarding liquidity risk management, deposit insurance coverage and deposit insurance pricing, and to better inform the general public. We urge the FDIC to undertake a rigorous analysis of the feedback, information and data that it receives as it continues to consider these matters. As BPI has advocated previously, a comprehensive assessment of potential consequences of any regulatory changes is

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1 The Bank Policy Institute is a nonpartisan public policy, research and advocacy group that represents universal banks, regional banks, and the major foreign banks doing business in the United States. The Institute produces academic research and analysis on regulatory and monetary policy topics, analyzes and comments on proposed regulations, and represents the financial services industry with respect to cybersecurity, fraud, and other information security issues.

2 FDIC, Request for Information on Deposits, 87 Fed. Reg. 63946, 63953 (Aug. 6, 2024) (RFI).

paramount;[3] the FDIC should develop a coherent, empirically-grounded basis for any potential changes to deposit reporting to ensure that any proposed changes are justified, particularly relative to the additional burdens that would be entailed. Changes to deposit reporting may have a significant impact on regulated banking entities and the customers from whom data is collected and deposits are held, and new requirements based on the reported data could impact the financial system and economy more broadly. If the FDIC plans to request additional data, it should be explicit and transparent about how it intends to use that data in the future. Interested parties cannot provide meaningful comments about any reporting proposal without sufficient clarity about the request and its intended purpose.

Although the RFI is a sensible step aimed at improving the banking agencies' understanding of relevant deposit information, we are concerned that it is not coordinated with several other initiatives that also relate to bank deposits, funding, and liquidity issues. In particular, the pending notice of proposed rulemaking on brokered deposits[4] is premised on the assumption that certain types of deposits have characteristics that cause them to behave differently from other types of deposits and warrant classifying them as brokered, without presenting any data that this is the case. As we have previously urged, that rulemaking should be withdrawn and should not move forward until the FDIC both presents data to support the changes it is proposing and provides the public an opportunity to comment on such data.[5] To the extent the RFI intends to evaluate the stability of deposits for bank liquidity risk,[6] this evaluation should be done on an interagency basis.

Moreover, the FDIC should first study the information submitted in response to this RFI before proposing any changes where the information submitted will also be relevant to other issues under consideration, such as to the brokered deposit definition. The FDIC asserts, in the brokered deposit proposal, that it must act because brokered deposits are less stable and

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[3] *See* Letter from BPI and the American Bankers Association to Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, James P. Sheesley, Assistant Executive Secretary, Federal Deposit Insurance Corporation, and Chief Counsel's Office, Office of the Comptroller of the Currency (Jan. 16, 2024), *available at* https://bpi.com/wp-content/uploads/2024/01/ABA-BPI-Basel-III-Endgame-Comment-Letter-Final-2024.01.16.pdf.

[4] FDIC, Unsafe and Unsound Banking Practices: Brokered Deposits Restrictions, 89 Fed. Reg. 68244 (Aug. 23, 2024).

[5] Letter from BPI, the American Bankers Association, the American Fintech Council, the Consumer Bankers Association, the Financial Services Forum, the Financial Technology Association, the Independent Community Bankers of America, the Innovative Payments Association, the Institute of International Bankers, the National Association of Industrial Bankers and the Securities Industry and Financial Markets Association to James P. Sheesley, Assistant Executive Secretary, Federal Deposit Insurance Corporation (Aug. 21, 2024), *available at* https://bpi.com/wp-content/uploads/2024/08/BPI-and-a-Coalition-of-Trades-Ask-FDIC-to-Withdraw-Brokered-Deposit-Proposal.pdf.

[6] *See* NPR on Brokered Deposits Restrictions and RFI on Deposits, Michael J. Hsu, Acting Comptroller of the Currency (Jul. 30, 2024), *available at* https://www.occ.gov/news-issuances/news-releases/2024/nr-occ-2024-86a.pdf ("Not all deposits are created equal. From a bank liquidity risk perspective, some are riskier than others. Our regulations need to better differentiate between them. The proposed RFI on deposits will help us achieve that.")

"sticky" than other deposits.[7] However, the FDIC cannot accurately assess the stability and other characteristics of the many types of deposits the agency is now proposing to classify as brokered without a more granular understanding of their actual behavior and of the ways in which banks measure and evaluate the stability of these types of deposits. It is essential that the FDIC understand the actual characteristics of these deposits, and the ways in which banks measure and manage them, before proposing to reclassify them as brokered or take other regulatory actions that purport to be based on the behavior and characteristics of these deposits.

This letter elaborates on BPI's views regarding several of the questions raised by the FDIC in the RFI. BPI looks forward to further engaging with the FDIC on the topics addressed in this response.

I. Question 1: How do banks measure or evaluate the stability of different types of uninsured deposits?

Evaluating Categories of Uninsured Deposits

There are significant variations in the characteristics of different types of uninsured deposits, as the FDIC acknowledges in its own regulations.[8] Metrics derived from the tools discussed below demonstrate that some types of uninsured deposits—including categories that the RFI addresses specifically—have proven to be more stable historically, including through a range of financial conditions. As BPI has previously explained,[9] the following categories of deposits are examples of uninsured deposits that have remained relatively stable over time and through periods of significant disruption, including, in our members' experiences, during the bank failures in March 2023:

Operational deposits. Operational deposits have a specific meaning, and must meet strict requirements, under the Liquidity Coverage Ratio (LCR) and Net Stable Funding Ratio (NSFR) rules. The term "operational deposit" is defined as short-term unsecured wholesale funding or lending that is a deposit, or a collateralized deposit,[10] that is necessary for the provision of operational services as an independent third-party intermediary, agent, or

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7 *See, e.g.*, Unsafe and Unsound Banking Practices: Brokered Deposits Restrictions, 89 Fed. Reg. at 68245, 68250, 68254, 68259, 68285.

8 *See, e.g.*, 12 C.F.R. Part 329. Michael J. Hsu, Acting Comptroller of the Currency, has also commented that "of course, not all uninsured deposits are created equal", *see* Building Better Brakes for a Faster Financial World, Michael J. Hsu, Acting Comptroller of the Currency (Jan. 18, 2024), *available at* https://www.occ.gov/news-issuances/speeches/2024/pub-speech-2024-4.pdf.

9 *See* Letter from BPI to James P. Sheesley, Assistant Executive Secretary, FDIC (July 21, 2023), *available at* https://bpi.com/wp-content/uploads/2023/07/BPI-Comment-Letter-re-Special-Assessments-Pursuant-to-Systemic-Risk-Determination.pdf (Special Assessment Letter).

10 The term "collateralized deposits" refers to (i) a deposit of a public sector entity held at the bank that is required to be secured, (ii) a deposit of a fiduciary account awaiting investment or distribution held at the bank for which the bank is a fiduciary and is required to set aside assets of the bank as security, or (iii) a deposit of a fiduciary account awaiting investment or distribution held at a bank for which the bank's affiliated insured depository institution is a fiduciary and where the bank has set aside assets owned by the bank as security. *See* 12 C.F.R. § 50.3; 12 C.F.R. § 249.3; 12 C.F.R. § 329.3.

administrator to the wholesale customer or counterparty providing the deposit.[11] To qualify as an operational deposit, the deposit liability must be derived from one of twelve distinct operational services,[12] performed as part of cash management, clearing, or custody services, and must meet stringent qualification requirements.[13] As a supervisory matter, banks are required to employ highly granular processes to accurately identify those deposits that are operational and that a client is therefore reasonably expected to hold in support of its day-to-day operations, even in periods of stress. These processes are subject to internal review and validation, including through the use of simulations to assess liquidity usage over time, and are also assessed by supervisors. For example, operational deposits are included in the liquidity monitoring processes overseen by the Board of Governors of the Federal Reserve System, such as liquidity stress testing, the comprehensive liquidity assessment and review process, and the annual horizontal liquidity review process.

In establishing the methodology for calculating the LCR and NSFR, both U.S. and global regulators have appropriately acknowledged that operational deposits serve as a distinct and more stable funding source for banks.[14] This greater stability arises because clients must maintain their operational deposits to receive related services from the deposit-taking bank, such as payment and securities settlement services, payroll administration services, distributions

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11 *Id.* In this letter, "operational deposits" refers to this LCR definition.

12 "Operational services" means the following services, provided they are performed as part of cash management, clearing, or custody services: (i) payment remittance; (ii) administration of payments and cash flows related to the safekeeping of investment assets, not including the purchase or sale of assets; (iii) payroll administration and control over the disbursement of funds; (iv) transmission, reconciliation, and confirmation of payment orders; (v) daylight overdraft; (vi) determination of intra-day and final settlement positions; (vii) settlement of securities transactions; (viii) transfer of capital distributions and recurring contractual payments; (ix) customer subscriptions and redemptions; (x) scheduled distribution of customer funds; (xi) escrow, funds transfer, stock transfer, and agency services, including payment and settlement services, payment of fees, taxes, and other expenses; and (xii) collection and aggregation of funds. *Id*.

13 These requirements include: (i) the related operational services must be performed pursuant to a legally binding written agreement whose termination would be subject to a 30-day delay or impose significant contractual or operational costs; (ii) the account must be clearly designated as an operational account; (iii) the customer must hold the deposit for the primary purpose of obtaining the operational services provided by the bank; (iv) the deposit account must not be designed to create an economic incentive for the customer to maintain excess funds; (v) the depository bank must demonstrate that the deposit is empirically linked to the operational services and that it has a methodology for identifying funds that exceed those required for the operational services, which must be excluded from the operational deposit amount; and (vi) the deposit must not be provided in connection with the bank's provision of prime brokerage services or correspondent banking services. *See* 12 C.F.R. § 50.4(b); 12 C.F.R. § 249.4(b); 12 C.F.R. § 329.4(b).

14 *See* Bank for International Settlements, Basel III: The Liquidity Coverage Ratio and liquidity risk monitoring tools (Jan. 2013) (". . . the deposit balance with the service provider that is proven to serve a customer's operational needs can qualify as stable."). In calculating a bank's "unsecured wholesale funding outflow amount" – *i.e.*, the amount of wholesale funding that is assumed to "run" – the proportion of wholesale deposits included ranges from 5% for fully insured operational deposits and 20% for fully insured, non-brokered, non-operational deposits made by financial sector entities or their consolidated subsidiaries, to 100% for uninsured wholesale funding not included in any other category. The proportion of uninsured operational deposits included in the unsecured wholesale funding outflow amount is 25%, indicating that it is among the more stable of wholesale deposit categories.

of client or beneficiary funds, and other services that are not readily obtainable from another institution quickly.[15] Such greater stability typically has been observed even during periods of economic and financial stress. During the March 2023 banking crisis, operational deposit levels at our members remained in line with their expectations, and we believe the experience of deposit runoffs was limited to a small number of banks whose fundamentals were perceived to have eroded significantly. Indeed, recent research on failing banks concluded that bank failures are caused by a deterioration in bank fundamentals.[16] Banks subject to the LCR rules track operational deposit data and report information about operational deposits to the Federal Reserve as a supervisory matter. For example, on Form FR 2052a, the Complex Institution Liquidity Monitoring Report, LCR Banks are required to report the level of operational balances (*e.g.*, inflows and outflows); the largest banks are required to provide data daily and other large banks provide data on a monthly basis. This information is intended to serve as a supervisory tool for liquidity management, including on a firm-specific and industry-wide basis.

Affiliate deposits. A bank's parent, affiliates and subsidiaries often hold deposits with the bank, and these deposits are generally more stable as compared to uninsured deposits from outside customers or counterparties. For example, a parent company's high-quality liquid assets (including parent deposits at subsidiary banks) serve as a source of liquidity to its bank subsidiaries and may be utilized as a source of strength at those subsidiaries. Regulators may utilize their supervisory authority to discourage these deposits from being withdrawn when such bank subsidiaries are in a stressed or troubled condition. Moreover, supervisors may encourage the use of affiliate deposits to comply with other prudential requirements, such as Regulation W, which requires the collateralization of certain affiliate transactions. For all of these reasons,

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[15] As discussed in the Special Assessment Letter, the U.S. agencies contemplated the nature of such deposits, the customers' rights under their deposit agreements, and the economic incentives associated with customers' accounts, and noted that they expect operational deposits to present less liquidity risk to banks during stress periods when developing outflow rates associated with uninsured operational deposits. *See* Department of Treasury, Office of the Comptroller of the Currency, Federal Reserve, and FDIC, Liquidity Coverage Ratio: Liquidity Risk Measurement, Standards, and Monitoring, 78 Fed. Reg. 71817, 71841 (Nov. 29, 2013) ("The agencies expect operational deposits to have a lower impact on a covered company's liquidity in a stressed environment because these accounts have significant legal or operational limitations that make significant withdrawals within 30 calendar days unlikely"). *See also* Office of the Comptroller of the Currency, Department of the Treasury, Board of Governors of the Federal Reserve System, and FDIC, Liquidity Coverage Ratio: Liquidity Risk Measurement Standards, 79 Fed. Reg. 61439, 61497 (Oct. 10, 2014) ("Because such [operational] deposits are tied to the provision of specific services to the customer, these [operational] deposits present less liquidity risk during a stress period").

[16] Federal Reserve Bank of New York Staff Reports, no. 1117, *Failing Banks* (Sept. 2024), available at https://www.newyorkfed.org/medialibrary/media/research/staff_reports/sr1117.pdf?sc_lang=en (concluding that "the ultimate cause of bank failures and banking crises is almost always and everywhere a deterioration of bank fundamentals. Bank runs can be rejected as a plausible cause of failure for most failures in the history of the U.S. and are most commonly a consequence of imminent failure. Depositors tend to be slow to react to an increased risk of bank failure, even in the absence of deposit insurance."). *See id*. at 2, 6.

See also Financial Stability Board, Depositor Behaviour and Interest Rate and Liquidity Risks in the Financial System (October 23, 2024), *available at* https://www.fsb.org/uploads/P231024.pdf (acknowledging that "[i]n a few of the recent cases, the speed and magnitude of deposit outflows was so extreme that no amount of bank liquidity would have prevented the failures").

affiliate deposits are considered more stable than other types of uninsured deposits, which the federal banking regulators have previously recognized.[17]

Collateralized or secured deposits. Collateralized and secured deposits are inherently more stable than other types of uninsured deposits. The terms under which they are held often provide an additional barrier to withdrawal, especially on an expedited basis, and the degree of security is also impacted by the amount of collateralization or security (*i.e.*, fully collateralized or secured deposits may be even more secure), which separates the repayment prospects from the condition of the bank. Certain types of collateralized deposits also serve important public purposes, and these may be harder to move to another bank because of their operational nature and additional limitations on where these funds can be held. For example, collateralized state and municipal deposits help ensure that public funds remain liquid and easily accessible, allowing public entities to maintain a steady cash flow to meet operational needs, pay salaries, and cover expenses for various public services.

Measuring Deposit Stability

For categorizing these and other types of deposits, banks generally utilize a multi-faceted approach, first by classifying deposits based on readily identifiable metrics and then by measuring additional factors using a wide set of principle-based tools. As a starting point, banks will review the nature or type of deposit relationship, such as the depth of the customer relationship, the duration of the specific deposit, whether the depositor is affiliated with the bank, the purpose of the deposit (if determinable), and services provided to customers in connection with the deposit, if applicable.

Beyond these initial fundamental characteristics, banks utilize a number of tools to generate additional data through which they can measure or evaluate the stability of different types of uninsured deposits. Many of these tools, such as the ones listed below, are qualitative in nature, providing banks with different mechanisms to evaluate uninsured deposits over long time horizons and accounting for different circumstances. Banks can customize their tools to meet the specific characteristics and needs of each institution, so the application will vary based on their different business models. However, the underlying principles are dynamic and allow banks to measure their deposits in a more tailored fashion. This process is more effective than applying blunt categories based solely on specific types of characteristics.

For example, banks often take the following actions to determine which of their deposits should be categorized as operational deposits:

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[17] OCC, FRB, FDIC, Final Rule, Net Stable Funding Ratio: Liquidity Risk Measurement Standards and Disclosure Requirements, 86. Fed. Reg. 9120, 9145 (Feb. 11, 2021), *available at* https://www.govinfo.gov/content/pkg/FR-2021-02-11/pdf/2020-26546.pdf (noting that that affiliate sweep deposits are more likely to be stable because "affiliates tend to be the first to receive deposits and the last from which deposits are withdrawn" and, as a result, "these deposits generally exhibit a stability profile associated with deposits directly from retail customers").

- Measuring transaction activity: Banks may measure transaction activity in different ways depending on the types of activities in question. Measuring gross debits is one metric that is often used for measuring operational deposits.

- Establishing seasoning horizons for deposit relationships: Utilizing a seasoning period can help ensure that a reliable and robust set of data is available, and that the time horizon is sufficient to provide meaningful analysis of trends and past practices.

- Specifying lookback horizons: Calibrating an appropriate lookback horizon can prevent misunderstandings around prior data by smoothing out and providing context for seasonality and changes in client activity.

- Identifying outlier balances: Outlier balances will differ by nature but banks can establish specific criteria to identify balances outside a set and consistent tolerance of existing rules or services.

- Determining methodologies to categorically distinguish treatment of certain types of accounts: Banks can determine that certain types of accounts that feature set characteristics can automatically be categorized as operational deposits, such as corporate trusts and escrow accounts.

- Creating quantifiable tests and benchmarks for customers: Through the use of economic incentive tests, banks can provide rates based on a more personalized assessment than prevailing market rates for the maintenance of deposits and offer additional services.

II. Question 3: For institutions that are subject to the requirements of Part 370, what is the reasoning for not using the same methodology from their Part 370 recordkeeping and insurance calculation capabilities to report uninsured deposits on the Call Report?

Banks that are subject to the FDIC's Recordkeeping Requirements for Timely Deposit Insurance Determination (Part 370)[18] do generally try to align their Part 370 reporting to their Call Reports, and some have done so to a significant extent, but it is not always possible for banks to do so. In some cases, achieving alignment is difficult because full implementation of the Part 370 requirements remains ongoing. Also, a number of challenges have arisen in connection with the implementation of Part 370 requirements, some parts of which have become effective fairly recently.[19] Furthermore, Part 370 has required extensive programming and creation of new systems that categorized deposits in ways that differed from traditional deposit

[18] Codified at 12 C.F.R. Part 370.

[19] *See* FDIC, Recordkeeping for Timely Deposit Insurance Determination, 84 FR 37020 (July 30, 2019). The Part 370 requirements were amended in 2019 to clarify certain requirements, better align burdens of the rule with benefits and fix technical corrections. In addition to revising certain requirements, the amendment also included optional compliance extensions due to the challenges that had arisen in connection with prior implementation.

models and categorizations for Call Report purposes, and the Part 370 implementation effort has required careful and timely design as well as lengthy processes of operationalizing changes. As a result, it simply has not yet been practicable to align the two processes.

Another source of difficulty in aligning the Call Report process with the Part 370 reporting process results from the discrepancies between the two types of reports. In some cases, the instructions are different, sometimes due to third-party maintenance of requisite information. For example, insurance information for trust deposits is often held by trustees or another third party. In accordance with Part 370's requirements, this information would be accessible within the required timeframe should the FDIC require records in the event of a failure, but it would not typically be available for purposes of Call Report preparation. It would be extremely challenging to gather granular deposit information collected for purposes of Part 370 for every Call Report because of the complex nature of certain insurance calculations, the status of certain types of collateral and vast differences between the instructions for the preparation of Call Reports and those for compliance with Part 370. In addition, Part 370 provides for an alternative recordkeeping framework that would not provide data that would be suitable for preparation of Call Reports.

In addition, some obligations that have not traditionally been viewed as deposits are not necessarily viewed as deposits or reported under Part 370 at this time. For example, discrepancies between the Call Report/Schedule RC-O instructions and Part 370 regarding derivatives cash collateral have caused confusion about whether derivatives cash collateral is a cash deposit for purposes of Part 370 reporting.

Many of these difficulties may be, at least in part, because deposit information required to be reported in connection with Call Reports and in connection with Part 370 serve entirely distinct purposes. As noted in the RFI, the Call Report "is a primary source of financial data used for the supervision and regulation of banks."[20] Through its quarterly reporting of financial data about the institution's condition and income, some of which is made publicly available, the FDIC is able to advance one of the objectives noted in the RFI, *i.e.*, to "provide[] tools, education, and news updates to help consumers make informed decisions to protect their assets."[21] In contrast, Part 370 was created for a more specific purpose and is intended to solve a particular problem. Part 370 was adopted "to implement additional measures to ensure prompt and accurate payment of deposit insurance to depositors of the larger IDIs that qualify as covered institutions."[22] By requiring insured depository institutions to maintain specific ownership records in a format that is easily accessible to the FDIC in an automated manner, Part 370 is designed especially to "facilitate the FDIC's prompt payment of deposit insurance and enhance the FDIC's ability to implement the least costly resolution of these covered institutions."[23] Call Reports allow the FDIC and public to make point-in-time comparisons across banks, whereas the

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[20] RFI at 63,949

[21] *Id*.

[22] *Id*. at 63,953.

[23] *Id*.

Part 370 requirements serve a more bank-specific purpose to facilitate the FDIC's work in the event of a particular bank failure.

We believe that most banks do intend to bring the systems together in time, and some banks have made significant progress in doing so, but for many, it is an ongoing process. Given the complexity of the Part 370 requirements and the importance of both the Part 370 systems and traditional Call Report reporting systems, many banks are exercising caution and moving deliberately in the alignment process as the Part 370 systems continue to mature. The very fact that the Part 370 requirements, which were designed to address a well-defined specific purpose, have required a significant undertaking and very significant investment of technology, personnel, and funding to implement should serve as a clear warning not to implement new reporting requirements without completing an appropriate analysis of the costs and benefits. BPI would welcome changes to harmonize these two sets of requirements and streamline bank reporting processes. This approach would also require more clarity in the Part 370 process.

III. Question 5: What, if any, additional data, including more granular or more frequently reported data, should the FDIC, in conjunction with other members of the FFIEC, consider collecting on the Call Report or another data collection to better inform the public and agencies' understanding of different types of depositor behavior? What specific additional data, such as length or type of depositor relationship, duration, depositor proximity, or rates paid by account type, would be the most helpful to collect, if any?

BPI feels strongly that further consideration and rigorous analysis is required prior to proposing and establishing any additional reporting requirements. Even for the potential reporting items discussed below, it is essential that the FDIC consider whether additional deposit reporting would advance meaningful goals. Any proposal should consider both the objectives of the reporting and how it relates to existing requirements. Banks are subject to reporting and recordkeeping requirements not discussed in the RFI that are important aspects of the FDIC and other federal banking regulators' supervision and oversight, but may not be well suited for public disclosure.

In particular, whether data on concentrations of uninsured deposits should be collected deserves careful consideration. As regulators have acknowledged, assessing the implications of concentrations is not straightforward. In its Report of Examination Instructions, the FDIC notes that a nuanced analysis of uninsured deposits, taking into account a number of factors, is necessary to adequately understand the risk that such deposits pose.[24] The Examination Report states that "[w]hen assessing uninsured deposit stability, examiners should consider the bank's business model, risk profile, and complexity; the potential impact to the balance sheet; and, management's ability to identify, measure, monitor, and control the risks of the concentration, including during times of stress," rather than considering any of these factors on their own. The Examination Report continues that "[u]ninsured deposit concentrations that do not meet or exceed the 50 percent total deposit threshold may warrant listing and written

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[24] FDIC, Report of Examination Instructions, *available at* https://www.fdic.gov/system/files/2024-06/risk-management-manual-complete.pdf (Examination Report).

analysis *if the deposits share common risk characteristics or have heightened sensitivity to similar economic, financial, or other risk factors*."[25] Not all deposits are the same, and requiring the collection of additional data or using definitions that are not consistent with existing reporting may not actually be useful in understanding the risks that the FDIC seeks to address and may instead further complicate deposit analysis and reporting processes that are already tailored to idiosyncratic risk. For example, evidence of concentration in one industry or sector may not be indicative of concentration in another; and concentration risk can vary significantly based on a bank's business model and other characteristics.

Additional deposit data may also create an undue burden whose utility has not yet been demonstrated. In some cases, deposit reporting is already available to regulators as needed but would not necessarily be beneficial for Call Reporting purposes. For example, as noted in the response to question 1 above, LCR banks provide information about operational deposits on FR 2052a, which is reported on a frequent basis, for liquidity supervisory purposes. LCR Banks already have in place limit structures designed to capture concentration and other risks in accordance with the relevant requirements and consistent with the firm's idiosyncratic risk profile, and banks' liquidity risk management is reviewed annually as part of the supervisory process. Banks are subject to other reporting requirements that entail tracking additional details related to deposits, such as the granular information in Form FR 2900 and Form FR 2915. Granular deposit data may be important for monitoring liquidity, but is only appropriate as a supervisory tool that can be discussed with the banking organization's primary federal regulator. Any additional data that the FDIC may request must be subject to a rigorous analysis and must be determined to provide a tangible benefit.[26]

In any event, should the FDIC determine that additional data would provide a tangible benefit, providing data in a publicly available form such as the Call Report may not be appropriate. In fact, the FDIC should consider that providing some types of additional data could lead to the public receiving metrics that are not indicative of risk or that are not meaningfully relevant to the financial condition of the bank. Call Reports are not intended to be a risk-sensitive liquidity monitoring tool and have a number of inherent disadvantages in that regard, such as the delay in reporting and lack of accounting for how banks risk manage through tools such as pre-funding certain riskier deposits. As such, increased public disclosure could be used by the public to arrive at incorrect or incomplete conclusions about the health of a bank, and especially with the widespread access to digitalization and social media, which can rapidly spread founded or unfounded concerns about banks,[27] this could exacerbate the very problem

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[25] *Id*. at 16.1-44 (emphasis added).

[26] This is especially important in light of new research demonstrating that loss rates of uninsured deposits are rare in the modern era where FDIC deposit insurance is available. *See* Federal Reserve Bank of New York Staff Reports, no. 1117, *supra* note 16 at 46 ("We find that deposit outflows before failure are modest in the Modern Era. Deposit insurance provided by the FDIC insulates a large share of depositors from a bank's solvency risk. Moreover, uninsured deposits also have low expected loss rates in the Modern Era.").

[27] *See* Bank for International Settlements, The 2023 Banking Turmoil and Liquidity Risk: A Progress Report (Oct. 2024) at Section 1 n.4, *available at* https://www.bis.org/bcbs/publ/d582.pdf.

that the FDIC is seeking to solve. Further, additional reporting requirements could impact banks' behaviors, causing them to make decisions just to meet arbitrary deposit categories.

Many of BPI's members believe it would be feasible and potentially helpful to the FDIC and the public to report some additional information about deposit composition. Top-line data on each of the three categories of stable deposits discussed in the response to question 1 above—operational deposits, affiliate deposits and collateralized or secured deposits—could be included in Call Reports to provide a baseline understanding about the deposit composition of reporting banks, specifically for banks that already report this information elsewhere. We believe these basic metrics would provide meaningful information without adding undue complexity to the public's evaluation of these banks.

Alternatively, regulators could collect data on concentration of nonoperational uninsured deposits only, for those institutions from which they are not already receiving such data in a supervisory context. For instance, the FDIC could consider whether banks with nonoperational uninsured deposits constituting greater than a certain percentage of their assets should be required to provide more detailed information about those deposits and whether any such information could be reported on a confidential schedule to the Call Report. Incorporating these metrics could enhance the effectiveness of monitoring tools by offering greater granularity on funding concentration.[28] But even still, the FDIC should first assess and seek to understand concentration risk through the examination process.

However, prior to implementing these reporting items, and especially to the extent that the FDIC would be interested in additional types of deposit data (or collecting the same deposit data from a broader number of banks), there should be an opportunity for the industry to consider these specific requests and provide feedback on the utility of the proposed data, the costs of providing it and if certain data should be treated as non-public information. For certain categories where there is more nuance, such as collateralized or secured deposits (for example, variability across access to these deposits and amounts pledged), we encourage a further consultation on those specific details. Even where data gaps exist, new reporting requirements should not be implemented without completing a thorough cost-benefit analysis, ensuring that the costs are carefully weighed against the potential benefits.[29]

If the FDIC has determined specific areas in which more data is needed, BPI is happy to work with the FDIC to identify the most efficient, cost-effective, precise, and least destabilizing way of satisfying that need. In addition, if the FDIC does identify specific data or metrics that would be beneficial, the federal banking agencies should collect this information in non-public reports and study it prior to proposing Call Report changes.

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[28] *See id.* at Section 2.

[29] *See* Financial Stability Board, Depositor Behaviour and Interest Rate and Liquidity Risks in the Financial System (October 23, 2024) at 17, *available at* https://www.fsb.org/uploads/P231024.pdf.

IV. Question 8: If Congress were to pursue increased coverage for "business payment accounts," as described in the May 2023 report, what are the specific definitions commenters would recommend and why?

Please refer to the response to question 1 for BPI's views on operational deposits. Many business payment accounts are operational deposits, and to the extent that is applicable, they are generally stable.

V. Question 9: What burden[s] or challenges would be associated with providing new deposit data items, such as "business payment accounts" or similar accounts linked to payroll, vendors, or operations?

Providing any new deposit data, including data requiring the implementation of new categories of deposits, will require significant additional operational and compliance effort. Even creating new categories out of existing data (for example, breaking out one or more categories of operational deposits separately) may be just as burdensome as adding an entirely new category. As discussed above with respect to Part 370, compiling certain deposit data can require a significant undertaking over a substantial period of time. For this reason, any determination to require the reporting of additional data must be supported by a reasoned analysis that includes an empirically-based argument outlining how the new deposit data items would advance the goals of the FDIC.

If the FDIC were to request data that is already collected for other purposes, the resulting burden would be more limited. However, data such as operational deposit data, which would impose a lower burden for banks that are subject to the LCR—assuming the definition is the same as the definition used for LCR purposes—would result in a very significant burden for banks that are not subject to the LCR. As part of any thorough analysis, the FDIC should also consider whether a simplified requirement would be more appropriate for non-LCR banks.

VI. Question 10: Please provide any other comment or information that would be useful for the FDIC to consider.

Collateral received by a bank as collateral for its counterparty's obligations to it under qualified financial contracts (*i.e.*, cash collateral received in connection with derivatives transactions) can serve as another example of how unintended consequences arise when creating or changing reporting requirements or deposit categories. We do not believe that such cash collateral should be considered a deposit at all, at least to the extent that it does not exceed the net amount due to the bank under the related qualified financial contracts (required cash collateral). In the past, such collateral had not been viewed as a deposit by the parties to such contracts nor assumed to be eligible for FDIC insurance, and therefore it had not been viewed as either "insured" or "uninsured" for compliance with the Part 370 requirements. Recent developments have created significant confusion as to the status of such collateral for deposit insurance purposes, which is burdensome to banks and costly to parties trying to enter into these transactions.

The FDIC's treatment of derivatives cash collateral impacts not just recordkeeping and reporting matters, but may affect other regulatory considerations, such as

resolution planning, and could affect the FDIC's ability to address qualified financial contracts and deposits in an actual resolution. Including required cash collateral amounts as uninsured deposits overestimates the risk to the Deposit Insurance Fund that could be posed by collateralized derivatives. In a bank's failure, the counterparty would never have a claim against the receivership for the full amount of the cash collateral posted, only for the excess amount of collateral over and above the amount owed by the counterparty to the bank. Furthermore, we believe that in a bank failure, a counterparty would expect the excess cash collateral to be treated as a general obligation of the failed bank, not as a deposit liability to be paid by the Deposit Insurance Fund.

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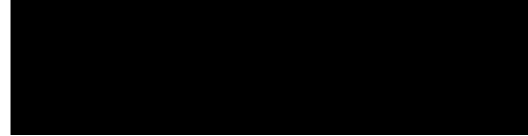
We appreciate the opportunity to comment on the FDIC's request for information. If you have any questions, please contact the undersigned by email at brett.waxman@BPI.com.

Sincerely,



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