October 20, 2025

Via Electronic Submission

Jennifer M. Jones
Deputy Executive Secretary
Attention: Comments—RIN 3064–AG14
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: **FDIC Official Signs, Advertisement of Membership, False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo (RIN 3064–AG14)**

Ladies and Gentlemen:

The Bank Policy Institute[1] and the American Bankers Association[2] appreciate the opportunity to provide comments on the Federal Deposit Insurance Corporation's Notice of Proposed Rulemaking Relating to FDIC Official Signs, Advertisement of Membership, False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo.[3] The proposal is intended to amend signage requirements for insured depository institutions' digital deposit-taking channels and automated teller machines and like devices to address implementation issues and sources of potential confusion that have arisen following the adoption of current signage requirements for these banking channels. We very much appreciate the FDIC's engagement with industry regarding the existing rule and the FDIC's willingness to consider changes to the rule intended to provide additional flexibility to IDIs while also enabling consumers to better understand when they are conducting business with an IDI and when their funds are protected by the FDIC's deposit insurance coverage.

[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] The American Bankers Association is the voice of the nation's $23.6 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2 million people, safeguard $19.2 trillion in deposits and extend $12.2 trillion in loans.

[3] 90 Fed. Reg. 40767 (Aug. 21, 2025).

While the proposal is a positive step forward, additional changes to the 2023 rule would help ensure clarity and avoid confusion for depositors and other bank customers. Banks offer an array of products and services through their digital channels, including those related to commercial banking, investments, and insurance. Since each bank's digital channels reflect that individual bank's product offerings, marketing strategies, and technological design and preferences, there is an almost infinite number of website and mobile application designs that banks may adopt. For this reason, and as explained in greater detail below, we respectfully request that the FDIC provide banks with additional flexibility to place the FDIC official digital sign and other disclosures on digital channels in a way that provides clarity in the context of the specific bank's product offerings and digital display and functionality.

Consistent with allowing banks greater flexibility to display the FDIC official signage, we respectfully request that the FDIC remove several requirements that, *if mandated for all IDIs,* could create consumer confusion for some banks. While several changes are recommended herein, our primary requests are that the FDIC eliminate the requirements that:

(i) The FDIC official digital sign appear on login and home pages,
(ii) The non-deposit signage appear as a one-time notification for bank customers related to third-party non-deposit products (or, at a minimum, that the FDIC exclude affiliates from this requirement); and
(iii) Static non-deposit signage be displayed on digital deposit-taking channels.

Furthermore, as discussed in greater detail herein, we recommend additional amendments to sections of the 2023 rule that the FDIC has not addressed in the proposed rule. As part of these revisions, we note that the FDIC has issued FAQs in connection with the existing rule. We respectfully request that, consistent with our recommendation that the FDIC adopt a framework providing banks' maximum flexibility regarding digital and ATM signage placement, the FAQs may be inconsistent with such an approach in a revised rule. Therefore, the FDIC should rescind the FAQs.

Finally, we reiterate that with respect to any final rule the FDIC adopts, implementing digital signage and advertising changes would require banks to allocate significant time and IT resources to redevelop, test and deploy their various digital platforms. The process constraints would be exacerbated by the fact that many banks rely on a handful of third-party vendors, such as core providers, to design and host their digital platforms. Furthermore, year-end tech freezes further shorten the actual time banks would have to implement any final proposal. Accordingly, IDIs would need at least 18 months to comply with the final rule.[4]

[4] BPI and ABA submitted a letter to the FDIC on September 22, 2025, requesting the FDIC to suspend the compliance deadline for the existing rule while the FDIC considers the proposed revisions to the rule (link). As of the date of this letter, the FDIC had not taken such action. We reiterate the importance of the suspension of the compliance deadline to avoid unnecessarily expending resources to comply with a rule that may be amended. A decision to maintain the deadlines would force banks to expend resources to attempt to assess and make changes to comply with the 2023 Final Rule prior to the Proposal being finalized, work that may ultimately need to be redone if beneficial changes to the proposal become final.

I. **Background**.

The banking industry is strongly committed to consumer protection, promoting public confidence in insured deposits, and preventing false and misleading representations about the manner and extent of FDIC deposit insurance. Accordingly, we support the modernization of these rules and the FDIC's efforts to prevent misleading representations relating to deposit insurance coverage and to help mitigate customer confusion. Banks seek to provide their customers with a range of products and services through various channels that best meet customer needs and to provide clear descriptions and disclosures of the features of those products and services to prevent false and misleading representations and thereby protect consumers. The banking industry is committed to providing consumers clear disclosures related to insured and uninsured products consistent with the principles embodied in both these regulations and the 1994 Interagency Statement on Retail Sales of Non-deposit Investment Products through all banking channels, including digital channels.[5]

For nearly three decades, consistent with the Interagency Statement, banks have adopted and refined disclosure language and placement as well as signage placement and format in both physical locations and digital channels to clearly and conspicuously convey to consumers the insured status and possible risks associated with deposit and non-deposit products, respectively.

As we have highlighted since the 2023 rule was finalized, that rule is overly prescriptive and does not sufficiently accommodate modern digital banking practices. Furthermore, the existing rule may lead to customer confusion, depending on the particular bank's product offerings and digital design or display, as confirmed by consumer testing by banks. Therefore, we appreciate the FDIC's issuance of this NPR that seeks to address certain concerns we have raised previously to help reduce confusion that we believe the current rule would produce. However, we make additional recommendations herein to help further the joint goal of the FDIC and the banking industry to maximize customer clarity and minimize confusion.

II. **The FDIC should provide IDIs with greater flexibility to determine appropriate placement of the FIDC official sign**.

The proposed rule is a positive step towards helping to achieve the goal of providing clarity to IDI customers. However, the proposed rule does not go far enough to provide banks with the flexibility needed to clearly convey the insured status of products offered by banks in a way that minimizes customer confusion. As noted, banks have years of experience from which to draw regarding appropriate placement of digital signage regarding their businesses and digital channels to avoid confusing consumers. This flexibility would allow banks to determine, based on their unique business model, product offerings, website and digital product design and functionality, the appropriate placement of digital signage to provide customers with accurate, useful information about the insured status of a product in the clearest way possible. Consistent with this flexibility, some banks may have implemented changes to their digital signage to align with the existing rule. To the extent that those banks have determined that abiding by the existing rule's requirements provides their customers with

[5] *See* Interagency Statement on Retail Sales of Nondeposit Investment Products (February 15, 1994) (link).

clarity regarding the insured status of the banks' products and is not likely to mislead customers, those banks should be considered to be in compliance with a final rule that adopts a more flexible approach.[6]

Similarly, we respectfully request that the FDIC clarify in the final rule that IDIs have flexibility to place *additional disclosures or digital signage* on digital channels or ATM screens that go beyond the specific requirements in the final rule will not be considered to be in violation of the rule so long as the institution has a reasonable basis to believe such placement is not misleading and does not cause consumer confusion. In other words, we request that the FDIC adopt regulations that establish baseline requirements regarding the FDIC official digital sign that banks may flexibly implement (and expand upon) so long as the bank's signage placements are not confusing or misleading for consumers.

The proposal addresses this concept in a narrowly tailored way, but we request that the final rule provide further clarity regarding IDIs' ability to include additional signage or disclosure language as they deem appropriate to help ensure consumers understand the insured status of products and services offered by the IDIs. In particular, we note that section 328.5(d)(iv) related to non-deposit signage provides that IDIs are not prohibited from including additional disclosures "that may help prevent consumer confusion, including, for example, that the bank customer is leaving the insured depository institution's website."[7] We respectfully request that the rule provide a broadly-applicable provision giving IDIs flexibility to include additional signage and disclosures where the IDI has reasonably determined such signage and/or disclosures would help reduce or prevent customer confusion.

III. **<u>The FDIC should eliminate the requirement to display the official digital sign on initial pages, home pages, and login pages</u>**.

We appreciate the FDIC's recognition that the placement of the FDIC official digital sign on "landing pages" could lead to customer confusion. Consistent with that conclusion and with our request that the FDIC provide banks with greater flexibility to determine where to place the FDIC official digital sign, we respectfully request that the FDIC eliminate the requirement that IDIs display the official digital signage on IDIs' initial/home pages and login pages. The proposed rule would require an IDI's digital deposit-taking channel to "clearly, continuously, and conspicuously display the FDIC official digital sign . . . on the following pages or screens: (1) Initial page or homepage of the website or application; (2) Login page; and (3) Page or screen where the consumer initiates a deposit account opening."[8] The proposal explains that the FDIC "recognizes that the term 'landing page' is duplicative of 'login page,' which is a term that is commonly understood and covers the same intended types of pages and screens."[9]

However, displaying the FDIC official digital sign on login pages would lead to confusion for customers, as login pages are simply authentication pages and in many cases are used by customers to

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[6] For example, while we do not believe that the FDIC should mandate non-deposit signage for deposit taking channels, some institutions may have implemented the requirement to place deposit and non-deposit signage on certain pages or screens, not in close proximity to one another, as the 2023 rule requires. Should banks wish to retain that placement because they feel it best provides clarity regarding the insured status of products presented on such pages or screens, those banks should be deemed compliant with any final rule.

[7] Proposed 12 CFR 328.5(d)(iv).

[8] Proposed 12 CFR 328.5(c).

[9] 90 Fed. Reg. at 40769.

access multiple products, both insured and uninsured. The purpose of login pages is to help IDIs identify and verify customers' identities, not to disclose specific information about products or services. That information is provided downstream on product- and account-specific pages.

Furthermore, many IDIs' initial pages or homepages include references to various products, both insured (such as deposits) and uninsured (such as investment products or products offered by foreign affiliates). Therefore, including the official digital sign on initial pages, homepages, or login pages, is likely to cause confusion and mislead customers, as not all products referenced and/or accessible through the IDI's initial page/homepage or login page are necessarily insured. Finally, to the extent that a landing page/homepage or login page incorporates advertising of products, the page should be subject to the FDIC's advertising rules.

IV. **The FDIC should confirm that the FDIC official digital sign is only required on the first page in the account opening process**.

The FDIC is proposing to remove the requirement to display the FDIC official digital sign on "pages where the customer may transact with deposits" and instead require IDIs to display the FDIC official digital sign on the IDI's "digital deposit-taking channels' page or screen where the consumer initiates a deposit account opening."[10]

We strongly support this proposed narrowing of the rule, and we request that the FDIC provide further clarity that this requirement ***is intended to require only that IDIs display the FDIC official digital sign on the first page in the insured deposit account opening process***, as the account opening process may involve multiple screens, and it could be operationally and technologically challenging for IDIs to place the digital signage on each screen in the application process. This clarification would be consistent with the language in the proposed rule that refers to the "digital deposit-taking channel's ***page or screen,***" connoting a singular page or screen. Furthermore, placing the digital signage on the first page would best accomplish the FDIC's stated goal of helping to ensure that consumers may make an informed decision when opening a deposit account.

V. **The FDIC should eliminate the requirement that IDIs place static non-deposit signage on digital channels**.

We appreciate the FDIC's recognition of concerns that we raised with the existing rule's requirements regarding static non-deposit signage. The proposal would narrow the requirement in the existing rule and require the display of non-deposit signage only on pages and screens that are primarily dedicated to one or more non-deposit products.

However, imposing any requirement through this rulemaking to place static, non-deposit signage on digital channels that are dedicated to one or more non-deposit products is unnecessary. The rule defines a "non-deposit product" as "any product that is not a "deposit", including, but not limited to: insurance products, annuities, mutual funds, securities and crypto-assets.[11]

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[10] 90 Fed. Reg. at 40769.

[11] 12 CFR 328.1.

First, there is extensive existing guidance regarding required disclosures for securities and investment products, including as provided in the OCC Comptroller's Handbook on Retail Nondeposit Investment Products ("RNDIPs"). The Comptroller's Handbook requires that "accurate information must be provided to retail customers that RNDIPs are not insured by the Federal Deposit Insurance Corporation (FDIC) and are not deposits or other obligations or guarantees of the bank" and "typically include the investment risks, including possible loss of the principal amount invested."[12]

The Comptroller's Handbook further provides that the "GLBA requires that banks relying on an GLBA exemption or the broker-dealer inform each customer that the brokerage services are provided by the broker-dealer and not by the bank, and that the securities are not deposits or other obligations of the bank, are not guaranteed by the bank, and are not insured by the FDIC. Disclosures with respect to the sale or recommendation of RNDIPs typically specify that the product is (i) not insured by the FDIC; (ii) not a deposit or other obligation of, or guaranteed by, the bank; and (iii) subject to investment risks, including possible loss of the principal amount invested."[13]

Furthermore, the Comptroller's Handbook provides that in certain cases, IDIs may use a "shorter, logo format disclosure" that is "generally boxed, set in boldface type, and displayed in a conspicuous manner" and that "an acceptable logo format disclosure typically includes the following statements: Not FDIC-insured; No bank guarantee; May lose value."[14]

Additionally, the Financial Industry Regulatory Authority ("FINRA") requires various disclosures of its members in connection with products offered pursuant to a "networking arrangement" with an IDI – an arrangement in which a FINRA "member conducts broker-dealer services on or off the premises of a financial institution."[15] FINRA Rule 3160(a)(3) provides in part that "(A) At or prior to the time that a customer account is opened by a member that is a party to a networking arrangement, the member shall disclose in writing to each customer that the broker-dealer services are being provided by the member and not by the financial institution, and that the securities products purchased or sold in a transaction are: (i) not insured by the Federal Deposit Insurance Corporation ("FDIC"); (ii) not deposits or other obligations of the financial institution and are not guaranteed by the financial institution; and (iii) subject to investment risks, including possible loss of the principal invested."[16]

All of these disclosures are currently displayed at the bottom of bank webpages that reference investment services. The FDIC's proposed requirement regarding non-deposit signage, while scaled back from the requirements set forth in the 2023 rule, would still be duplicative of the existing robust framework requiring that IDIs clearly disclose when a product is not insured by the FDIC. Furthermore,

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[12] *See* OCC Comptroller's Handbook, Retail Nondeposit Investment Products, Version 2.0, at 2 (June 2024) (link).

[13] *See* OCC Comptroller's Handbook, RNDIP, at 56.

[14] *See* OCC Comptroller's Handbook, RNDIP, at 58.

[15] FINRA Rule 3160(a).

[16] FINRA Rule 3160(a)(3). The OCC Comptroller's Handbook, RNDIP, provides that "The Interagency Statement applies only to banks and not to broker-dealers. Instead, broker-dealer firms that are members of FINRA and operate on bank premises must comply with FINRA Rule 3160, "Networking Arrangements Between Members and Financial Institutions." This rule mirrors many of the guidelines discussed in the Interagency Statement and was revised to reflect the GLBA amendments to the Securities Exchange Act regarding third-party brokerage arrangements." *See* OCC Comptroller's Handbook, RNDIP, at 14.

introducing a new non-deposit disclosure requirement that differs from what is required by existing banking agency guidance and other market practices may be more confusing for consumers, as they are used to the longstanding RNDIP and similar disclosures that banks have been using for decades.

To the extent that the FDIC is concerned about non-deposit signage to provide clarity on the insurability of *non-securities* non-deposit products, similar disclosure requirements apply to insurance products. The federal banking agencies jointly adopted rules providing for "Consumer Protections for Depository Institution Sales of Insurance," which implements section 47 of the FDIA, which was added by section 305 of the GLBA Act.[17] That provision directs the agencies jointly to "prescribe and publish consumer protection regulations that apply to retail sales practices, solicitations, advertising, or offers of any insurance product by a depository institution or any person that is engaged in such activities at an office of the institution or on behalf of the institution."[18]

The joint rules adopted by the agencies provide that "in connection with the initial purchase of an insurance product or annuity by a consumer from a covered person, a covered person must disclose to the consumer, except to the extent the disclosure would not be accurate, that: (1) The insurance product or annuity is not a deposit or other obligation of, or guaranteed by, the bank or an affiliate of the bank; (2) The insurance product or annuity is not insured by the Federal Deposit Insurance Corporation (FDIC) or any other agency of the United States, the bank, or (if applicable) an affiliate of the bank . . ."[19] The rules also provide that the required disclosures "shall be conspicuous, simple, direct, readily understandable, and designed to call attention to the nature and significance of the information provided," and provide as an example, that covered persons may use the following disclosures: NOT A DEPOSIT; NOT FDIC-INSURED; NOT INSURED BY ANY FEDERAL GOVERNMENT AGENCY ; NOT GUARANTEED BY THE [BANK] [FEDERAL SAVINGS ASSOCIATION]; and MAY GO DOWN IN VALUE. [20]

Therefore, with respect to insurance and annuities products, requiring non-deposit signage would be similarly duplicative and could lead to confusion, given the existing framework for disclosing the insured status of those products.

With respect to all other non-deposit products, IDIs should have flexibility to determine whether placement of non-deposit signage would provide greater clarity to the consumer or lead to confusion, depending on the IDIs' unique product offerings and digital display and design, and where such placement would be most appropriate. The FDIC should not impose a blanket mandate for non-deposit signage placement, as such signage could lead to increased customer confusion.

Therefore, the FDIC should eliminate the *requirement* that IDIs place static non-deposit signage on all pages and screens that are primarily dedicated to one or more non-deposit products. If the FDIC retains such a requirement, at a minimum, it should provide that IDIs will satisfy the requirement if they

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[17] Pub. L. 106–102, sec. 305, 113 Stat. 1338, 1410– 15 (codified at 12 U.S.C. 1831x).

[18] *See* Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; and Office of Thrift Supervision, Treasury, "Consumer Protections for Depository Institution Sales of Insurance" 65 Fed. Reg. 75822 (Dec. 4, 2000).

[19] *See*, e.g., 12 CFR 14.40(a)(1)-(2).

[20] 12 CFR 14.40(c)(5).

comply with the guidelines set forth in the OCC Comptroller's Handbook on RNDIPs regarding investment and securities non-deposit products and the federal banking agencies' joint rules regarding depository institution sales of insurance.

VI. **The FDIC should eliminate the requirement that IDIs display a one-time notification regarding third party non-deposit products**.

The Proposed Rule would amend the 2023 Final Rule's requirement that an IDI display a one-time notification when a bank customer that is logged into an IDI's digital deposit-taking channel attempts to access non-deposit products through a hyperlink (or similar weblinking feature) to a non-bank third party platform, including the platforms of affiliated entities. The 2023 Final Rule requires that the notification be dismissed by a bank customer before accessing the third-party's platform.

The Proposed Rule would modify the dismissal requirement, instead permitting the notification to either be dismissed by an act of the customer or be dismissed automatically after a minimum of three seconds, to allow the customer a reasonable opportunity to read the notification's content.

However, we continue to believe that the one-time notification/speedbump requirement is unnecessary and likely to confuse and frustrate customers. Banks have every incentive to provide clear disclosures to their customers to help ensure that they understand the products and services they are accessing through the IDI or a third party. Furthermore, existing statutes, such as the statute prohibiting unfair deceptive or abusive acts or practices (UDAAP),[21] and regulations and guidance, such as the federal banking agencies' Weblinking guidance,[22] provide important guardrails and expectations in this regard. Moreover, as noted previously, the existing Comptroller's Handbook on retail non-deposit investment products and FINRA rules also require that explicit, clear disclosures are provided by IDIs and broker-dealers, respectively, that investment products are not insured by the FDIC; not a deposit or other obligation of, or guaranteed by, the bank; and subject to investment risks. The banking agencies' rules providing "Consumer Protections for Depository Institution Sales of Insurance" require similar disclosures. Therefore, the pop-up/speedbump would be duplicative and could cause customer confusion and frustration and disrupt the user experience.

At a minimum, the FDIC should expressly exclude affiliates and integrated experiences where IDI customers are able to access other products as a convenience provided by the institution. In these situations, customers do not actually leave the organization's website or digital experience. Without this exclusion, there is the potential for customer confusion, as it may appear that a customer is leaving a firm's website altogether rather than navigating between the customer's accounts or considering products offered by affiliates of the institution.[23]

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[21] 12 U.S.C. § 5536(a)(1)(B).

[22] Federal Deposit Insurance Corporation, National Credit Union Administration, Office of Thrift Supervision, and the Office of the Comptroller of the Currency, Guidance re: "Weblinking: Identifying Risks and Risk Management Techniques" (April 23, 2003) (link).

[23] Prior to the proposed rule, the FDIC issued an FAQ that provides that "affiliates" are viewed as "third parties" consistent with the 2023 Interagency Guidance on Third-Party Relationships: Risk Management. FDIC, "Questions and Answers Related to the FDIC's Part 328 Final Rule," II. Digital Channels (e.g., Websites or Apps), A. Placement and Display of Official Digital Sign, 17 (link). However, the interagency guidance provides a flexible approach to third-party risk management that can be adjusted to the unique circumstances of each third-party relationship. As

VII. **<u>The FDIC should clarify when the official digital sign is required for ATMs</u>**.

The FDIC is proposing to amend 12 CFR 328.4(c) to provide IDIs with additional flexibility in displaying the FDIC official digital sign on ATMs and like devices. The current rule requires IDIs to display the FDIC official digital sign clearly, continuously, and conspicuously on an ATM or like device's "home page or screen and on each transaction page or screen relating to deposits."

In response to commenters' concern that consumers could be confused if the FDIC official digital sign were displayed on pages that contained information about both insured and uninsured accounts or products, the proposal would require an IDI to "clearly, continuously, and conspicuously display the FDIC official digital sign" on the "initial screen of the insured depository institution's ATMs and like devices." The preamble states that an ATM's "initial screen" is "the screen that is displayed before an IDI's customer inserts a debit card or other credentials to access the device (sometimes referred to as a "welcome screen").[24]

We appreciate the FDIC's recognition of the confusion the existing requirements could cause and the intent of the proposed changes to address this concern. However, the proposed new requirement requires clarification. Specifically, the FDIC should not require display of the FDIC official digital sign on ATM screens that appear prior to a customer's engagement with the machine (e.g., touching the screen to reach the initial instruction screen). Such screens may display advertisements related to multiple types of products, including products offered by non-bank legal entities that are not FDIC-insured. Requiring the display of the FDIC official digital sign on ATM screens prior to customer engagement could result in the FDIC official digital sign being displayed near advertisements of products not FDIC-insured or, alternatively, could result in IDIs' being able to display only information or advertisements related to FDIC-insured products. This limitation would significantly constrain IDIs' ability to advertise products on ATMs and run counter to the FDIC's objective of updating its signage rules to reflect modern banking practices. Therefore, we respectfully request that the FDIC clarify this requirement so that it applies only once the customer has engaged or interacted with the ATM or similar device.

VIII. **<u>The FDIC should amend additional aspects of the 2023 rule</u>**.

We appreciate the FDIC's proposed changes to the rule to help better conform the requirements to the digital channels through which IDIs provide products and services to their customers and to help ensure that consumers understand the insured status of deposit and products they seek from IDIs. To help further advance these goals, we recommend additional amendments to sections of the 2023 rule that the FDIC has not addressed in the proposed rule.

a) **<u>The 2023 rule's provisions related to monitoring third parties are unnecessary and should be eliminated</u>**.

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noted, in an integrated environment where a customer can access an IDI's products and those of its non-IDI affiliates, customers are not leaving an IDI to go to a non-bank third-party platform, so the requirement should not be triggered. The FDIC official digital sign and RNDIP disclosures will appear on relevant pages and thus mitigate the risk of consumer confusion or harm.

[24] 90 Fed. Reg. at 40770.

The 2023 rule requires IDIs to establish and maintain "written policies and procedures to achieve compliance with this part" that "must be commensurate with the nature, size, complexity, scope, and potential risk of the deposit-taking activities of the insured depository institution and must include, as appropriate, provisions related to monitoring and evaluating activities of persons that provide deposit-related services to the insured depository institution or offer the insured depository institution's deposit-related products or services to other parties."[25]

When this requirement was proposed in 2023, we asserted that these requirements should align with interagency third-party risk management ("TPRM") Guidance to assure consistency across regulators. At the time of our comment, the federal banking agencies had proposed changes to the TPRM guidance but had not yet finalized it. The agencies subsequently finalized amendments to the TPRM guidance in 2024. The TPRM guidance provides a risk-based approach to managing third party relationships with which IDIs have significant experience in implementing. Therefore, we do not believe it is necessary for this rule to address third party risk management by IDIs.

In adopting the final 2023 Signs and Advertising Rule, the FDIC stated in the preamble that the requirements set forth in section 328.8(a) are consistent with the joint agency TPRM Guidance. However, the FDIC did not explain why requirements beyond those included in the TPRM Guidance are necessary for purposes of this rule.

However, should the FDIC believe it is necessary to include a risk management component in any final rule, at a minimum, any third-party risk management related requirements issued as part of the FDIC rulemaking should:

- Align with the overall approach to managing third-party risk under existing and forthcoming guidance, and
- Adopt a risk-based approach to management of third-party relationships consistent with the guidance;[26]
- Only cover marketing materials and other public dissemination of information regarding the availability of FDIC deposit insurance; and
- Only apply to contractual relationships between IDIs and third parties.

We made this same request in our comment letter responding to the 2023 proposed rule, which the FDIC did not adopt in the 2024 rule.

b) <u>IDIs should be permitted to amend or add to the text of the FDIC official digital sign</u>.

We appreciate that the FDIC has posed specific questions on certain topics in the proposed rule. One question asks, in part, whether "Are there substantive changes to the text of the FDIC official digital sign, such as including the phrase, "Deposits are FDIC-insured," that would provide additional clarity?

[25] 12 CFR 328.8(a).

[26] For example, IDIs that rely on third parties for a significant proportion of their deposit offering activities, may have heightened risk management expectations given the significance of those relationships to the IDI's overall activities.

Should IDIs be permitted to amend or add to the text of the FDIC official digital sign?"[27] Consistent with our overarching recommendation that IDIs be provided greater flexibility with respect to placement of the FDIC official digital sign, we believe that IDIs should have greater flexibility to amend the text of the FDIC official digital sign should the IDI determine that doing so would provide its customers with the most clarity in the context of the IDIs' unique product offerings and digital displays and designs. Thus, the FDIC should establish safe-harbor alternatives to the existing language "FDIC-Insured - Backed by the full faith and credit of the U.S. Government." The FDIC should consider explicitly authorizing IDIs to use alternative language in the FDIC official digital sign, such as "Deposits are FDIC-insured," as the FDIC itself references in the question posed in the proposed rule, or "Bank deposits are FDIC-insured."

c) The FDIC should permit IDIs to translate the official digital sign into other languages without also having to present the sign in English.

The rule does not address whether IDIs can translate the FDIC official digital sign into other languages. However, in an FAQ that the FDIC issued previously regarding the 2023 rule, the FDIC said IDIs could translate the FDIC official digital sign, but that IDIs would also have to present an English version of the sign alongside any translated version.[28] We respectfully request that the FDIC provide in any final rule that IDIs may present the FDIC official digital into the language of a customers' preference without also having to present the sign in English.

d) The requirement in 328.6(f) to submit translations to the agency should be removed.

As we have requested previously, we respectfully request that the FDIC remove the requirement in 328.6(f) to submit translations to the agency, which we believe will cause significant bottlenecks. Rather, consistent with a flexible framework, we respectfully request that banks be permitted to use their own translations. There are other statutes and regulations designed to address any concerns arising from the use of any particular translation, such as the UDAAP rule

e) The FDIC should modernize the requirements regarding advertising as set forth in 328.6 to include flexibility to provide disclosures "one-click away" consistent with analogous regulations.

We respectfully request that the FDIC provide that advertising can be accessed via a "one-click away" method. Allowing IDIs to link to advertising in this manner is critical given space constraints on pages and screens. There is precedent for this approach, as "one-click away" provisions are used in other rules, such as Regulation Z, which implements the Truth in Lending Act, and Regulation DD, which

[27] 90 Fed. Reg. at 40776.

[28] FDIC, "Questions and Answers Related to the FDIC's Part 328 Final Rule," II. Digital Channels (e.g., Websites or Apps), A. Placement and Display of Official Digital Sign, 18 (link).

implements the Truth in Savings Act,[29] and is consistent with guidance the FTC has issued titled ".com disclosures 'How to Make Effective Disclosures in Digital Advertising.'"[30]

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If you have any questions, please contact Paige Paridon by phone at [redacted] or email at [redacted] or Alison Touhey at [redacted] or [redacted]

Respectfully submitted,

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cc: Matthew P. Reed, General Counsel
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[29] *See* Comment for 1026.16 – Advertising (Regulation Z), 16(c)(2) Catalogs or Other Multiple-Page Advertisements; Electronic Advertisements, "2. Electronic advertisement. If an electronic advertisement (such as an advertisement appearing on an Internet Web site) contains the table or schedule permitted under § 1026.16(c)(1), any statement of terms set forth in § 1026.6 appearing anywhere else in the advertisement must clearly direct the consumer to the location where the table or schedule begins. For example, a term triggering additional disclosures may be accompanied by a link that directly takes the consumer to the additional information." Supplement I to Part 1030—Official Interpretations (Regulation DD), 1030.8(a)(9), "*Electronic advertising*. If an electronic advertisement (such as an advertisement appearing on an Internet Web site) displays a triggering term (such as a bonus or annual percentage yield) the advertisement must clearly refer the consumer to the location where the additional required information begins. For example, an advertisement that includes a bonus or annual percentage yield may be accompanied by a link that directly takes the consumer to the additional information."

[30] ".com disclosures 'How to Make Effective Disclosures in Digital Advertising'" (March 2023) (link).