chime

November 21, 2024

Via: Electronic Submission
Attention: James P. Sheesley, Assistant Executive Secretary
Attention: Comments–RIN 3064–AF99
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: Notice of Proposed Rulemaking on Unsafe and Unsound Banking Practices: Brokered Deposits Restrictions (RIN 3064–AF99)

Ladies and Gentlemen:

Chime Financial, Inc. ("Chime") appreciates the opportunity to comment on the notice of proposed rulemaking (the "Proposal") of the Federal Deposit Insurance Corporation (the "FDIC") regarding brokered deposits restrictions.[1]

Chime is a financial technology company ("fintech") that acts as a service provider for two partner banks. In that role, Chime provides marketing and technology solutions through which its members can access banking products at Chime's partner banks. These banking products provide clear and significant benefits to our members, as described further below.

In 2022, Chime, through a partner bank, filed a notice for a Primary Purpose Exception ("PPE") for Enabling Transactions.[2] This PPE is entirely appropriate because Chime deposit products are stable, retail, transaction accounts, and do not present the risk characteristics that the FDIC has determined are applicable to brokered deposits. Nevertheless, by eliminating the "enabling transactions" exception and revising the deposit broker definition in the FDIC's existing brokered deposits rule,[3] the Proposal would cause deposits made by consumers at banks using Chime's technology platform, as well as consumer deposits made using other fintech platforms, to be considered brokered.

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1 Unsafe and Unsound Banking Practices: Brokered Deposits Restrictions, 89 Fed. Reg. 68,244 (Aug. 23, 2024) (the "Proposal").

2 *See* FDIC, Public Report of Entitles Submitting Notices for a Primary Purpose Exceptions as of 3/15/2024, *available at* https://www.fdic.gov/resources/bankers/brokered-deposits/public-report-ppes-notices.pdf.

3 12 C.F.R. § 337.6(a)(5)(v)(I)(1)(ii).

This result would be inconsistent with the nature of our members' transaction accounts, which consist of nonvolatile, retail deposits and would not meaningfully contribute to safety and soundness of our partner banks or the banking system or protect the Deposit Insurance Fund (the "DIF"). Further, the Proposal could potentially disrupt the provision of essential financial services to many consumers. While we acknowledge that there are risks to the bank partnership model that may merit more consideration by the Agencies, the brokered deposit restrictions in the Proposal are not responsive to potential operational risks in the specific context of bank-fintech relationships. For these reasons, we believe that the FDIC should withdraw the Proposal or, at a minimum, retain the enabling transactions exception and revise the deposit broker definition, as discussed further below.

We recognize that many of the changes in the Proposal, including to eliminate the enabling transactions exception, would, to a significant extent, return the restrictions on brokered deposits to those in effect prior to 2021.[4] However, treating nonvolatile, retail transaction deposits of Chime members and of consumers that make deposits through other fintech platforms as brokered would have significantly greater consequences today than prior to 2021. The number of consumers making deposits through Chime and other fintech platforms has grown considerably in recent years. As a result, the benefits we provide, and the market gap we help fill, have grown considerably. The risks of disrupting these benefits should not be overlooked, and we believe this is an important reason for the FDIC to withdraw the Proposal, at least to the extent it would cause Chime's and similarly situated fintechs' deposits placed at partner banks to be considered brokered.

I. Background on Chime

Chime operates through direct, longstanding partnerships with two national banks: The Bancorp Bank, N.A. and Stride Bank, N.A. Chime's banking partners provide services to consumers, our members, who access those services through technology solutions developed by Chime. Through these partnerships, Chime enables its partner banks to provide banking products that deliver clear benefits to Chime members. Our members are predominantly everyday Americans earning less than $100,000 per year, many working in critical sectors of the economy and living paycheck-to-paycheck. Chime's relationships with its partner banks are structured to emphasize effective risk management, compliance and consumer protection.

Chime's Impact

[4] *See* FDIC, Unsafe and Unsound Banking Practices: Brokered Deposits and Interest Rate Restrictions, 86 Fed. Reg. 6742 (Jan. 22, 2021).

Since its founding 12 years ago, Chime has developed and made available important innovations to help consumers meet their everyday needs. We led the industry by offering, with our partner banks, the first fee-free bank account that provides consumers with their direct deposit two days early (Get Paid Early) and the first fee-free overdraft protection (SpotMe). As of June 2024, Chime and its banking partners have extended over $30 billion in fee free overdraft through SpotMe. Chime also introduced a secured credit card that helps users build credit[5] in a more consumer-friendly way. Most recently, Chime, together with its bank partners, launched MyPay, which provides access to up to $500 on demand before payday for free within 24 hours, or instantly at one of the lowest costs available for comparable products in the market. As a result of Chime's distinct focus on addressing member needs, 97% of members say Chime has helped with at least one aspect of financial progress including: avoiding bank fees, bridging the gap until the next paycheck, paying bills on time, managing spending, improving credit scores, setting aside money for an emergency, saving for a long-term goal or paying off high-interest debt.[6]

Chime's innovations have also benefited numerous consumers who are not Chime members. Many large incumbent banks have introduced offerings similar to those made available by Chime and its partner banks. Specifically, we believe that the Chime SpotMe product was a contributing factor that led to industry-changing improvements of traditional overdraft offerings. Since Chime and its partner banks launched SpotMe in 2019, overdraft fee revenue industry-wide decreased by over 50% as a result of U.S. banks lowering these fees or eliminating them altogether.[7]

II. The deposits that Chime members make at its partner banks do not exhibit the characteristics or the risks of brokered deposits.

The deposits that Chime places do not share the characteristics and related risks that the FDIC has determined are applicable to brokered deposits. As described below,

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[5] Based on a representative study conducted by Experian®, Chime members who made their first purchase with Chime's Credit Builder card between June 2022 and October 2022 observed an average FICO® Score 8 increase of 30 points after approximately 8 months of usage.

[6] Information compiled based on Chime survey responses as of July 2024 from 35,000 active Chime members.

[7] According to the Consumer Financial Protection Bureau ("CFPB"), in 2023, overdraft and NSF revenue decreased more than 50% compared to 2019, saving consumers over $6 billion on an annual basis. CFPB, Offices of Markets and Consumer Populations, Data Spotlight, Overdraft/NSF Revenue in 2023 Down More Than 50% Versus Pre-Pandemic Levels, Saving Consumers over $6 Billion Annually (April 24, 2024) *available at* https://www.consumerfinance.gov/data-research/research-reports/data-spotlight-overdraft-nsf-revenue-in-2023-down-more-than-50-versus-pre-pandemic-levels-saving-consumers-over-6-billion-annually/.

Chime members' deposits are similar to core deposits of retail customers, which the FDIC's own analysis concludes do not pose the same risks to the DIF as brokered deposits.[8] Furthermore, in the Proposal, the FDIC points to two "characteristics of brokered deposits that have posed risks to" the DIF: (1) "rapid growth," through which brokered deposits may be "gathered quickly and used imprudently to fund risky assets or investments"; and (2) "volatility," where "brokered deposits might flee if the broker (or the underlying customer) moves funds", if the bank holding the deposit "becomes troubled, or if rates or terms are more appealing elsewhere."[9] Chime members' deposits at our partner banks exhibit neither of these qualities. Therefore, for all of these reasons, there would be no reason to classify our members' deposits as brokered.

Nature of Chime deposits

Deposits made through Chime's platform are consistent with the characteristics of "core deposits." The majority of the consumers who access banking services through the technology solutions developed by Chime rely on Chime products and services as their primary account relationship. These consumers use their deposit accounts at Chime's partner banks to gain access to vital short-term liquidity and credit-building products that satisfy financial needs. Like a traditional bank's core deposits, the deposits members make at Chime's partner banks are FDIC insured up to $250,000, which the FDIC recognizes as a factor that makes deposits less volatile.[10] Chime members primarily use their checking accounts to transact and/or direct deposit their paychecks; in fact, neither Chime nor its partner banks offer interest on checking accounts accessed through Chime's platform.[11] Chime members transact frequently using their Chime accounts, averaging 50 transactions per member per month, and typically spend down their accounts each pay cycle, maintaining modest balances.[12] Chime members express a high degree of satisfaction and trust in their experience with the Chime platform: 75% of Chime members consider themselves lifelong members and report more confidence in the banking products they obtain through Chime's platform than they have in products offered by traditional banks.[13]

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[8] *See* FDIC, Unsafe and Unsound Banking Practices: Brokered Deposits and Interest Rate Restrictions, 84 Fed. Reg. 2366, 2377-2400 (Feb. 6, 2019) (updated analysis of core deposits and brokered deposits).

[9] Proposal, 89 Fed. Reg. at 68,246; *see also* FDIC, *Study on Core Deposits and Brokered Deposits* at 46 (July 8, 2011), *available at* https://www.fdic.gov/regulations/reform/coredeposit-study.pdf.

[10] Proposal, 89 Fed. Reg. at 68,246 n.29 ("[T]he volatility of brokered deposits tends to be mitigated somewhat by deposit insurance, as insured depositors have less incentive to flee a problem situation.").

[11] Chime's bank partners offer 2.00% Annual Percentage Yield on savings accounts.

[12] Average year to date through September 30, 2024, based on internal Chime data.

[13] Information compiled based on Chime survey responses as of July 2024 from 35,000 active Chime members.

The characteristics of many Chime members also limit the potential volatility of their deposits. Many of our members have historically had few banking options that satisfy their needs. Chime's platform offers free access to a checking account and free or low-cost access to additional products. The products offered through Chime's technology have filled a critical market gap for many everyday Americans. For these reasons, Chime members may stop using the platform if they can no longer take advantage of benefits available to members that direct deposit their paychecks. This is in contrast to the typical reasons that cause higher-balance consumers to switch banks, such as higher interest rates.

Rapid growth

Deposits made by members at Chime's partner banks through Chime's technology platform have not been used by those banks to facilitate rapid growth strategies. Chime and its partner banks have not sought to rapidly obtain deposits, but have scaled deposits over time as consumers choose Chime's platform based on trust and loyalty. Additionally, the deposits Chime places at our partner banks support their core lending activities. These deposits are allocated between our partner banks through direct contractual arrangements that prioritize risk management and operational resilience to help ensure responsible and sustainable growth.

Volatility

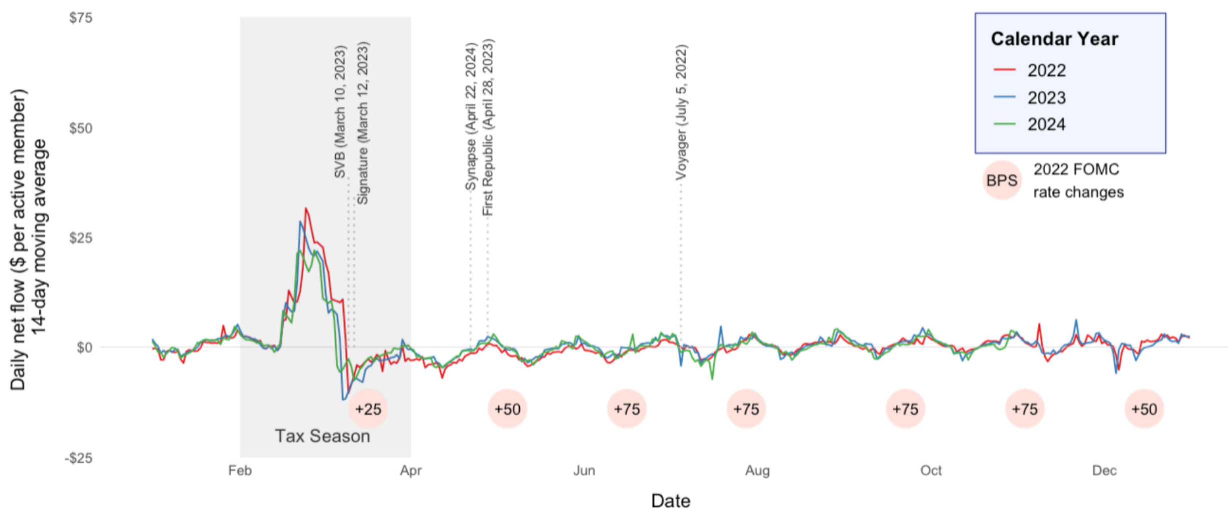
The deposits that members make through Chime's technology platform are as stable, if not more so, as traditional bank deposits made by consumers. The Chime deposit account agreement is, in all cases, between a bank and a Chime member. After a member makes a deposit through Chime's platform, the deposit represents a liability on our partner banks' balance sheet. Chime is not in the flow of funds, and Chime never has any ownership interest in, or claim to, the deposits of its members. For these reasons, Chime cannot direct movement or placement of customer deposits to another banking institution, without consumer consent or approval of a federal bank regulator.[14]

Moreover, our experience during the recent stresses affecting the banking and fintech industries confirms the stability of the deposits made by members through Chime's platform. As Figure 1 below shows, Chime's partner banks did not see drastic inflows or outflows of deposits made by members during any of the bankruptcies of major crypto companies in 2022, increases in the federal funds rate throughout 2022, the bank failures in 2023 or the failure of Synapse Financial Technologies, Inc. ("Synapse") in

[14] *See, e.g.*, 12 U.S.C. § 1828(c) (Bank Merger Act).

2024.[15] Figure 1 demonstrates that the net flows of Chime member deposits are very steady, moving within a very narrow range. To the extent that net flows do fluctuate, they demonstrate seasonality with peaks and troughs occurring consistently every year, including at tax season. Chime member deposits on a net basis are stable in the face of, not responsive to, market events, including major financial events and significant interest rate changes.

Figure 1: Daily Net Deposit Flows In/Out of Chime



Note: Net flows per active member are calculated as a 14-day moving average to smooth fluctuations driven by payroll deposit timing. FOMC interest-rate changes are shown for 2022 to capture the most significant changes during this period, during which the level rose 400 basis points, from 0.25/0.50 in March to 4.25/4.50 in December. The dates and rate changes in basis points are as follows: March 17 (+25), May 5 (+50), June 16 (+75), July 28 (+75), September 22 (+75), November 3 (+75), December 15 (+50). Source: https://www.federalreserve.gov/monetarypolicy/openmarket.htm#2022

Based on the above points, we believe that there is no reason to view the deposits of Chime members as more volatile than deposits in traditional bank accounts—and in light of our members having different needs and options than customers of traditional banks, they may be *less* volatile.

III. The Proposal does not address the potential negative effects it would have on banks and consumers.

By reclassifying deposits of Chime members as brokered deposits, the Proposal would make the technology we provide, and other fintech products and services, less attractive to banks. Banks that are less than well capitalized face restrictions on accepting brokered deposits. An adequately capitalized bank may accept brokered

15 The failures cited by the FDIC, such as First Republic Bank, Voyager, and Synapse, were due to specific management failures and unrelated to brokered deposits, making them an insufficient basis for broad changes to brokered deposit rules.

deposits only with an FDIC waiver,[16] and an undercapitalized bank may not accept brokered deposits at all.[17] However, as described above, the deposits that our partner banks obtain from Chime members through Chime's technology platform are stable. Because these deposits do not present the risks that the FDIC has determined apply to brokered deposits, it makes little sense to restrict banks from accepting them, including when they are not well capitalized. For banks that are less than well capitalized, deposits obtained via Chime's platform—or via various other fintech platforms through which consumers make relatively stable deposits at partner banks—provide a low-risk source of funding that does not heighten risks to the DIF.

Bank Impact

The negative effects on banks of classifying these deposits as brokered are not restricted to less than well capitalized banks. If these deposits are considered brokered, well capitalized banks and fintechs with which they have relationships must plan for the potential disruption that could result if a bank were to become less than well capitalized. Additionally, considering these deposits as brokered, notwithstanding their low risk, would increase costs for banks, for example due to FDIC deposit assessments, and potentially lead to reputational harms that may be associated with increased use of deposits that must be reported as brokered. These effects could make partner banks less willing to enter into relationships with fintechs involving deposits, reducing the benefits that federal banking agencies have acknowledged these relationships can provide to banks and the banking system.[18]

Consumer Impact

Furthermore, although the FDIC devotes only two paragraphs in the more than 100-page Proposal to potential effects on consumers, these potential effects should not be overlooked. The FDIC suggests that the impact to consumers if banks stop accepting deposits that, as a result of the Proposal, are considered brokered, or change the terms of those deposits, is limited to consumers placing "their funds with different entities" or "chang[ing] their relationships with certain third-party providers."[19] This conclusion, presented without accompanying detail, fails to distinguish between different types of consumers. Consumers that maintain higher balances may, as the FDIC

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16 12 U.S.C. § 1831f(c); 12 C.F.R. § 337.6(b)(2).

17 12 U.S.C. § 1831f(a); 12 C.F.R. § 337.6(b)(3).

18 Bd. of Governors of the Fed. Reserve Sys., Fed. Deposit Ins. Corp., Office of the Comptroller of the Currency, Interagency Guidance on Third-Party Relationships: Risk Management, 88 Fed. Reg. 37920 (June 9, 2023).

19 Proposal, 89 Fed. Reg. at 68,261.

suggests, move from deposits newly classified as brokered to substitutes, such as money market funds, to obtain higher returns.

For consumers that live paycheck-to-paycheck, in contrast, the potential adverse impact of the Proposal could be much greater. Consumers like those served by Chime and its partner banks are not well served by traditional banks. These consumers have historically had limited access to traditional banking services and may lack meaningful, low-cost alternatives if, as a result of the Proposal, Chime's partner banks or other providers cease offering services or change the terms of those services. The FDIC and others have emphasized the importance of extending banking services to the underbanked and unbanked,[20] yet the FDIC does not address the risk that the Proposal itself could reduce access to banking products.

Without analyzing in greater detail the full range of potential effects on banks and consumers, the Proposal has significant shortcomings. Although the FDIC states in the Proposal that it does not have quantitative information necessary to estimate the Proposal's impact,[21] the FDIC could use any of various tools, including analysis of existing data and/or collection of new data, to determine potential quantitative impacts. We encourage the FDIC to seek to better analyze the Proposal's potential impacts before determining whether to finalize it and in what form, and, for the reasons discussed above, we believe these impacts could include substantial negative effects on both banks and consumers.

IV. Brokered deposits restrictions are not an appropriate mechanism to regulate bank-fintech relationships involving deposits.

The Proposal, including the proposed removal of the enabling transactions exception, would have significant effects on bank-fintech relationships that involve deposits. For the reasons described above, it could significantly affect banks and consumers. However, the Proposal would represent a blunt disincentive to almost all of these

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[20] *See, e.g.*, FDIC, Advisory Committee on Economic Inclusion, https://www.fdic.gov/advisory-committees/advisory-committee-economic-inclusion-come (describing the objective of the advisory committee to "provide the FDIC with advice and recommendations on important initiatives on expanding access to banking services by underserved populations"); FDIC, Bank Efforts to Serve Unbanked and Underbanked Consumers (May 25, 2016) ("[T]he [FDIC] is committed to helping increase the participation of unbanked and underbanked consumers in the banking system."); *see also* FDIC, 2021 FDIC National Survey of Unbanked and Underbanked Households (finding that an estimated 4.5% of U.S. households were unbanked and an estimated 14.1% of U.S. households were underbanked in 2021), *available at* https://www.fdic.gov/sites/default/files/2024-03/2021report.pdf; Fin. Health Network, FinHealth Spend Report 2024 (Aug. 2024) (finding that, on average, "Financially Vulnerable" households spent 16% of their income on interest and fees, while consumers with stronger financial positions spent between 1% to 6% of their income on these costs), *available at* https://finhealthnetwork.org/research/finhealth-spend-report-2024/.

[21] *E.g.*, Proposal, 89 Fed. Reg. at 68,261.

relationships, even those that are well-structured and do not present risks that the FDIC has determined are applicable to brokered deposits.

We believe that such a blunt disincentive is not the right approach to address any regulatory concerns associated with termination or disruptions of bank-fintech relationships. As we described in our recent letter[22] responding to the interagency request for information on bank-fintech relationships,[23] these relationships can provide significant consumer benefits. We also recognize that they can impose risks, and we support the coordinated interagency process seeking to gather more information related to these relationships. We believe that FDIC actions as they relate to bank-fintech relationships should be coordinated as part of this interagency process in order to effectively promote safe practices, effective risk management, compliance, and operational resilience. Such coordination should be data-driven, and target specific risks, such as those seen in the Voyager and Synapse failures discussed in the Proposal.[24] The Proposal, in contrast, would adversely affect a wide swathe of these relationships, even those that do not present risks that the Proposal seeks to address.

V. For these reasons, the FDIC should not proceed with the Proposal to the extent it would reclassify Chime deposits as brokered.

For the reasons described above, we urge the FDIC to withdraw the Proposal or, if the Proposal is not withdrawn, to amend the Proposal so that the enabling transactions exception and related notice and application procedures are retained in the FDIC's brokered deposits rule. These changes would ensure that bank-fintech partnerships like those implemented by Chime, which support day-to-day transactions carried out by our members that are necessary for their everyday needs, are able to continue to provide crucial services to consumers.

If the FDIC eliminates the enabling transactions exception—which it should not do—the FDIC should grandfather previously approved PPE applications and notices. Further, the FDIC should add to the Proposal a process by which banks *or* fintechs may request

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22 Letter re: Request for Information on Bank-Fintech Arrangements Involving Banking Products and Services Distributed to Consumers and Businesses (OCC Docket ID OCC-2024-0014; Board Docket No. OP-1836; RIN 3064-ZA43) (Oct. 30, 2024), *available at* https://www.fdic.gov/federal-register-publications/chime-jeffrey-l-stoltzfoos-rin-za43.

23 Bd. of Governors of the Fed. Reserve Sys., FDIC, Office of the Comptroller of the Currency, Request for Information on Bank-Fintech Arrangements Involving Banking Products and Services Distributed to Consumers and Businesses, 89 Fed. Reg. 61,577 (July 31, 2024).

24 Notably, the FDIC is already addressing account ledgering and reconciliation concerns identified from the Synapse bankruptcy in a separate rulemaking, *see* 89 Fed. Reg. 80,135, which we believe will mitigate some of the key risks of bank-fintech relationships involving deposits by better standardizing expectations for continuity, bank access to ledgers and frequency of reconciliations.

a waiver so that particular deposits would not be considered brokered.[25] Grandfathering will ensure existing bank-fintech relationships involving deposit programs that are in the market can continue to operate without disruption. Including a waiver process would enable the FDIC to ensure, in the context of bank-fintech relationships involving deposits, that brokered deposits restrictions do not apply to deposits that do not present the characteristics and risks associated with brokered deposits, and for which brokered deposits restrictions would be unnecessary and unproductive.

Moreover, if the FDIC eliminates the enabling transactions exception, we believe that the FDIC should revise the Proposal to remove overly broad language in the definition of deposit broker that would include within the scope of that term any person that "engages in one or more of the [specified] activities."[26] If the FDIC is committed to pursuing major revisions to the brokered deposits framework, it should refine its definition of deposit broker to focus on entities that manage deposits to maximize yield, which can create instability. Other entities, such as Chime, that are not actively managing the placement of deposits in this way should not be deposit brokers.

VII. Conclusion

Chime is committed to working with the FDIC to ensure that any policy, including with respect to brokered deposits, benefits banks, consumers and the U.S. banking system. For the reasons provided above, by classifying deposits that Chime and various other fintechs place as brokered, the Proposal would not address risks associated with brokered deposits, but would reduce the significant benefits that bank-fintech relationships involving deposits can provide to banks, consumers and the banking system. The FDIC therefore should withdraw the Proposal in favor of regulations and/or guidance that would address the risks and benefits of these relationships in a more coordinated and targeted way. If the FDIC proceeds with the Proposal, it should, at a minimum, retain the enabling transactions exception.

We welcome any questions you may have. Thank you for the opportunity to comment.

Sincerely,

/s/ Jeffrey L. Stoltzfoos
Vice President, Government and Public Affairs

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[25] Such a waiver process should parallel the existing process for adequately capitalized banks to request waivers to accept brokered deposits. *See* 12 C.F.R. § 303.243(a).

[26] Proposed 12 C.F.R. § 337.6(a)(5)(ii).