CNote

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November 21, 2024

Via Email Only

James P. Sheesley
Assistant Executive Secretary
Attention: Comments—RIN 3064-AF99
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429
comments@fdic.gov

Re: RIN 3064-AF99 - Notice of Proposed Rulemaking on Unsafe and Unsound Banking Practices: Brokered Deposit Restrictions

Dear Mr. Sheesley,

CNote Group, Inc. ("CNote") submits this comment letter to the Federal Deposit Insurance Corporation ("FDIC") in response to the notice of proposed rulemaking to amend the FDIC's regulations relating to brokered deposits[1] ("NPRM"). CNote opposes the NPRM and respectfully requests that the FDIC withdraw the NPRM.

CNote provides corporations, institutions and individuals with its Impact Cash® deposit management platform service, which allows CNote clients to place deposits with Community Development Financial Institutions ("CDFIs") and Minority Deposit Institutions ("MDIs") that are FDIC-insured depository institutions (collectively "IDIs"). These deposits allow IDIs to manage liquidity while supporting the needs of historically underserved and underbanked communities. The IDIs pay no fees to CNote for the deposits. CNote clients pay CNote an administrative fee for the use of the CNote platform to manage their deposits, and for reporting on how CNote client deposits are supporting the IDI community development initiatives, such as affordable housing, small business loans, combating climate change, and others. CNote plays a significant role in bringing new depositors to IDIs, supporting their ability to meet the lending demands of their underserved and underbanked communities.

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[1] FDIC, Notice of Proposed Rulemaking, Unsafe and Unsound Banking Practices: Brokered Deposits and Interest Rate Restrictions,
https://www.fdic.gov/system/files/2024-07/fr-npr-on-brokered-deposit-restrictions.pdf.

The NPRM, as proposed, will have significant, adverse impacts on IDIs, non-bank service providers (e.g., CNote) and consumers. IDIs will have more deposits being characterized as brokered, resulting in fewer IDIs having access to such deposits. The remaining IDIs that are able to access the deposits will have greater regulatory burdens and costs. Additionally, IDIs may need to restructure their liabilities and make changes to their organizational structure.

Non-bank service providers (e.g., CNote), which partner with IDIs to provide deposits, would also be affected by the NPRM. Non-bank service providers that provide services to IDIs and consumers could now be considered deposit brokers or lose existing primary purpose exemptions, potentially resulting in changes to these non-bank service providers' fees, revenue structures, and business models which could ultimately increase the costs to consumers, and decrease the availability of products and services to consumers and IDIs. Many community banks utilize, or may wish to utilize in the future, third party partnerships, online services, and financial technologies to facilitate deposit placements, raise insured deposits, offer specialized deposit products and services to their customers, maximize deposit insurance coverage for their customers, diversify and de-risk their funding portfolio, and broaden their deposit base to meet the lending needs of their local communities. CNote is concerned that the proposed broad definition of "deposit broker" will include third parties, like CNote that simply receive a fee for helping clients administer deposits that do not pose traditional "hot money" risks and are essential to CDFI banks that support underserved communities.

The NPRM, as proposed, would alter the FDIC's current brokered deposit framework without providing sufficient data and validated rationales to support such a drastic change in the framework. The NPRM does not provide a factual basis for many of the changes proposed. FDIC Director Jonathan McKernan stated: "This proposal does a good job of marshaling evidence of the risks posed by brokered deposits. The proposal does not, however, offer any evidence that some of the deposits that this proposal would re-classify as brokered deposits actually present the same or similar risks." The complex issues raised in the NPRM need thorough analysis, supporting factual data, and adequate time for multiple rounds of public comment and feedback from the industry, policymakers and the multitude of stakeholders.

Banks, affiliates, non-bank service providers, and other relevant parties would be forced to reassess numerous arrangements currently in place relating to deposits and deposit related services, potentially leading to substantial changes in how customers access financial services, for seemingly no significant or validated benefits. The NPRM classification of a deposit as "brokered" imposes additional regulatory costs that do not align with the risks presented by different funding types. Section 29 was intended to restrict the weakest banks from seeking deposits by paying higher-than-market interest rates, not to discourage healthy banks from holding diverse funding sources or meeting the needs of their customers in a modern banking environment. Considering the potential adverse effects of the NPRM, and the lack of supporting factual evidence, the FDIC should withdraw the NPRM and consider future revisions to the brokered deposits rule only after robust data collection and analysis have been provided to support the proposed changes and the public has been given an opportunity to thoroughly review that information and take it into account in commenting on the proposed changes.

Thank you for the opportunity to provide comments on the NPRM. If you have any questions regarding our comments, please contact the undersigned below.

Sincerely,

Candice Carr
VP Legal & Government Affairs
CNote Group, Inc.
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