From: Hassan Tyler
To: Comments
Subject: [EXTERNAL MESSAGE] August 19, 2024 Regulations Implementing the Change in Bank Control Act; Comment Request (RIN 3064-AG04)
Date: Thursday, October 3, 2024 8:12:56 PM

[redacted]

October 3, 2024

Federal Deposit Insurance Corporation

550 17th Street NW, Washington, DC 20429

Via Email to: comments@FDIC.gov

Re: Regulations Implementing the Change in Bank Control Act (RIN 3064–AG04)

Dear Members of the Corporation:

The August 2024 approval of a notice of proposed rulemaking to amend current regulations governing the Change in Bank Control Act is unnecessary. This change would allow the FDIC to expand its oversight and regulatory powers to monitor passive index fund investments in banks – something that is already regulated by the Federal Reserve. There is no valid reason for it to have this oversight authority.

At present, the Change in Bank Control Act specifies that any investor cannot have "control" over a bank without submitting prior written notice of the transaction. The written notice is triggered when an entity with voting shares takes an ownership position greater than 10 percent. The FDIC, through the Change in Bank Control Act, can review any indirect changes in control. However, the FDIC has historically yielded this power to the Federal Reserve, and this recent proposed rule would override the current practice.

Historically, large index funds have been exempted from this requirement as their investments are based on their need to replicate a stock market index. The funds, more importantly, are passively managed – meaning they do not seek to influence management or strategic decision-making in the companies in which they invest.

This proposed rule amounts to regulatory redundancy. There is no identifiable issue with how bank ownership is supervised under the Federal Reserve, and such a change would only cause confusion and inconsistency in the hierarchy of agency supervisory rules. This was true earlier this year when the FDIC proposed revisions to the agency's Statement of Policy on Bank Merger Transitions, which suggested standards that were materially different from those of the Federal Reserve.

Moreover, changes to FDIC policy would harm the country's capital markets as it could disincentivize investment. FDIC Vice Chairman Travis Hill voted against the proposed rule for this exact reason, stating that the proposed rule "might result in asset managers reducing their investments in banks," and that the FDIC should proceed with caution. Recklessly moving forward with the FDIC's proposal could push index fund managers to reduce their stakes in banks until they get greater clarity on the proposed policy. That could pressure bank stocks during already uncertain economic times.

Fifty-four percent of all U.S. households own mutual funds, most of which consist of retirement savings. Passively managed funds are now bigger than actively managed funds, which is a positive development, since reducing management funds invariably leads to greater returns and higher retirement income as a result. Passive stock managers should be left alone and not used as a pawn in a parochial regulatory turf dispute driven by an utterly disgraced regulator grasping for relevancy.

Regional banks are facing strong headwinds these days. Last year, there were five bank failures with assets totaling over $500 billion and for an anxious month last Spring there were fears of a widespread bank run. The average stock price of the regional banking sector is down almost five percent since the beginning of 2023 while the S&P 500 is up over 50 percent over that same period.

The FDIC's attempt to regain regulatory oversight of large, passively-managed index funds is a non-solution to a non-problem and amounts to little more than a political turf grab by a bureaucrat who has been underwhelming at best. Before the FDIC takes on additional regulatory tasks, it must demonstrate to Americans that the agency is focused on the right issues and that their money is secure.

Sincerely,

K. Hassan Tyler

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