October 21, 2024

Mr. James P. Sheesly
Assistant Executive Secretary
Attention: Comments-RIN 3064-AF99
Federal Deposit Insurance Corporation
550 17th Street NW
Washington DC 20429

FinPro, Inc. ("FinPro") has teamed with Bankers Helping Bankers ("BHB") and numerous Bank CEOs across the United States, collectively the ("Commenters") to provide this comment Letter relative to RIN 3064-AF99, Notice of proposed rule ("NPR") making relative to brokered deposits.

The Commenters collectively believe the proposed rule is misdirected, unnecessary and places risk focus in the wrong place. The FDIC itself, in the Notice of proposed rule making, admits that brokered is not the problem but rather a symptom or a facilitator of other risks. The following passage is a direct quote from section II. Background of the proposed rule contained in the Federal Register.

"Brokered and high-rate deposits became a concern among bank regulators and Congress before any statutory restrictions were enacted. This concern arose because (1) such deposits could facilitate a bank's rapid growth in risky assets without adequate controls; (2) once problems arose, a problem bank could use such deposits to fund additional risky assets to attempt to "grow out" of its problems, a strategy that ultimately increased the losses to the DIF when the institution failed; and (3) brokered and high-rate deposits were sometimes considered less stable because at that time, deposit brokers (on behalf of customers), or the customers themselves, were often drawn to high rates and prone to leave the bank quickly to obtain a better rate or if they became aware of problems at the bank."

We agree that the risk is not in brokered deposits but rather in rapid growth of risky assets, banks "growing out" of its problem and high-rate deposits are prone to leave a bank quickly. We believe that is precisely where the FDIC should be focusing its risk mitigation efforts as opposed to it's misguided focus on brokered deposits.

Let us take each FDIC identified risk one at a time. The Commenters agree that rapidly growing risky assets is a legitimate risk that needs to be monitored. Rapidly growing any funding source would create the exact same risk environment as the FDIC lays out in its NPR relative to brokered deposits. We believe that the FDIC and other regulatory authorities already do a satisfactory job in this regard. Starting with requiring detailed credit Policies to requiring asset category concentration limits, to stress testing loan portfolios, we believe this risk is appropriately identified but is currently being adequately controlled.

The Commenters also agree that "growing out" of problems is not a singular remedy to mitigate risk. Rather, a complete and thorough business plan should be required giving the FDIC and other regulators the chance to prevent this event from occurring. The FDIC has the power and authority today to place restrictions on "Troubled Banks" in the form of Memorandums of Understanding or in more severe cases Consent Orders.

Assuming some form of brokered remains definitionally, measuring brokered deposits in the aggregate is flawed. Not every broker will react the same way at the same time. A better risk approach is to set concentration limits per broker, not allowing any one broker to provide more than 20% of an individual banks total brokered funding.

Finally, as to this particular quote, the Commenters agree that high-rate deposits are volatile and could be prone to leave the bank quickly. The FDIC and other regulatory agencies have already enacted rules limiting utilization of high-rate deposits under certain undercapitalized conditions.

The FDIC openly admits that brokered deposits could be a symptom or could facilitate the occurrence of these stated risks but that implies that brokered deposits themselves are not the risk.

The Commenters would suggest that the real risk in deposits is in uninsured deposits and the threat of a run on ordinary deposits that allow for premature withdrawal, a feature absent in brokered deposits. In fact, brokered deposits are more stable than core deposits from an interest rate risk and a liquidity standpoint. The stability is the result of having a contractual term, having a fixed rate for long duration and not requiring collateral. The bank failures in the Spring of 2023 were driven by bank runs in core deposits, not from a run on brokered deposits.

The Commenters do not believe that including reciprocal deposits as brokered deposits should be reintroduced. Barring any action from Congress, reciprocal deposits are one of the best ways to provide insurance on large balance deposits. As we think the real risk is having uninsured deposits, nothing should happen that would negatively impact a working solution.

The Commenters respectfully suggest that it is time to replace confusing terms, that have been constructed over time, with a rational, common-sense matrix. As of today, terminology around funding has morphed into an antiquated and confusing set of terms. For example:

What is core?
What is an internet deposit?
What is wholesale?
What is brokered?
What is a volatile high risk funding source?

We propose a matrix approach that would answer these and other questions by breaking down funding into three major categories to include:

1. Deposit Product Types
    1. Transaction accounts
        a. Noninterest bearing
        b. Interest bearing
    2. Savings accounts
    3. Money market accounts
    4. Certificates of deposits
    5. IRA's and other Tax Advantaged Accounts
2. Borrowing Product Types

    1. Federal funds purchased
    2. FHLB advances
    3. FRB Borrowings
    4. Correspondent line of credit advances
    5. Other borrowings
3. <u>Depositor Types</u>
    1. Consumer
    2. Commercial
    3. Public
        a. Municipal
        b. Schools
        c. Associations (Firefighter, Police, etc.)
    4. Not for Profit
    5. Foreign
    6. Institutional
        a. U.S. Government
4. <u>Origination Sources/Delivery Channels</u>
    1. **For Deposits**
        1. Physical branch
        2. Internet
        3. Human
        4. Telephone Service Center
        5. ITM's
        6. Brokered
        7. Listing services
        8. Third Party
        9. Reciprocal
        10. Other Banks
        11. Credit Unions
        12. Broker dealers
    2. **For Borrowings**
        1. FHLB
        2. FRB
        3. Other Banks
        4. Credit Unions
        5. Broker dealers

The Commenters suggest some additional areas for consideration:

1. We recommend that the FDIC and other Regulators eliminate the use of the term "wholesale" altogether. This will eliminate confusion. The FDIC should keep individual category concentrations.
2. Concentrations should be measured at an individual component level not aggregated up to a fictitious group level.
3. The CALL Report should be modernized to reflect the matrix terminology outlined earlier in the comment Letter.

4. Establish individual broker limits not to exceed 20% of total brokered.
5. Eliminate the prohibition of brokered if a bank becomes undercapitalized.
6. If a bank becomes undercapitalized, limit the term of any new or renewed brokered deposit to 3 months.
7. Remove reciprocal deposits from being designated as brokered deposits.
8. Place concentration limits on "high rate" accounts.
9. Encourage contractual funding.

The real conundrum is that the regulators themselves create the liquidity risk relative to brokered by disallowing any new brokered or renewals of brokered if a bank becomes critically undercapitalized. A fix to this problem would be to hold the brokered amount constant to the point of the bank becoming undercapitalized and then mandating that all renewals need be less than 3 months.

The Commenters are hopeful that the FDIC will seriously consider the concepts and recommendations contained in this Comment Letter.

We look forward to the FDIC taking active consideration of our Comment Letter opposing the proposed rulemaking around brokered deposits.

Sincerely:

[redacted]

Donald Musso
President and CEO
FinPro, Inc.

Additional Signatures:

[redacted]

11 / 13 / 2024
FinPro