THE TRI-COUNTY BANK

Est. 1945

August 05, 2015

Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Re: Federal Deposit Insurance Corporation Notice of Proposed Rulemaking (RIN 3064–AE37)

Dear Mr. Feldman:

I am the CFO of the Tri-County Bank, which is located in Stuart, NE. We have $103,555,000 assets and 4 branches. The Federal Deposit Insurance Corporation (FDIC) has issued a Notice of Proposed Rulemaking (NPR) that would establish a new assessment formula for banks with assets of less than $10 billion. We wish to express our deep reservations with the treatment of reciprocal deposits under the proposal. We find reciprocal deposits to be an important source of stable funding. In fact, nearly 6% of our total deposits are in reciprocal. In effect, the FDIC proposal would impose a new tax on reciprocal deposits – a tax that would punish the banks that use them.

The Tri-County Bank (TCB) specifically utilizes Reciprocal Deposits mostly for our local Municipal deposits. These deposits have for a long time been collateralized via securities pledges or in more recent years by Irrevocable Letters of Credit issued on TCB's behalf by the Federal Home Loan Bank of Topeka. TCB and our Municipal customers have found that by utilizing the Reciprocal Deposit programs available to us management of their balances is much simpler for both parties. Additionally, since TCB is no longer pledging any investment securities to these depositors for required collateralization we have effectively increased our available liquidity by ensuring our entire AFS Securities portfolio can functionally be sold at any time. In addition to the information provided below, at an institution level TCB has found that the utilization of Reciprocal Deposits is highly beneficial to our customers and TCB from the increases in bank liquidity, simplification of customer funds management, and overall relationship building.

The Federal Deposit Act specifically calls for a risk-based assessment system. That is to say, the premium assessments for each individual institution are supposed to reflect the specific and measurable risks of loss to the Deposit Insurance Fund (DIF) posed by the individual

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institution's assets and liabilities. The system for setting assessments is to be based on fact and driven by data. Further, the proposal explicitly states that the intent of the proposed assessment system is to be based on a statistical model estimating the probability of failure over three years, a model that is to incorporate data from the 2008 crisis. As far as reciprocal deposits go, the proposal ignores both the statutory requirement to be fact based and data driven and the proposal's own regulatory intent to incorporate the experience of the crisis.

The FDIC proposal gives no justification for imposing a tax on reciprocal deposits. It does not show through data and analysis that reciprocal deposits increase the risk of loss to the DIF and with good reason: no such data exists. Further, data from academic studies that do exist show the use of reciprocal deposits during the crisis had either no effect or a salutary effect on the probability of bank failure, the reason for losses to the DIF.

The tax would arise from a shift in the way the FDIC treats reciprocal deposits in the assessment formula. Under the current assessment formula, reciprocal deposits are excluded from the "adjusted brokered deposit ratio," which increases assessments for banks that rely on brokered deposits. The proposed assessment system would no longer exclude reciprocal deposits from the definition of brokered deposits, thus making the assessment on banks that use reciprocal deposits higher than it otherwise would be. That change in treatment would be a change in policy.

The current formula for assessing small banks recognizes that reciprocal deposits differ from traditional brokered deposits in many important ways, and, in fact, in establishing the current formula in 2009, the FDIC found that reciprocal deposits "may be a more stable source of funding for healthy banks than other types of brokered deposits and that they may not be as readily used to fund rapid asset growth."

That recognition was based on the characteristics of reciprocal deposits that they share with core deposits. Reciprocal deposits typically come from a bank's local customers. The customer relationship typically includes other services. Interest rates are based on local market conditions. The deposits add to a bank's franchise value. On the other hand, typical characteristics of traditional brokered deposits spark regulatory concerns: instability, risk of rapid asset growth, and high cost.

Further, in its Dodd-Frank Act mandated study on brokered deposits published in 2011, the FDIC said with respect to brokered deposits: "While the brokered deposit statute does not distinguish between [reciprocal deposits] and other brokered deposits, supervisors and the assessment system do. The FDIC has recognized for some time in the examination process that reciprocal deposits may be more stable than other brokered deposits if the originating institution has developed a relationship with the depositor and the interest rate is not above market."

Lastly, within the past year, the FDIC, along with the Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System, recognized that "Reciprocal brokered deposits generally have been observed to be more stable than typical brokered deposits because each institution within the deposit placement network typically has an established relationship with the retail customer or counterparty making the initial over-the-insurance-limit deposit that necessitates placing the deposit through the network." (79 Fed. Reg. 61440, 61493 [Oct. 10, 2014]).

In its proposal, however, the FDIC did not even bother to analyze how reciprocal deposits should be treated. Indeed, academic support for the liquidity measures in the proposal rests solely on a 1999 study. This study pre-dates the financial crisis, it is largely based on a prior regulatory and legal structure, and it pre-dates the creation of reciprocal deposits. The FDIC offers nothing else.

The proposal's treatment of reciprocal deposits is problematic, but the solution is simple: retain the current system's exclusion of reciprocal deposits from the definition of "brokered" for assessment purposes.

Further, we think the time has come for the FDIC to support legislation to explicitly exempt reciprocal deposits from the definition of brokered deposit in the Federal Deposit Insurance Act to end any uncertainty about the matter in the future. Tools that help community banks survive should not be subject to regulatory burden based on theoretical fears.

Thank you.

Sincerely,

Jeremey Shiers
CFO

cc:

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United States Senate
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The Honorable Benjamin Sasse
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United States Senate
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The Honorable Adrian Smith
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The Honorable Martin J. Gruenberg
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