



Federal Deposit Insurance Corporation

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Legal Division

April 29, 2016

TO: Executive Secretary

FROM: Karen L. Main
Counsel, Legal Division

SUBJECT: Meeting with Total Bank Solutions to Discuss the Notice of Proposed Rulemaking Regarding Recordkeeping for Timely Deposit Insurance Determination and Other Topics

On April 19, 2016, FDIC staff (Rebecca A. Berryman, Suzanne L. Clair, Teresa J. Franks, Jeffrey Leonard, Karen L. Main, Nefretete A. Smith, and Munsell St. Clair) met with representatives of Total Bank Solutions (Kevin Bannerton, Mark Onufrak, Dennis Santiago, and Mark Thompson). The FDIC and Total Bank Solutions (TBS) discussed several topics of interest to both parties, including proposed part 327 and proposed part 370.

TBS recognized the FDIC's motivation to address the impact of a covered institution's failure and the corresponding need to insure that a prompt and accurate deposit insurance determination is possible within the FDIC's historical time frame. TBS stated that it believes it is technically feasible to meet the recordkeeping requirements set forth in the proposed rule. TBS provided a slide presentation to illustrate its positions; the slide presentation is attached to this memorandum as Attachment A.

TBS highlighted the most significant issues regarding the implementation of the proposed rule. They expressed their concerns regarding customer privacy as well as the competition between various market participants to "data mine" the counterparty's customer base. Additionally, TBS mentioned the related issue of maintaining the security of the customers' personally identifiable information (PII). Finally, TBS offered three options to address the problem of maintaining the privacy as well as the proprietary nature of customers' PII which is set forth in its slide presentation.

Attachment

tbs TOTAL
BANK
SOLUTIONS



Presentation to:



April 19, 2016



Overview of TBS

- Privately held technology and financial services firm focused on the needs of banks and financial institutions
- Provides cash management products to broker-dealers, banks, advisors and trust companies
- Founded in 2004 by seasoned professionals with unparalleled knowledge and experience in cash management, operations, technology, investments, credit research and finance
- Committed to developing the next generation of innovative products for our clients

12CFR-Part 237: Deposit assessment for small banks

Overview

- Changes in brokered deposit regulation trigger limits by changing the compliance denominator to total assets for under \$10B banks.
- Creates exemptions for counting reciprocal brokered deposits as part of FDIC deposit insurance assessments for certain “safe and sound” small depository institutions.

Impact

- Eases deposit insurance costs for an estimated 2,500 eligible small banks.
- Further eases costs for 1,100 small banks with RiskCat I safety and soundness profiles.
- Creates an incentive to consider new reciprocal products for other liability classes.

Unknowns

- Creates a potential “cliff risk” for smaller institutions that may see preferred insurance rates eliminated due to unforeseen systemic externalities.
- Regulator appetite for new vendors to enter service sector unknown.

12CFR-Part 370: Recordkeeping for timely deposit insurance determination

Overview

- Increases recordkeeping requirements for the largest Insured Depository Institutions (IDI's) to guard against a systemic impact due to a single failure.
- Regulators' stated objective is for recordkeeping to be current, accurate and available to meet 72 hour timeliness payout objectives.

Impact

- Raises recordkeeping requirement to a significantly higher standard when compared to Rule 12 CFR Part 360.9.
- Requires account balance transparency with linkage to tax ID.
- Creates the need for a new processing and support infrastructure(s).

Unknowns

- Raises issues of privacy vs competitiveness between counterparties.
- Security risks surrounding PII

12 CFR Part 370: Recordkeeping for Timely Deposit Insurance Determination

■ Rule

- Increases recordkeeping requirements for the largest Insured Deposit Institutions (IDI's) to guard against economic collapse should one of these IDI's fail.

■ TBS Position

- We fully agree with the systemic importance of the regulator's intent.
- ***We believe it is technically feasible to perform this recordkeeping task for the IDI's covered by the proposed rule.***
- We believe that a technical solution can be extended to improve recordkeeping for Part 360.9 IDI's in the future.
- We are sensitive to privacy and competitive issues that must be addressed to achieve a successful implementation of the rule.
- We are happy to share our observations and possible solutions as we prepare our comment to the NPRM.

12 CFR Part 370: Counterparty concerns

- Brokerage firms and banks compete fiercely for the best customers. This impacts core business profitability and viability.
- The transparency necessary to facilitate timely determination of pass-thru insurance potentially enables the parties to “data mine” records.
- Obfuscation of recordkeeping details in the past is as much driven by competitive concerns as privacy concerns.
- ***TBS recordkeeping has maintained provisions to reconcile pass-thru account balances with TIN records since inception.***

12 CFR Part 370: Regulatory Solution Options

Option A: Bifurcated Record Keeping Reconcilable by Proxy Identifiers; Recombined on Failure	Option B: Bifurcated Record Keeping Combined by a Secure Custodial Facility	Option C: Transparent Record Keeping Constrained by Legal or Contractual Prohibitions on Business Data Mining
<ul style="list-style-type: none"> • Most industry “competition concerns” sensitive approach. • Multiple counterparties means it is slowest form of recordkeeping to reconcile. • Cannot be done in isolation following failure. • Extreme challenge to guarantee timeliness sufficient to prevent economic disruption. 	<ul style="list-style-type: none"> • Requires establishment of a trusted custodian. • Encrypted data can reside within IDI’s IT so failure firewall can be closed. • Regulator is provided with the unlock key to decrypt. • Some form of verification strategy needs to be created for going concern compliance testing. 	<ul style="list-style-type: none"> • Requires secure pass-thru records reconciliation and transmission facility. • IDI will see the information necessary to fill in the 360.9 file format(s). • Eases timeliness upon failure and going concern testing. • Complicates legal/contractual concerns: brokerages and IDI’s operate parallel customer acquisition processes.



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