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Submitted via Email at: comments@fdic.gov and by overnight delivery

Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

Re: Federal Deposit Insurance Corporation
Comments of The Bancorp, Inc. in Response to Advance Notice of Proposed Rulemaking and Request for Comment on December 19, 2018
[RIN 3064-AE94]

Dear Mr. Feldman,

This submission is made in response to the specific questions in the FDIC's request for comments related to brokered deposit classifications and related issues.

1) Are there types of deposits that are currently considered brokered that should not be considered brokered? If not, please explain why.

Prepaid card accounts should not be classified as brokered. Prepaid accounts are low balance, stable and relatively low-cost vis a vis all other deposits, and these defining characteristics are the opposite of deposits placed through deposit brokers.

1. **Prepaid accounts have relatively small balances and are stable and low cost.** Funds placed by deposit brokers are comprised of large balance, competitively bid and therefore higher cost and unstable funding. Banks can generate large amounts of such funding quickly by paying high rates on large balances. Because of the higher cost, higher returns may be required, and more risky loans may be pursued. The ability of banks to quickly access higher cost large balance certificates of deposit through such deposit brokers poses a risk to the financial system, as was demonstrated in the financial crisis of 2008. Prepaid card accounts pose no such risk. To the contrary, these funds are small balance transaction accounts which are lower cost and more stable than larger balance and high rate accounts such as certificate of deposit accounts which are common throughout the banking system. Nonetheless, those large balance accounts are not assigned a brokered or other higher risk designation.

2. **Because of the small balances of prepaid accounts, they are stable and, the risk of a "run" on these accounts is de minimus compared to other types of funding generally used by the industry.** The liquidity risk of many small balances accounts is virtually non-existent compared to typical bank liquidity profiles in which 80% of funding is derived by 20% of larger account relationships.

3. **Brokered deposits, except for prepaid accounts, consist of deposits being transferred into a bank, at rates which tend to be higher than for other deposits.** Prepaid accounts become a source of profitability to banks, instead of merely adding expense. There is a significant service element

required to service these accounts which includes reconciliation of funds, fraud detection and perhaps most important to regulatory authorities, BSA compliance. Banks earn significantly more revenues on such accounts than they incur for fees paid to third parties for origination assistance.

4. **The use of third parties for account acquisition, which is the rationale for the brokered designation, does not impact the underlying safety and soundness advantages of prepaid card accounts.** As discussed above, prepaid accounts are small balance, lower cost and more stable than larger balance accounts which typically account for the majority of bank funding. Further note that the bank is responsible for the prepaid card accounts and retains full control over them. The third parties used by the bank to acquire prepaid accounts perform this role as a service provider to the bank, which exercises oversight of the third party consistent with its third-party oversight obligations. In sharp contrast, the bank in a brokered deposit relationship typically has little control and no oversight over the third party.

5. **The purpose of brokered deposit rules is to regulate funding which presents higher safety and soundness risks than non-brokered funding.** Prepaid card accounts which are low balance, stable and low cost, present lower risks than high rate certificates of deposit and other typical bank funding which do not have brokered or elevated risk designations.

6. **Brokered deposit regulation was not intended to disadvantage electronic forms of payment to which the economy is trending and from which consumers and businesses benefit in convenience and lower costs.** Various federal legislation has sought to encourage the digital economy, the financial benefits of which are enjoyed by all socio-economic groups. By classifying prepaid accounts as brokered, FDIC insurance costs can be increased. Thus, costs to financial institutions are increased, for deposits which have less inherent risk than typical bank non-brokered deposits. Ultimately costs are borne by the consumer, as the prepaid account industry is highly competitive. Prepaid cards may provide a less costly payment alternative to many consumers and businesses, and as less risky to financial institutions than other deposits, should not be discouraged.

Conclusion

Prepaid accounts, with low balances, stability and low cost as detailed above, present a lower risk profile than all other deposits typically utilized by banks. For consistency with safety and soundness, these lower risk deposits should not be discouraged by a brokered designation. Congress did not intend to discourage deposits which are lower risk than other deposits typically utilized by banks. It also did not intend to discourage electronic banking such as prepaid card accounts which may be more convenient and lower cost for individuals and businesses. Accordingly, a brokered designation for prepaid accounts is not appropriate.

2) Are there ways the FDIC can improve its implementation of Section 29 of the FDI Act while continuing to protect the safety and soundness of the banking system? If so, how?

Prepaid accounts with card or electronic access lower businesses' and users' cost without raising safety and soundness concerns due to their low balances, stability and lower cost to financial institutions. They have a lower risk profile than other deposits typically used by other banks and a brokered designation is inappropriate. However, regulatory authorities should consider monitoring deposits more precisely. Instead of a single brokered deposit designation for all accounts obtained with third party assistance, differentiating categories to better assess risk profiles could be considered as follows:

Brokered certificates of deposit
Brokered money market accounts
Non-brokered certificates of deposit greater than $25,000

Transaction accounts (non-brokered) for which fees were or are paid to a third party:
Balances under $5,000
Balances over $5,000

Brokered certificates of deposit have the highest risk profile of any third party assisted deposit accounts. Leading up and contributing to the 2008 financial crisis, banks could add hundreds of millions of dollars of higher cost investor certificates of deposit, with a phone call to a broker. Banks now have even more entities from which to solicit these higher rate, higher balance deposits. Because of high balances, high rates and instability, the brokered risk designation should remain, and these should be monitored as a separate category.

Brokered money market accounts have a lower risk profile than brokered certificates of deposit. as relationships are required to be established with individual entities, generally brokerage houses. Thus, they cannot be expanded as quickly and as much as brokered certificates of deposit, and there are fewer market choices. Nonetheless, because of high rates and instability, the brokered risk designation should remain. Monitoring in a separate risk designation may be helpful to regulatory authorities to monitor related trends.

Non-brokered certificates of deposit have lower risk profiles than brokered funds, but risk is elevated. Balances and deposit costs are higher, and customers on average, are more sophisticated. While insured to $250,000, depositors may nonetheless withdraw funds rather than retain in an institution with an uncertain future. Risk characteristics of certificates of deposit obtained at high rates through advertising may be comparable to those which are obtained through third parties. Balances $25,000 could be reported. Currently, only balances greater than $100,000 are reported.

The lowest risk profile accounts are small balance, stable and low-cost transaction accounts, including prepaid, for which fees were or are paid to a third party. While these are lower risk than other typical bank deposits and do not warrant a brokered designation, regulatory authorities could monitor. Reporting of total balances of accounts under $5,000 would confirm the low balances of these accounts.

Thank you for providing us this opportunity to express the above which is based on our long history with prepaid accounts and other industry experiences. We are committed to safety and soundness within our own institution and throughout the financial system and are available to discuss at any time.

Respectfully,

[redacted]

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