May 6, 2019

DELIVERED BY ELECTRONIC MAIL

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

RE: RIN 3064-AE94, Advance Notice of Proposed Rulemaking and Request for Comment, "Unsafe and Unsound Banking Practices: Brokered Deposits and Interest Rate Restrictions"

Dear Mr. Feldman:

Credit Karma, Inc. ("Credit Karma") appreciates the opportunity to comment on the advance notice of proposed rulemaking published by the Federal Deposit Insurance Corporation ("FDIC") regarding the FDIC's regulatory approach to brokered deposits and the restrictions applicable to insured depository institutions ("IDIs") that are less than well-capitalized and wish to accept such deposits.[1] The reconsideration by the FDIC of its regulation of this field is timely and welcomed.

As the FDIC observed in its advance notice, there have been significant changes in technology, business models, and products in the financial services industry since Congress in 1989 put in place the statutory structure to regulate brokered deposits. In this altered environment, commonly offered consumer financial services are frequently treated as the placement of brokered deposits. The FDIC's approach to brokered deposit regulation therefore plays a central role in the current inability of consumers to obtain competitively priced banking services. The FDIC's decision to revisit its regulation of brokered deposits can help provide much-needed clarity that we believe would facilitate competition, innovation and consumer access to competitively priced banking services.

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[1] 84 Fed. Reg. 2366 (Feb. 6, 2019).

Credit Karma believes that the FDIC should take this opportunity to acknowledge that its interpretation of the law has been overly broad and does not respond to the problem that Congress originally intended to address, which was to give the banking agencies the authority to act to prevent specialized financial advisors who were moving large consumer deposits (each in the amount of the deposit insurance cap) into failing institutions. As a result, excessive assessments, capital costs, and operating expenses have been placed on all IDIs that accept what the FDIC has labeled as brokered deposits, which have stifled innovation in providing banking services to consumers.

Beyond the benefits of innovation, the FDIC's very broad definition of "brokered deposit" has greatly limited the competition for consumer retail deposits. We hope to bring the pricing that is available to our nation's wealthiest households to the ordinary consumers who use our services – consumers who have unfortunately been paying the price for the over-broad definition of who is a "deposit broker" and what constitutes a brokered deposit. We also believe that the FDIC's broad definition of "brokered deposit" restricts community banks' ability to partner with firms like Credit Karma and compete with larger banks for consumer retail deposits. We therefore urge the FDIC to put forward amendments to its regulations and to revise its interpretative guidance to correct this situation.

We believe the FDIC should propose several amendments to narrow the applicability of its brokered deposit rule by:

- Excluding deposits that are less than one-quarter of the insured deposit limit; and

- Excluding deposits that are placed or facilitated by providers that offer consumers an array of financial services—and not specialized deposit brokers—on the basis that the correct way to determine such person's "primary purpose" is to review the entire range of services offered by the person to its customers and to exclude deposits that are facilitated or placed by persons for whom deposit brokerage revenue and income is less than 50% of their total consolidated revenue and income.

Background on Credit Karma

Credit Karma and its affiliates are a personal finance technology company with more than 85 million members in the United States and Canada, including almost half of all millennials in the United States. In partnership with its lending partners, Credit Karma and its affiliates have facilitated more than $40 billion in credit lines across financial products such as credit cards, personal loans, mortgages, auto loans, and student loans. Credit Karma also includes Credit Karma Tax, a free, do-it-yourself tax preparation service.

The remainder of this letter consists of four sections:

- Section I describes how disintermediation in banking and finance has affected deposit-taking, and how the brokered deposit rule as applied has stifled the ability of IDIs to serve depositors;

- Section II discusses the legislative history of Section 29 of FDIA, and shows that the intent of Congress was the narrow regulation of brokered deposits;

- Section III discusses the FDIC's interpretation of Section 29, which we submit is not consistent with the legislative intent; and

- Section IV recommends amendments by the FDIC to Section 336.7 of its regulations (the "brokered deposit rule") and changes to its interpretative guidance regarding the definition of "deposit broker" and an additional exception to the definition of "brokered deposit" in order to make the regulation more consistent with the legislative intent.

I. Introduction: Banking Has Unbundled, But Deposit-Taking Remains Burdened

Over the past forty years, the introduction of new technology has caused the disintermediation of many types of financial services that, at one time, were provided to consumers almost exclusively by IDIs through brick-and-mortar offices. The practical effect of disintermediation has been to enable depository and nondepository organizations to offer unbundled financial services to the public. As a result, nondepository organizations have become dominant in several areas of consumer banking that once were the domain of IDIs.

While some IDIs are in a position to participate in the disintermediation of deposit-taking, such as by providing "white label" depository and payment services to "branded" nonbank financial service providers, being "unbanked" in the traditional sense has adverse consequences for consumers and IDIs. Without a traditional bank account, consumers have greater difficulty building savings, net worth, or an emergency reserve. IDIs – and particularly smaller community banks – also find it more difficult without an anchoring deposit relationship to build a "sticky" long-term customer relationship with consumers and to compete with larger IDIs.

In a disintermediated business environment, IDIs, particularly smaller institutions, must often depend on business partners to provide the initial consumer contact or the operating platform to reach and serve consumers, yet the brokered deposit rule stands in the way of many such arrangements. The brokered deposit rule has been interpreted to apply even to minor or incidental assistance to depositors or IDIs when taking deposits. This interpretation has

increased the cost to IDIs to accept deposits, as a result of higher deposit insurance assessments, higher liquidity requirements, more burdensome stress testing, and greater supervisory scrutiny of the IDI's growth plans. This financial and managerial price tag has discouraged IDIs from working with intermediaries to gather deposits, which in turn has decreased the public's access to traditional deposits and often prevented consumers from receiving a fair return on their deposits.

The FDIC has defended its interpretation of the brokered deposit rule on the ground that it has reduced the cost to the Deposit Insurance Fund ("DIF") of bank and savings association failures.[2] However, it is difficult to verify this proposition. Because the brokered deposit rule has been indiscriminately applied to label deposits as brokered deposits based on an intermediary's limited assistance in placing the deposits,[3] while simultaneously excluding the large amount of deposits placed through listing services,[4] the rule's coverage of deposit placement is haphazard. The FDIC has acknowledged that brokered deposits are not dangerous *per se* and frequently are beneficial to IDIs.[5] Indeed, when defending the brokered deposit rule, the FDIC has merely stated that the rule gives it adequate flexibility to protect the DIF, and has not even attempted to take into account the harm suffered by consumers and IDIs as a result of stifled innovation and competition.[6]

To remedy this situation, Credit Karma urges the FDIC to put forward amendments to its brokered deposit rule that would exclude both smaller deposits and deposits that are facilitated or placed by financial services entities that offer a wide array of products to consumers. The amendments we recommend would have four broad and salutary effects:

- First, they would reduce costs for IDIs by lowering deposit insurance assessments, decreasing capital requirements pursuant to the liquidity capital ratio, lessening contingency planning related to liquidity requirements, and minimizing unnecessary and

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2 *See* 12 U.S.C. § 1821(a)(4) (establishing the DIF to be used by the FDIC to carry out its insurance purposes); *see also* FDIC, *Study on Core Deposits & Brokered Deposits,* § VII.B (conclusions regarding brokered deposits and probability of institution failures and higher costs of failures) (July 8, 2011), available at https://www.fdic.gov/regulations/reform/coredeposit-study.pdf (last searched Apr. 15, 2019).

3 *See* FDIC, FIL-42-2016, "Frequently Asked Questions on Identifying, Accepting and Reporting Brokered Deposits" § B.2 (June 30, 2016), available at https://www.fdic.gov/news/news/financial/2016/fil16042b.pdf (last searched Apr. 15, 2019).

4 *See*, *id.*, at § D3. As of December 31, 2018, listing service deposits were equal to approximately 29 percent of brokered deposits. *See* Federal Financial Institutions Examination Council, *Uniform Bank Performance Report—Peer Group Average Report: Liquidity and Funding*, 10, available at https://cdr.ffiec.gov/public/ManageFacsimiles.aspx (last searched Apr. 15, 2019).

5 *See*, *e.g.*, FDIC, *Study on Core Deposits* § IX (noting there should be no particular stigma attached to the acceptance of brokered deposits *per se*).

6 *See, id.*, Sec. IX ("[T]he FDIC has found the brokered deposit statute to be sufficiently flexible that it can be used without causing liquidity failures. . . . For both supervisory and deposit insurance assessment purposes, the statute is sufficiently flexible to allow the FDIC to treat these deposits appropriately.").

unproductive managerial and supervisory scrutiny of deposits inappropriately labeled as brokered deposits.

- Second, they would enable IDIs to participate more fully in ongoing innovation in how consumers obtain financial services.

- Third, they would democratize access to competitive interest rates on deposits by leveling the playing field for consumers and enable those with smaller financial resources to shop as effectively as wealthier consumers for competitive interest rates on deposits.

- Fourth, they would democratize access by community banks to core deposits by facilitating relationships between smaller IDIs with limited branch and deposit networks and depositors, which would allow smaller IDIs to compete with larger banks for stable deposits.

II. Legislative History: Congress Intended that Brokered Deposits Supervision Be Narrowly Focused

As the FDIC has stated in its advance notice, the first attempt by the FDIC to address by regulation the potential abuses associated with brokered deposits culminated in 1984 in the adoption of a final rule limiting the deposit insurance provided to depositors who placed deposits through a deposit broker.[7] The federal courts struck down this rule, finding that it conflicted with the provision in FDIA establishing how deposit insurance coverage is to be determined, and that the FDIC lacked the authority to modify coverage in the manner proposed.[8]

Even as the challenge to the FDIC rule proceeded through the courts, Congress began to hold hearings on the subject of brokered deposits, ultimately resulting in the adoption of Section 29 as part of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA").[9] Testimony given in those hearings confirm that Section 29, like much of the rest of FIRREA, was adopted in response to the Savings and Loan Crisis of the 1980s.[10] The practice of some troubled institutions that had little or no capital at risk to raise large sums of money by offering higher interest rates on insured deposits, and to loan the proceeds recklessly, was

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[7] FDIC and Federal Home Loan Bank Board, *Brokered Deposits; Limitations on Deposit Insurance Coverage*, 49 Fed. Reg. 13003 (Apr. 2, 1984).

[8] *FAIC Securities, Inc. v. United States*, 595 F.Supp. 74 (D.D.C. 1984), *aff'd*, 768 F.2d 352 (D.C. Cir. 1985).

[9] Pub. L. 101-73, § 224 (Aug. 9, 1989). The basic structure of Section 29 has remained intact since that time.

[10] *See, e.g.*, Statement of Hon. M. Danny Wall, Chairman, Federal Home Loan Bank Board, Hearings Before the Subcommittee on Financial Institutions Supervision, Regulation and Insurance of the Committee on Banking, Finance and Urban Affairs of the United States House of Representatives, 101st Cong., 1st Sess., Part I, 228 (Mar. 9, 1989).

identified as a contributing factor to the crisis.[11] As a result, Section 29 was focused on preventing abuses by troubled institutions, and not on the nuances of what constituted the services of a deposit broker.

Initially, the Senate Banking Committee approved a version of FIRREA that contained no provision regarding the acceptance or use of brokered deposits.[12] Senator Frank H. Murkowski from Alaska then offered a floor amendment to limit the practice, which was approved by voice vote.[13] Shortly after, Senator Murkowski testified before a House subcommittee, alongside leaders of the Federal banking agencies, on the abusive use of brokered deposits by troubled IDIs.[14] All parties in the hearing recognized that brokered deposits could play a valuable role in banking by providing needed liquidity, and sought only to clarify the authority of the FDIC to deal with "flagrant abusers." Senator Murkowski closed his opening statement as follows:

> In summary, this amendment is designed to rein in the abuses of brokered deposits by troubled institutions and to create accountability on the part of Federal regulators. This is not a blanket prohibition on the use of brokered deposits, but a narrowly drawn provision that specifically targets the most flagrant abusers. A provision intended to protect the taxpayers of this country.[15]

The leadership of the Federal banking agencies was also focused on the misbehavior of banks and not on the practices of deposit brokers. William Seidman, Chairman of the FDIC, testified that his agency "[did] not believe legislating specific prohibitions or restrictions on brokered deposits is the best approach" and preferred that Congress amend the proposed legislation simply to provide the FDIC with the authority to regulate their use. He noted that, in the FDIC's experience, brokered deposits had both positive aspects (*e.g.*, use as a valuable liquidity management tool) and negative aspects (*e.g.*, reduction of franchise value). He attempted to put what he called a "clear fix" on the issue:

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[11] *See, e.g.*, Response of John D. Seymour, Commissioner of the Illinois Savings and Loan Commission and Member of the Board of Directors of the American Council of State Savings Supervisors, to questions from Hon. Chalmers P. Wylie, *id.*, 474.

[12] 101st Cong., 1st Sess., S. Rep. No. 101-19 (Apr. 13, 1989).

[13] 135 Cong. Rec. 7140-7142 (Apr. 19, 1989). The version of FIRREA originally introduced in the House of Representatives on March 6, 1989 was similar to the original Senate version and contained no provision regarding brokered deposits, but a provision identical to Senator Murkowski's amendment was subsequently added. 101st Cong., 1st Sess., H.R. 1278, § 222 (May 16, 1989).

[14] Statement of Hon. Frank H. Murkowski, Hearings Before the Subcommittee on General Oversight and Investigations of the Committee on Banking, Finance and Urban Affairs of the United States House of Representatives, 101st Cong., 1st Sess., 7 (May 17, 1989).

[15] *Id.*

> We believe the problem is not primarily brokered deposits per se, but controlling how those funds are used, particularly when they are used to fund fast growth. Losses in banks do not occur by virtue of the source of their deposit liabilities, but rather from the quality of loans and investments made with those funds.[16]

Robert L. Clarke, Comptroller of the Currency, similarly stated that "brokered deposits, as such, are not the root cause" of the problem of their misuse to fund unsound activities, and affirmed that the better approach to regulating brokered deposits was through the exercise of supervisory authority over banks:

> [A] prohibition on brokered deposits at undercapitalized institutions would not address underlying management weaknesses. . . . The problem of unsafe and unsound activities—be they funded by brokered deposits, passbook savings accounts or any other source—is best addressed by the vigorous application of regulatory and supervisory tools. . . . [A]s long as an institution adheres to sound principles of asset/liability management, it can use brokered deposits safely and soundly.[17]

H. Robert Heller, a member of the Board of Governors of the Federal Reserve System, recognized that the use of brokered deposits by troubled institutions could have a potentially adverse impact on the deposit insurance system, but noted that brokered deposits also could improve the efficiency of capital markets and could help institutions address short-term liquidity and funding needs. He supported reasonable efforts to limit the use of brokered deposits by troubled institutions, but recommended that any legislative action be deferred pending the outcome of an anticipated study.[18]

M. Danny Wall, Chairman of the Federal Home Loan Bank Board, which dealt directly with the savings and loan crisis, also stated that brokered deposits *per se* were not the problem: "The problem continues to be the imprudent use of those deposits especially in undercapitalized thrifts looking to grow out of their problems. . . . The Board does not believe strict restrictions on the solicitation [of brokered deposits] is warranted especially with regard to sound and well-managed institutions."[19]

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[16] Statement of Hon. William Seidman, Chairman, FDIC, *id.*, 25; *see also* written testimony of Chairman Seidman, *id.*, 98, 101.

[17] Statement of Hon. Robert L. Clarke, Comptroller of the Currency, *id.*, 19; *see also* written testimony of Comptroller Clarke, *id.*, 80.

[18] Statement of Hon. H. Robert Heller, Governor, Board of Governors of the Federal Reserve System, *id.*, 22.

[19] Statement of Chairman Wall, Chairman, Federal Home Loan Bank Board, *id.*, 26; *see also*, written testimony of Chairman Wall, *id.*, 117.

No member of the House Subcommittee opposed the views described above. This unanimity suggests that the views expressed by the witnesses accurately reflected Congress' own expectations: namely, that the FDIC would not apply blanket standards that unduly penalized the placement of deposits, but would instead carefully consider how they are obtained and used.[20]

III. Regulatory History: The FDIC Has Ignored Congressional Intent

Notwithstanding the expressions of intent above, in the absence of specific guidance from Congress, we believe that the FDIC has applied Section 29 too broadly. Instead of giving consideration to the primary purpose of an intermediary's assistance, the FDIC has focused on the smallest convenience that an intermediary might provide, resulting in a blanket definition of who is a deposit broker. Not surprisingly, when the FDIC has failed to consider what the intermediary's primary purpose is, or the amount of the deposits at issue, it has over-regulated and lost sight of Congressional intent.

One example of over-reach concerns the definition of "deposit broker." In its interpretation in its "Frequently Asked Questions," the FDIC has given little consideration to the statutory and regulatory requirement that a person be "engaged in the business" of deposit brokering.[21] As a result, little consideration has been given to how an intermediary holds itself out to consumers—*i.e.*, the purpose of the intermediary, how it promotes itself, the totality of services it provides to consumers, or the significance of placing deposits to its purposes or other services. By failing to take into account the nature of the intermediary and its objectives, the FDIC by its own admission has broadly interpreted the meaning of "facilitating the placement of deposits."[22] As a result, virtually any action by an intermediary "to connect insured depository institutions with potential depositors" may be covered regardless whether the intermediary is principally engaged in the business of being a deposit broker.[23]

Conceivably, the FDIC could compensate for the absence of an "engaged in the business" analysis by reasonably applying the statutory and regulatory exclusion from the definition of

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[20] The Conference Report on FIRREA also suggested that the FDIC should regulate in a flexible manner. Immediately after noting that troubled institutions were required to apply for a waiver of the prohibition against accepting brokered deposits on a case-by-case basis, the Report noted that "the [FDIC] may indicate by rulemaking the type or types of situations in which the [FDIC] would consider granting a waiver." Joint Explanatory Statement of the Committee of Conference, H.R. Conf. Rep. No. 222, 101st Cong., 1st Sess. 1989, 403 (Aug. 4, 1989).

[21] 12 U.S.C. § 1831f(g)(1)(A); 12 C.F.R. § 337.6(a)(5)(i)(A).

[22] FDIC, FIL-42-2016, § A5 (June 30, 2016). *See also*, FDIC Advisory Op. No. 15-01 (Apr. 16, 2014); FDIC Advisory Op. No. 94-15 (Mar. 16, 1994); FDIC Advisory Op. No. 93-71 (Oct. 1, 1993); FDIC Advisory Op. No. 93-50 (July 27, 1993); FDIC Advisory Op. No. 93-14 (Feb. 24, 1993); FDIC Advisory Op. No. 92-88 (Dec. 10, 1992).

[23] *Id.*

"deposit broker" for persons "whose primary purpose is not the placement of funds with depository institutions."[24] However, the FDIC has not done so, taking the position in its interpretations that it is not sufficient to establish a primary purpose to show that placing deposits is merely an incidental activity, instead requiring an intermediary to have a singular, dominant alternative purpose – an unreasonable standard that unnecessarily restricts the universe of entities that could reasonably be included in the deposit broker exclusion.[25]

As a result of the approach above, "facilitating the placement of deposits" has come to encompass essentially any activity that merely makes it more convenient for a consumer to make a deposit at an IDI. There are no safe harbors. This has imposed unnecessary and unjustified costs and expense on healthy, well-capitalized institutions, which face higher deposit insurance assessments and capital costs, increased contingency planning and stress testing, and more intense scrutiny of their growth plans if, for example, they partner with a retailer that wants to help its customers save for a major purchase.

Regrettably, the FDIC appears to have focused on the "trees" of small nuances in how deposits are gathered and ignored the "forest" of how consumers obtain financial services and the limited impact of most intermediaries on IDI safety and soundness. The FDIC needs to reduce the cost of regulation for healthy, well-capitalized IDIs, enable them to work with innovators to identify new opportunities using online and mobile platforms to reach consumers, increase competition for deposits, and help less wealthy consumers obtain the same interest rates as wealthier consumers.

IV. Definitions of "Deposit Broker" and "Brokered Deposit": The Plain Meaning of Section 29 Should Be Applied and The Regulation Should be Narrowed to Democratize Access to Higher-Yielding Deposits

Engaged in the Business/Primary Purpose

The FDIC's interpretation of the phrase "engaged in the business" should be more narrowly tailored to better align with the legislative text of Section 29 and Congressional intent, including the statutory exclusion for deposits brokered by agents whose primary purpose is not brokering deposits. Although the FDIC has issued numerous advisory opinions clarifying the meaning of "deposit broker," those opinions do not opine on what it means to be *engaged in the business* of placing deposits. Based on a combination of the absence of such guidance, as well as the FDIC's broad interpretations of "deposit broker," market participants have concluded that virtually any activity that relates to placing or facilitating the placement of deposits, regardless of

[24] 12 U.S.C. § 1831f(g)(2)(I); 12 C.F.R. § 337.6(a)(5)(ii)(I).

[25] FDIC, FIL-42-2016, §§ E9-E12 (June 30, 2016); FDIC Advisory Op. No. 94-13 (Mar. 11, 1994); FDIC Advisory Op. No. 90-21 (May 29, 1990); FDIC, *Study on Core Deposits,* § IV.F.

how incidental it may be, could result in a person being considered to be a deposit broker. This interpretation renders the phrase "engaged in the business" meaningless, is inconsistent with legislative intent, and penalizes innovation.

The FDIC should revise its regulations and guidance such that the definition of "deposit broker" is limited to entities whose *principal focus* is deposit brokering services. Credit Karma recommends that revised regulations and guidance exclude from the definition of "deposit broker" persons that do not hold themselves out to, and are not accessible by, the general public principally as providers of deposit brokerage services. Consistent with the standard rules of statutory construction, the phrase "engaged in the business of placing deposits, or facilitating the placement of deposits" should be read to require that a person is regularly engaged in placing deposits as the principal focus of their business.

In clarifying what constitutes the principal focus of a deposit broker, an entity should be considered as principally "engag[ing] in the business" of brokerage only if the compensation it receives from its deposit brokering activity is over 50% of its consolidated total revenue or consolidated net income. That would create a clear, easily enforceable, bright-line standard for determining which entities are principally engaged in deposit brokering.

Additionally, any consideration or test of primary purpose should be applied to the entire group of companies that provide a platform or identified set of products and services to consumers, and not solely to the entity that provides the deposit placement services.

The term "engaged in the business" of deposit brokering and the primary purpose exclusion can be clarified and better aligned with Congressional intent by revising the FDIC's regulations and guidance such that an entity is treated as a deposit broker only when its principal focus is deposit brokering -- based on its manner of doing business and its compensation attributable to brokering activity -- consistent with the recommendations above.

Size of Brokered Deposits

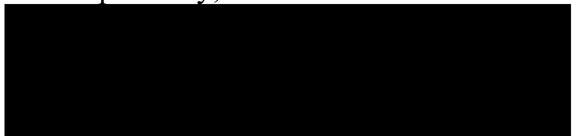
The FDIC should consider excluding all deposits below a specified threshold from being treated as brokered deposits. This also presents an opportunity for the FDIC to present a clear, easily enforceable, bright-line standard that regulated entities can easily understand and we believe would capture the overwhelming majority of the kinds of smaller, retail deposits that would benefit most from the kind of democratizing amendments recommended throughout this comment letter.

Our recommendation is that the FDIC exclude all brokered deposits that are less than 25% of the Standard Maximum Insured Deposit Amount (*i.e.*, $62,500).[26] There has been appropriate concern about the risk of outflows of large insured deposits during IDI failures. However, a recent study conducted by FDIC staff economists indicates that there is substantially less turnover of smaller insured deposits during a bank failure.[27] This study lends support to the position that allowing IDIs to accept deposits below a specific monetary threshold without restriction may provide a stable source of funding to a struggling bank, which could reduce the risk of loss or the severity of loss to the DIF. Such an exclusion would also facilitate efforts by IDIs to reach financially underserved members of the public and help smaller IDIs compete for deposits relative to larger IDIs.

Conclusion

We appreciate and support the FDIC's advance notice of proposed rulemaking and request for comment. In light of the significant changes in technology, business models, and products in the financial services industry since brokered deposits were first regulated, Credit Karma believes the FDIC should use this opportunity to amend its regulations related to brokered deposits and revise its interpretative guidance to (i) account for changes in how the public gains access to banking services and how IDIs use brokered deposits as part of prudent liquidity management; and, (ii) narrow the definition of brokered deposits to encompass only meaningful assistance to consumers and provide necessary clarity to market participants. These steps would remove a significant barrier to innovation in the banking industry at little or no risk to the safety and soundness of IDIs.

Respectfully,



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[26] 12 U.S.C. § 1821(a)(1)(E). This amount has not changed on account of inflation.

[27] *See* Christopher Martin, M. Puri, and A. Ufier, "Deposit Inflows and Outflows in Failed Banks: The Role of Deposit Insurance," 4, FDIC Center for Financial Research, Working Paper Series 2018-02 (May 2018), available at https://www.fdic.gov/bank/analytical/cfr/2018/wp2018/cfr-wp2018-02.pdf (last searched Apr. 15, 2019).