OLD MISSION BANK

June 1, 2020

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

Re: Unsafe and Unsound Banking Practices: Brokered Deposit Restrictions RIN 3064-AE94

Dear Mr. Feldman,

I am writing to respond to the FDIC's request for feedback on its proposed new rule regarding brokered deposits.

I am the EVP/CFO and a Founding Director of Old Mission Bank. We serve the towns of Sault Ste. Marie and Pickford, Michigan and all of Chippewa and Mackinaw County in far northern Michigan. We are celebrating our 20th anniversary this year, providing local community services to an area that is largely ignored by regional and national financial institutions. However, in order to compete against their ever-growing digital and on-line services reach, we have managed to provide as a wide array of competitive financial products and services that reflect our understanding of the people, businesses and communities we support. We pride ourselves on building long-lasting relationships with individuals who live in and small businesses who operate in our markets by providing responsive, personalized attention—as well as providing them the types of products they can find at the "big banks" who have pulled out of our market over the past 10 years.

I am compelled to write because I believe the proposed rule, as currently written, cannot possibly represent the FDIC's true intentions to revise the current rule to reflect the remarkable changes we have seen occur within the financial services industry over the past three decades.

Rather than reflecting "how consumers want to access banking services in 2020 and beyond" like FDIC Chairman Jelena McWilliams stated in her "Brokered Deposits in the Fintech Age" speech the day before the proposed rule was announced, the proposed rule (as published in the Federal Registry on February 10, 2020) has the potential to crater community banking as we know it today.

I found several aspects of the proposed rule confusing and want to share my perspectives with you regarding my interpretation. Perhaps I am misinterpreting or mischaracterizing the FDIC's true intentions but it appears to me that <u>the proposed rule will hurt rather than help community banks and will cause further consolidation within the industry</u> as the proposed restrictions on community banks' ability to utilize third-party service providers will compromise our ability to compete with fintech provides and the too-big-to-fail institutions that have the technical expertise, the information technology and the research and development budgets to independently develop and deploy the modern banking products, services and capabilities consumers and small businesses want.

While I don't profess to know the precise legal language necessary to revise the proposed rule appropriately, I respectfully submit the following areas of the rule that need to be revised so that consumer and community banks are not harmed:

- **Maintain All Advisory Opinions Post Final Rule**: The proposed rule has a provision within it that allows the FDIC to review, eliminate or maintain prior Advisory Opinions that have been issued. This provision continues the FDIC staff's ("Staff") broad interpretative powers and I fear that several of the partnerships we have established with industry providers (based upon the understandings documented in these Advisory Opinions) may be wiped out, without clear explanation, leaving my institution searching for alternatives or having to withdraw certain products or services, since continuing to offer those solutions would result in our institution having a large number of our deposits deemed brokered. We could also be injured financially

MAIN OFFICE
2701 I-75 BUSINESS SPUR
SAULT STE. MARIE, MICHIGAN 49783
PH: (906) 635-9910 • FAX (906) 635-9920

www.oldmissionbank.com

PICKFORD BRANCH
7196 E. CHARLES ST. • P.O. BOX 653
PICKFORD, MICHIGAN 49774
PH: (906) 647-9910 • FAX (906) 647-9914

based on multi-year contracts in place with these providers. I believe it is far better for the industry if the FDIC to simply maintain all currently published Advisory Opinions and the protections they provide to industry participants and insured depository institutions after the FDIC's issuance of its final rule.

- **Recognize The Direct Relationships Established Between The Individual Depositor and their Bank**: As stated in the preamble of the proposed rule, "[t]he proposed 'facilitation' definition is intended to capture activities that indicated the person takes an active role in the opening of an account or maintains a level of influence or control over the deposit account even after the account is open," but, as currently written, the language is so exceedingly broad it can be interpreted to restrict my ability to receive and use third party information; consult with industry experts regarding my retail deposit offering; or use third parties to assist me in any aspect of our deposit "supply chain" for anything other than administrative services lest I risk having all deposits associated with the services or activities I just cited to be deemed to be brokered. Perhaps I'm misinterpreting the language of the proposed "facilitation" definition but such restrictions make no sense when third parties enable me to establish a direct relationship with the individual depositors who are attracted by the deposit products and services that these third parties enable me to offer to my communities. This ambiguous language needs to be revised so that it addresses the entities that own, control and dictate the depositor relationships (i.e. traditional brokers, Chime, SoFi Money, Robinhood, etc.) rather than restricts my ability to utilize external resources that enable me to establish, develop and maintain depositor relationships directly through my product and service offerings. I should not be prohibited from using third parties in my deposit gathering activities, provided that:
  a) the third party has no contractual relationship with the depositor to place, manage or control her/his funds,
  b) all depositor relationships are established directly with my bank, and
  c) I continue to own those relationships.

- **Exempt Deposits That Do Not Pose DIF and Safety & Soundness Risks**: The original statute was intended to address deposits that posed risks to the safety and soundness of insured depository institutions and by extension posed a risk to the Deposit Insurance Fund. Congress was concerned about "hot money"—funds that were not associated with individual depositor relationships held and owned by the institution. In her "Brokered Deposits in the Fintech Age" Chairman McWilliams stated her intention for the proposed new rule to stay true to the intent of the original statute. As such, the FDIC should exclude from the brokered deposit definition, all sources of stable and relationship-based deposits – specifically:
  a) all deposits residing in transaction accounts as those funds and the active nature of those accounts indicate that the depositor is using the account as her/his primary financial account, and
  b) deposits that reside in other deposit accounts (i.e. savings accounts, CDs) associated with individual depositors who have an extensive relationship with my bank, as evidenced by her/his use of multiple banking products or services offered by my institution – i.e. direct deposit, credit cards, online banking, payment services, loans, etc. These deposits are "sticky" and increase my institution's franchise value as they are associated with bone fide individual customer relationships that I own.

I appreciate the opportunity to share my thoughts and perspectives. We understand the difficulties associated with modernizing the brokered deposit rules to govern and reflect the transformative industry changes that have occurred over the past thirty years. Despite its difficulty, we urge the FDIC to incorporate the measured recommendations we have shared so that Old Mission Bank can continue to fulfill its vision where "every customer leaves with a smile and brings back a friend." With the challenging health situation and cascading financial impacts our communities are facing from COVID-19, we strongly urge the FDIC to create a final rule that empowers community banks to continue to be the source of financial strength and personal understanding within the communities we serve.

Respectfully,

[redacted]

Catherine E. Chenoweth
EVP/CFO