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June 9, 2020

Sent Via Electronic Delivery: Comments@fdic.gov

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

Re: Comments on Unsafe/Unsound Banking Practices: Brokered Deposits (RIN 3064-AE94)

Dear Mr. Feldman:

On behalf of the Oregon Bankers Association (“OBA”) and our memberships of state and nationally-chartered banks, we appreciate the opportunity to comment on the above-referenced rulemaking (“Rules”) regarding brokered deposits. We applaud the FDIC for issuing the proposed Rules and the work it has put into modernizing the brokered deposit framework.

Comments

The banking industry has substantially evolved since brokered deposit rules were implemented in the early 1990s. Rule changes to modernize the brokered deposit framework are welcome; however, the proposed Rules need to be refined. Following are several issues identified in the proposed Rules that require additional clarity and/or action:

1. Definition of Deposit Broker

The proposed definition of “deposit broker” needs to be more precise. The FDIC should explicitly exempt parties that the FDIC does not deem to be deposit brokers. This may be achieved by specifically identifying parties and/or transactions that fall within statutory exceptions to the definition or that the FDIC does not view as a deposit broker. The FDIC could also modify the proposed definition of “facilitation” to make discretion over an account the primary factor for determining facilitation. Greater clarity will benefit the banking industry and the diverse customers we serve.

2. Primary Purpose Exemption Application Process

The primary purpose exemption exempts entities from the definition of “deposit broker” if their primary business is not the placement of deposits. The Rules propose an application and determination process related to the exemption. The FDIC should allow certain activities that fall within the primary purpose exemption to be exempt from requiring submission of an application to FDIC. This would help reduce uncertainty and minimize operational burden on the FDIC.

The FDIC should also consider an annual re-certification of primary purpose exemptions and publish a list of third parties that have been re-certified (while retaining anonymity). To enhance compliance and transparency, the FDIC should require third parties to annually re-certify that they meet the requirements of the exception.

3. Maintain Existing Interpretative Opinions

It is unclear how current interpretive opinions are to be treated under the proposed Rules. The FDIC should retain current advisory opinions related to brokered deposits to the extent possible. These opinions have been relied upon by banks to create and offer financial products and services that support their communities. Alternatively, the FDIC should review its prior interpretations and publicly indicate which opinions will remain in effect under the final Rules framework.

4. Establish a Compliance Transition Period and Examiner Education

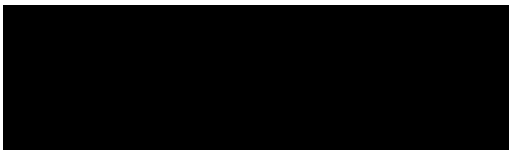
The FDIC should take steps, including examiner education, to mitigate the perceived stigma of brokered deposits. The FDIC should allow well-capitalized institutions to maintain a diverse funding base and utilize this low-cost tool for interest rate risk mitigation. The FDIC should also provide for a transition period for insured depository institutions of up to three years following the effective date of the final rule to implement any required changes.

Conclusion

Thank you again for the opportunity to comment on the proposed Rules and for your willingness to modernize the framework relating to brokered deposits. As noted above, we urge FDIC to clarify the “deposit broker” and “facilitation” definitions, provide that certain activities that fall within the primary purpose exemption do not require an application, adopt a compliance transition period and educate examiners about the important and valuable role brokered deposits can play, especially in community banks.

Thank you again for the opportunity to comment on the proposed Rules. If you have any questions, please feel free to contact me.

Very best regards,



Linda W. Navarro
President and CEO
Oregon Bankers Association & Community Banks of Oregon