



(919) 781-7979
(919) 881-9909 FAX

3601 Haworth Drive
Raleigh, NC 27609
NCBankers.org
Since 1897

July 9, 2021

Mr. James P. Sheesley,
Assistant Executive Secretary
Attention: Comments
comments@fdic.gov
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

Re: RIN 3064-AF71

Ladies/Gentlemen:

The undersigned banking organizations respectfully submit this comment letter on the Notice of Proposed Rulemaking by the Federal Deposit Insurance Corporation ("FDIC") on False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo.¹

We appreciate the FDIC's efforts to prevent false and misleading statements regarding deposit insurance. The misuse of the FDIC's name and logo to promote uninsured financial products is a real and growing menace. We applaud the FDIC's steps to address this matter both with this rulemaking and through the agency's enforcement powers.

We are concerned, however, about one small clause in the proposed rule that we believe will inadvertently prevent appropriate and necessary communications by important bank service provider organizations.

More specifically, we believe that a provision in proposed section 328.102(b)(3)(ii) should be changed. Under the provision, if a person that is not a bank makes any "statement regarding deposit insurance," the person's "failure to identify the name(s) of the Insured Depository Institution(s) that will be receiving the deposits is deemed a material omission."²

In our view, this provision would significantly constrain the dissemination of perfectly accurate information by and about deposit placement networks. These networks provide community banks with access to stable sources of funding, including reciprocal deposits and sweep deposits. Many banks rely on such funding to support community lending.

¹ 86 Fed. Reg. 24,770 (May 10, 2021).

² Proposed 12 C.F.R. § 328.102(b)(3)(ii).

A deposit placement network can include hundreds or thousands of banks. It is impossible to name banks in the network that will receive specific deposits until right before those deposits are placed. Because nearly all advertising and other description of deposit placement networks necessarily mentions deposit insurance and occurs well before deposit placement, nearly all such advertising and other description by a person that is not a bank would appear to violate the proposed rule. In turn, the inability of a network sponsor or other non-bank to advertise or describe the network would sharply reduce the availability of valuable network deposits to banks.

We recognize that this effect was likely inadvertent, and we respectfully recommend that the FDIC modify the proposed rule so that it does not restrict otherwise accurate descriptions of deposit placement networks merely because they do not identify banks by name. We believe that the FDIC can attend to this concern while still providing ample protection for consumers.

Thank you for considering our comments.

Sincerely yours,



Peter Gwaltney
President & CEO
North Carolina Bankers Association



Eugene Micco

Chairman

California Community Banking Network



Bruce Whitehurst

President & CEO

Virginia Bankers Association



Sally Cline

President and CEO

West Virginia Bankers Association



Colin Barrett

President and CEO

Tennessee Bankers Association



Fred Green

President and CEO

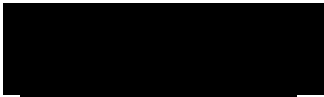
SC Bankers Association



John Mcweeney

President & CEO

New Jersey Bankers Association



Stephen Scurlock

Director of Government Relations

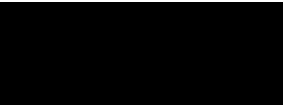
Independent Bankers Association of Texas



John Witkowski

President and CEO

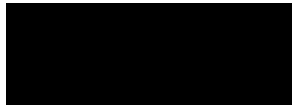
Independent Bankers Association of New York State



Linda Navarro

President and CEO

Oregon Bankers Association



Trent Wright

President and CEO

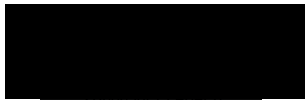
Idaho Bankers Association



Michael Adelman

President & CEO

Ohio Bankers League



John McNair

Pres/CEO

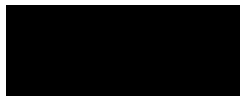
The Community Bankers Association of Georgia



70741020CB394BD...
Mike Van Norstrand

Executive Director

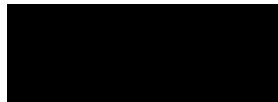
Independent Bankers of
Colorado



Max Cook

President & CEO

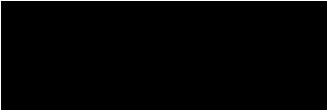
Missouri Bankers Association



John Collins

President & Executive Director

Community Bankers of Washington



Kevin Shivers

President and CEO

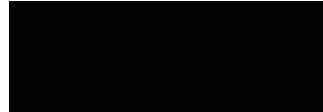
Pennsylvania Association
of Community Bankers



Alex Sanchez

President and CEO

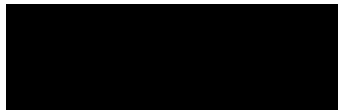
Florida Bankers Association



John Sorensen

President & CEO

Iowa Bankers Association



Jenifer Waller

President

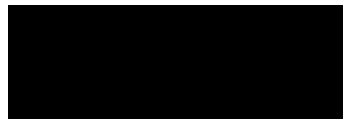
Colorado Bankers Association



Paul Hickman

CEO & President

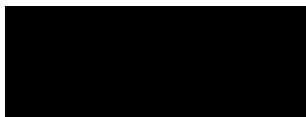
Arizona Bankers Association



Ballard Cassidy

President / CEO

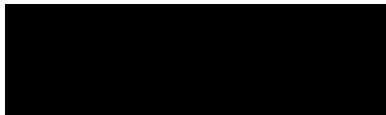
Kentucky Bankers Association



Phyllis Gurgevich

President CEO

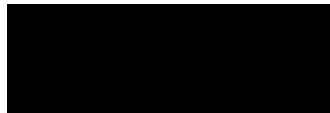
Nevada Bankers Association



Howard Headlee

President & CEO

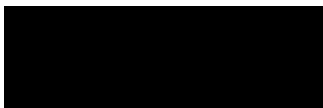
Utah Bankers Association



Adrian Beverage

President & CEO

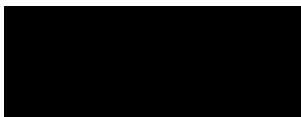
Oklahoma Bankers Association



Joe Brannen

President & CEO

Georgia Bankers Association



Rick Clayburgh

President/CEO

North Dakota Bankers
Association