



Michigan Bankers Association

507 S. Grand Ave.
Lansing, MI 48933
www.mibankers.com

517-485-3600
Fax 517-485-3672

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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:

We 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

¹ 86 Fed. Reg. 24,770 (May 10, 2021).

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

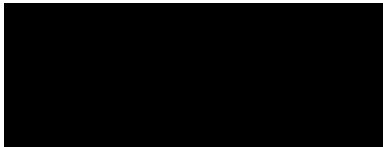
In our view, this provision would significantly constrain the dissemination of perfectly accurate information by and about deposit placement networks. These networks provide community banks with access to stable sources of funding, including reciprocal deposits and sweep deposits. Many banks rely on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

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,



T. Rann Paynter
President and CEO