CSBS

July 9, 2021

James P. Sheesley, Assistant Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429
RIN 3064-AF71

Re: *False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo*

Dear Mr. Sheesley,

The Conference of State Bank Supervisors ("CSBS")[1] appreciates the opportunity to comment on the notice of proposed rulemaking ("NPR") issued by the Federal Deposit Insurance Corporation ("FDIC") regarding false advertising, misrepresentation of insured status, and misuse of the FDIC's name or logo. The proposed rule seeks to implement statutory authority allowing the FDIC to bring enforcement actions against financial entities making false or misleading representations about deposit insurance. CSBS supports the FDIC's initiatives to formalize this process and protect consumers adversely affected by these misrepresentations.

According to the NPR, the FDIC has recently observed an increase in the number of instances where financial services providers, other entities, or individuals have misused the FDIC's name or logo in a manner that would suggest to the public that these providers' products are FDIC-insured. The proposed rule outlines the mechanism by which the FDIC will identify and investigate potential violations, the evaluation standards for such violations, and the formal and informal procedures for enforcement of confirmed violations.

State regulators have also detected numerous misrepresentations by entities or individuals of their status as a bank in various contexts including in the context of bank and nonbank partnerships. Many insured banks partner with nonbank companies to provide their customers with products currently not offered under their list of services. However, in many cases, these nonbank companies fail to clarify their role in the partnership, resulting in consumer confusion and misallocation of funds to the nonbank rather than the insured bank. States continue to focus on, and, if necessary, take enforcement actions to ensure these nonbanks adequately disclose the distinction between their products and those offered by their partner banks.

Additionally, it is imperative that the FDIC and state regulators coordinate and collaborate to better protect consumers in the most efficient and effective manner possible. State bank regulators devote a significant amount of time and resources to investigating and taking enforcement actions for violations of state laws prohibiting persons from misrepresenting their status as a bank. Greater information sharing between the FDIC and state bank regulators in this context could potentially produce some synergies and efficiencies in their respective enforcement processes. Therefore, state regulators suggest that the FDIC implement an information sharing mechanism designed to notify the states of any formal or informal actions taken against an individual or entity for misrepresentation of FDIC-insured status.

[1] CSBS is the nationwide organization of state banking and financial regulators from all 50 states, American Samoa, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. CSBS supports the state banking agencies by serving as a forum for policy and supervisory process development, by facilitating regulatory coordination on a state-to-state and state-to-federal basis, and by facilitating state implementation of policy through training, educational programs, and exam resource development.

In conclusion, CSBS supports the FDIC's goal to formalize the enforcement process against misrepresentations and false advertising of deposit insurance outlined in their proposed rule. CSBS and its members play an active role in mitigating the risk posed by misleading designations and misrepresentations of bank status and thus have a significant interest in the further implementation of this rule.

Sincerely,

[redacted]

John Ryan

CONFERENCE OF STATE BANK SUPERVISORS

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