

To: Federal Deposit Insurance Corporation
550 17th Street NW
Washington DC, 20429
Attn: Robert Feldman

<DATE>

Re: Comments Pertaining to: RIN 3064-AD35

Comments Submitted by: <Bank Name>
<Bank Address>
<Bank City State, Zip>

<Bank Name> is submitting the following comments regarding the calculation of the new "adjusted brokered deposit ratio" as introduced in the Notice of Proposed Rulemaking which will implement changes to deposit insurance assessments (RIN 3064-AD35). As stated, the FDIC proposes adopting the current definition of brokered deposits as stated in Section 29 of the Federal Deposit Insurance Act (U.S.C 1831f). The FDIC has however requested comment on whether so called internet deposits or those deposits generated through a deposit listing service should be included in that calculation.

<Bank Name> agrees with the FDIC's current position that a listing service or the internet is not a deposit broker, therefore should not be included in calculating the new adjusted brokered deposit ratio.

The inclusion of listing service and internet deposits in the calculation of a "brokered deposit" ratio would conflict with the opinions and interpretations that have been published by the FDIC since the brokered deposit regulations inception (FIRREA 1989). What is ultimately at issue here is whether a listing service is a "deposit broker" as that term is defined in the Federal Deposit Insurance ("FDI") Act. FDIC staff has consistently differentiated a "listing service" from a "deposit broker" by citing examples such as:

· *A "listing service" is a company that compiles information about the interest rates offered on certificates of deposit ("CDs") by insured depository institutions. A "deposit broker," on the other hand, is "any person engaged in the business of placing deposits, or facilitating the placement of deposits, of third parties with insured depository institutions. . . ." 12 U.S.C. § 1831f(g)(1)(A); 12 C.F.R. § 337.6(a)(5)(i)(A). In other words, a "listing service" is a compiler of information about deposits whereas a "deposit broker" is a facilitator in the placement of deposits. Source: FDIC--04—04*

- *Where the only function of a deposit listing service is to provide information on the availability and terms of accounts, we believe that the listing service is not facilitating the placement of deposits. Rather, it facilitates the decision of the would-be buyer whether (and from whom) to buy a certificate of deposit; it is not facilitating the placement of deposits per se. We also believe that it would not be feasible to identify deposits placed as a result of referring to a listing service when the listing service does not actually participate in the placement process. FDIC--02—04*

Advertising rates on a listing service or the internet is no different from advertising rates through different forms of media such as the newspaper, television or radio. There are no guarantees regarding the amount of deposits which can be obtained and the listing service makes no effort to refer depositors to the listing institution. Depositors communicate directly with the depository institution and the bank establishes, on a case by case basis, an individual relationship with each depositor.

It is also evident in the above quote from Advisory Opinion 02-04, the FDIC staff understands that identifying deposits placed as a result of an advertisement on a listing service or the internet

would not be feasible because there is no third party identified in the placement process. Requiring <Bank Name> to quantify its listing service and/or internet deposits would surely present an additional undue burden. For this reason <Bank Name> also supports the FDIC's position that it would be impossible to include these deposits.

Deposit listing service and internet deposits provide a beneficial supplement as well as an alternative to a banks local market deposit funding. They also provide an additional funding resource and serve well as a component of the banks contingency funding plan. Deposits result from a direct communication between the bank and its customer and do not have the same qualities or characteristics of a brokered deposit.

In closing, <Bank Name> agrees with the FDIC's existing opinion that a listing service or the internet is not a deposit broker; therefore, banks soliciting deposits directly as a result of posting rates on a listing service or the internet would not be required to classify those deposits as "brokered deposits". We strongly believe that deposits generated directly as a result of advertising on a listing service or the internet do not qualify for inclusion in the definition of brokered deposits for the purpose of the "adjusted brokered deposit ratio" and should not be considered in the calculation of this ratio.