



Luther BurbankSM

Savings

November 4, 2019

Via Electronic Delivery to comments@fdic.gov

Robert E. Feldman

Executive Secretary

Federal Deposit Insurance Corporation

550 17th Street, N.W.

Washington, D.C. 20429

Re: Interest Rate Restrictions on Institutions That Are Less Than Well Capitalized, RIN 3064-AF02

Dear Mr. Feldman:

The following comments are submitted on behalf of Luther Burbank Corporation (LBC). We are a bank holding company headquartered in Santa Rosa, California that operates primarily through our wholly owned subsidiary, Luther Burbank Savings (LBS), a well capitalized California-chartered community bank. We appreciate the opportunity to comment on the advanced notice of proposed rulemaking captioned above (ANPR), issued by the Federal Deposit Insurance Corporation (FDIC), regarding the calculation of the national rate cap and the application of the interest rate limitations to banks that are less than well capitalized as defined and interpreted under Section 29 of the Federal Deposit Insurance Act (FDI Act).

The ANPR defines the national rate for a deposit product as the average rate for that product, where the average is weighted by domestic deposit share. The proposed national rate cap is the higher of (1) the rate offered at the 95th percentile of rates weighted by domestic deposit share or (2) the proposed national rate plus 75 basis points. The proposal also attempts to simplify the local rate cap calculation and process applicable to less than well capitalized institutions.

We fully support the FDIC's policy objective of ensuring that rate caps appropriately reflect the prevailing deposit interest rate environment. The proposed rule, however, suffers from a number of flaws that make it fall short of achieving this goal. The national rate calculations in the ANPR will continue to tilt the scales on the FDIC's calculation against community banks like LBS. Fundamentally, banking is a local business for community banks and a national rate cap calculation will never reflect the prevailing rates in every local market. A calculation based on rates offered by all competitors within a local or regional market will yield a more accurate prevailing rate.

The rates we offer as a community bank are based on a variety of factors, including competitors' rates, various benchmarks including Treasury rates, and Federal Home Loan Bank (FHLB) advances, among others. The national rate cap attempts to consider only the first of these factors and does not do so in a

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manner that accurately reflects the competitive landscape faced by community banks in their local markets. Under the proposed national rate cap calculations, the nation's largest banks will continue to be over-represented, internet-based institutions will continue to be under-represented, and credit unions continue to not be represented at all. Often times, credit unions are community banks' most aggressive competitors. Additionally, the national rate cap also fails to account for promotional rates for non-standard products. Nor does the calculation account for non-rate promotions, such as one-time cash payments or other items of value provided for opening an account.

All of these factors result in an artificially low national rate cap that is problematic for not only weaker banks, but for well capitalized community banks operating in competitive markets. The impact on well capitalized community banks is a result of the use of the rate caps as a proxy for "volatile funding" or "high-risk deposits" during examinations. We appreciate the FDIC clarifying that these rate caps apply only to less than well capitalized banks in its revisions to its Risk Management Supervision Manual of Examination Policies and guidance to examiners. However, we remain concerned that examiners may view well capitalized institutions with deposits above the national rate caps unfavorably even when those rates are necessary to remain competitive. To prevent such an improper application of the rule, which would be inconsistent with the goals of Section 29 of the FDI Act and current FDIC exam procedures, we urge the FDIC to (i) include an explicit statement in the rule clarifying that national rate caps do not apply to well capitalized institutions in any way and cannot be used as a proxy in evaluating a well capitalized institution's funding and (ii) provide additional guidance to institutions and its staff regarding how to define "significantly above local or national rates."

We commend the FDIC for taking the initiative of issuing this ANPR, including the consideration of earlier comments received on this issue. As noted above, however, there remain significant flaws with the FDIC's proposal that we hope will be addressed in the final rule.

If you have any question or would like additional information, please do not hesitate to contact me at slagomarsino@lbsavings.com.

Sincerely,

/s/ Simone Lagomarsino

Simone Lagomarsino
President and Chief Executive Officer