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May 7, 2019

Robert E. Feldman, Executive Secretary
Attention: Comments, Federal Deposit Insurance Corporation,
550 17th Street NW,
Washington, DC 20429.

Re: RIN3064-AD94

Dear Mr. Feldman:

I write on behalf of the Nebraska Bankers Association (NBA) to comment on the FDIC's ANPR regarding brokered deposits/national rate cap. The NBA is a trade association that represents 174 of the 180 commercial banks and savings institutions in the state of Nebraska.

The ANPR represents a positive step toward modernizing the FDIC's framework for brokered deposits. The NBA welcomes the efforts of the FDIC to revisit its approach to brokered deposits for the first time since they were originally implemented in the early 1990s.

Current brokered deposit regulations have involved an overbroad interpretation and application regarding who is considered a deposit broker and what deposits are therefore considered to be "brokered." The existing interpretation and application have impeded bank innovation, harmed customers, and unfairly characterized key funding sources, inhibiting efforts by banks to innovate and maintain a diversity of funding. In addition, the National Rate Cap formula is a detriment to access to legitimate sources of funding for both struggling and healthy banks and needs to be reformed.

Congress enacted Section 29 of the Federal Deposit Insurance Act to halt abuse of brokered funds by less than well-capitalized institutions. The statute is designed to prevent troubled institutions from holding funds placed by third-party deposit brokers.

Unfortunately, the definition of "deposit broker" has been expanded well beyond its original purpose. Over time, the FDIC has extensively expanded who is considered a deposit broker, narrowly interpreted exceptions to the definition of deposit broker, and applied restrictions on troubled institutions exceeding those intended by Congress.

Significant technological changes have occurred since the early 1990s and brokered deposit regulations should evolve with these changes. Customers desire and demand the convenient services that are inhibited by FDIC brokered deposit designations. We encourage the FDIC to narrow its interpretation of “deposit broker” to persons that contract to place deposits of unaffiliated third parties with banks or who contract with troubled insured depository institutions for the purpose of selling interests in their deposits to third parties. In addition, deposits involving the direct, continuing relationship between a customer and an insured depository institution should be expressly excluded from being designated as brokered deposits.

Firms that provide normal course marketing arrangements and practices should not be considered deposit brokers. There is virtually no evidence that deposits gathered through marketing practices widely employed by businesses today pose enhanced risk either to individual banks or the deposit insurance fund. In light of the extensive use of these marketing arrangements by many US corporations, it is difficult to comprehend how the FDIC interprets them as facilitating the placement of deposits for banks.

In closing, we would recommend that the National Rate Cap be established above the market rate for deposits. Examiners have frequently used the National Rate Cap as a proxy for higher risk deposits, frequently discouraging banks from raising or holding deposits with a rate higher than the National Rate Cap. We would recommend that the FDIC should use the top 10 rates posted on bankrate.com, a median of FHLB advance rates, a composite rate of widely understood and accessible benchmarks, or a combination thereof as a base rate. In addition, the National Rate Cap should only apply to troubled banks and not too healthy banks.

Once again, we appreciate the efforts of the FDIC to modernize the brokered deposit regulations and its consideration of our comments on this issue.

Very truly yours,



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