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May 24, 2021

James P. Sheesley, Assistant Executive Secretary
Attn: Comments-RIN 3064-ZA14
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: Request for Information on FDIC Official Sign and Advertising Requirements

Dear Madam or Sir:

The Iowa Bankers Association (IBA) is a trade association representing 97 percent of the approximately 300 state- and national-chartered banks and federal thrifts operating in the state of Iowa. The IBA submits this letter to the Federal Deposit Insurance Corporation in response to the request for information and comment to inform FDIC efforts to align the policy and objectives of its rules with how today's banks and savings associations offer deposit products and services and how consumers connect with banks and savings associations. We thank the FDIC for its leadership in soliciting our input.

On February 26, 2020, the FDIC published a notice in the Federal Register seeking input regarding potential modernization of its official sign and advertising rules to reflect that deposit-taking via physical branch, digital and mobile banking channels continue to evolve since the rule's last revision in 2006. Due to COVID-19, the FDIC paused their efforts until recently when they published the above referenced RFI. In reference to the official sign and advertising statement requirement questions, IBA and its members generally agree existing sign and advertising rules do not currently reflect how consumers connect with our member banks especially considering the recent technological advancements related to online banking, smart devices, digital wallets and other access tools. The IBA, with the support and input of its member banks, provides feedback on several questions posed in the RFI as follows.

OFFICIAL MEMBERSHIP SIGN

- *Questions 1 and 2: FDIC asks should the rule continue to require the official membership sign be a minimum size and specific color and should the rule continue to link the placement of the sign to each teller station or window where insured deposits are usually and normally received. Based on a survey of our member banks, 58 percent of respondents state the current size and color requirements are acceptable. However, they state the fact deposits made at financial institutions are insured is widely known and making changes to the size and color requirements is not likely to affect a depositor's understanding. In fact, 42 percent of respondents believe requiring a specific size or color is not*

necessary for recognition purposes, particularly as more and more depositors elect to use alternative means to make deposits resulting in far fewer depositors entering the bank lobby. Regarding the requirement to place the sign at **each** teller station, IBA members feel displaying the sign at each teller station is not necessary. Seventy-seven percent of respondents indicate reducing the requirement to one lobby notice or one per teller area would be reasonable, stating a single lobby notice (either digital or paper) would most likely be sufficient to inform customers the deposit they are about to make is eligible for deposit insurance. The requirement to post one notice per lobby or teller area would also be consistent with other regulatory notice requirements such as the Expedited Funds Availability notice requirement and the Home Mortgage Disclosure Act.

IBA further suggests the FDIC consider whether the current membership statement could be potentially misleading. The statement, "Each deposit insured to at least \$250,000" is technically correct. However, experience shows that most depositors understand this to mean the \$250,000 applies per customer and not per ownership structure. To enhance customer understanding, the FDIC could consider allowing banks to add a QR code or something similar to static (i.e. paper) signs and electronic notices (e.g. video screens and electronic placards) displayed on the bank premise which, when scanned would open a browser to the FDIC's website for insurance coverage detail.

- *Questions 3, 4, 5, 8 and 9: The FDIC asks should the rule take into account recent changes in the places where deposits are "usually and normally received" and requests comment related to the definition of "remote service facility". The FDIC also asks for feedback on possible alternative methods of displaying the official sign for different delivery channels.* IBA members indicate a wide variety of non-traditional methods are used to accept deposits including mobile offices (at nursing homes, schools and places of business), mobile deposit apps, and remote deposit capture. Some indicate they are starting to develop digital wallets as well for convertible virtual currency. Therefore, if the intent is to display the FDIC official membership statement at places where insured deposits are reasonably expected to be made, the rule should be updated to take into account these places and methods when applicable. While over 72 percent of survey respondents were aware that the signage is required for mobile apps that offer deposit-taking capabilities, a much smaller percentage considered the rule applicable to mobile offices or remote deposit capture methods thereby evidencing the current confusion in the industry as to what the FDIC's current rules actually require. Twenty percent of respondents believe the rule as written today does not apply to these deposit methods or that disclosure is optional.

Although confusion exists on when the membership sign is required, IBA members question whether disclosure at the time of deposit is the most effective means to communicate FDIC insurance coverage versus at the time the account is opened. IBA members agree consumers rarely read this signage at time of deposit and, more importantly, do not make deposits based on coverage criteria. Rather, consumers are more likely to consider FDIC insurance coverage at the time of selecting an institution and when deciding which account type to open, not at the teller line, ATM, or when using remote deposit. Specifically, members suggest the FDIC emphasize the importance of FDIC insurance when the decision is made to open the insured account (i.e., account opening) rather than at the place of deposit. As such, the FDIC should also consider alternative means to satisfy signage requirement when accounts are opened using virtual settings (e.g. using zoom or other video banking alternatives).

- *Question 6: The FDIC asks if FDIC-insured institutions are currently displaying a digital representation of the FDIC sign or logo on its websites and/or mobile apps at account opening.* Based on the survey

respondents, 77 percent offering these services indicate they are currently displaying the logo on their website for advertising purposes and most also include it for account opening. While it is clear the sign or logo are required when advertising deposit products, clarity is needed as to the application of these rules at account opening. With more digital options available, the FDIC should consider updating the rule to remove the requirement to “continuously display” the membership statement, allowing for more flexibility in using rotating disclosures.

ADVERTISING REQUIREMENTS

- *Question 10: The FDIC asks to what extent the existing rules enable consumers to distinguish between FDIC insured institutions and uninsured entities. Other than looking for the advertising statement, there is currently no convenient means for consumers to determine the insurance status or accuracy of such disclosure. As mentioned in their comment letter dated March 24, 2020, IBA supports KASASA’s suggestion the FDIC develop and FDIC-insured banks have the opportunity to adopt a method to verify the insured status of their deposits using existing technology providing clarity to consumers.*

In addition, to promote consumer understanding regarding which accounts may be covered by FDIC insurance and in what amount, IBA suggests the FDIC consider providing banks the option of linking the advertising statement, if disclosed in digital format, to the Electronic Deposit Insurance Estimator (EDIE) or similar webpage which provides more details on coverage.

- *Questions 11 and 12: The FDIC asks if the regulation can be better clarified regarding which types of advertising require the inclusion of the official advertising statement and how banks currently provide the advertising statements when promoting deposit products through non-traditional channels. Further the FDIC asks if some forms of advertising currently subject to the requirements should be made exempt. Members confirm their customers are requesting alternative methods of banking including the use of ITMs, remote deposit capture, mobile deposit capture, mobile apps and digital wallets for account opening and transaction processing. As such, banks advertise such methods with greater frequency. Some of these methods can be used to open accounts, make deposits, and transfer funds; however, others provide transfer capabilities only. The advertising rule should be updated to provide greater clarity on if the advertising statement is required only when advertising a product that provide deposit-taking capabilities or for all products regardless of function.*

Section 328.3(c) requires each insured depository institution to include the official advertising statement in all advertisements that either promote deposit products **and services** or promote non-specific banking products **and services** offered by the institution, subject to certain exceptions. The IBA suggests the FDIC clarify the specific meaning of “deposit service” that would trigger the advertising rule and those that would fall under the prohibition. Specifically, the FDIC should clarify whether the advertising statement is needed when advertising ancillary services like the debit cards and mobile apps, etc. as these services provide a means of funds transfer only but not to make deposits. Such “services” themselves are not insured even though the funds they are attached to are. This would also apply to online banking systems without a P2P solution that allow view only and/or transfer capabilities such as bill payment which enable the account holder to transfer funds from the account to a third party but not make a deposit as well as for systems that include a P2P solution that does not include mobile or remote deposit capture capabilities as there is no ability to actually make a deposit into the account.

Similarly, as additional digital solutions (e.g. apps) are developed, the FDIC should provide clarity on which types of apps would require such signage. Some apps are little more than access devices connecting the bank account to the payee. Others actually allow the user to fund an account within the app against which purchases are deducted. For the first, the access device is not insured but the deposit account is. For the latter, since the account holding the funds is not FDIC insured, it appears the membership statement should not be used. Clearly there is room for clarification on the required use of the statement and/or logo for these technologies. IBA members appreciate the FDIC addressing current technology, however they stress the rules must also address anticipated future technology solutions and provide guidance as appropriate.

In addition, member banks are unsure if the prohibition of disclosing “Member FDIC” applies to products such as insurance that are clearly not deposit products but also are not non-deposit investment products. Clarity is also needed to stem the growing confusion related to digital currency and FDIC insurance coverage. Although the Bank Secrecy Act is considering treating these deposits similar to cash, it appears these deposits are not insured by the FDIC. The IBA further asks the FDIC to provide additional detail on mixed advertisements, defined as advertisements containing information about both insured deposit products and non-deposit products or hybrid products which currently require the bank to segregate the official advertising statement and any similar statement from that portion of the advertisement that relates to non-deposit products. Providing examples of appropriate and inappropriate segregation as these advertisements would be helpful – even if provided via an ancillary guidance document rather than in the rule itself. Lastly, contrary to the understanding of the disclosure expectations for website, there is significant confusion among our members as to when these disclosures are required for social media posts. Members suggest the FDIC provide clarity on what is and isn’t an advertisement using this advertising medium.

Related to the current exemptions, the rule includes an exemption for “advertisements by radio or television, other than display advertisements, which do not exceed thirty (30) seconds” as well as “advertisements which are of the type or character that make it impractical to include the official advertising statement”. For the latter, the rule provides examples such as pens, calendars, key chains, etc. IBA members suggest the FDIC consider adding additional exemptions or clarity for which disclosure would be impractical due to the time the disclosure would be displayed or viewed, such as with scrolling banner ads on websites, apps, and outdoor media signage such as static or electronic billboards which are visible for only seconds as traffic passes by. In addition, IBA strongly suggest the FDIC add an exception for banner ads that may run on various webpages that contain both deposit and non-deposit products as the brief showing of the membership statement could cause confusion to the consumer using the site and possibly cause them to believe the non-deposit investment product was truly insured.

- *Question 14: The FDIC asked if consumers look for the FDIC name or logo when using the bank website and apps to confirm the validity of the insured institution’s authenticity. As stated above, IBA members do not believe most consumers are expressly looking for the FDIC name or logo when utilizing websites and various apps for transactions but are more likely to look for these symbols when opening new accounts. Consumers that do actually seek the logo for confirmation of FDIC insurance availability have no method to confirm the disclosure is accurate because the logo or statement itself does not provide a method of validation nor sufficient coverage information. To make this disclosure more valuable, IBA suggests the FDIC consider implementing a “one click” rule for digital advertisements including social media and websites that would allow, **but not require**, insured institutions to embed a link in the advertising*

statement taking the user to more detailed information about FDIC insurance coverage as well as a site consumers could use to validate the institution is indeed an FDIC-insured institution. The FDIC could also consider an awareness campaign for younger depositors - who focus more on functionality of an app or digital wallet than insurance coverage - to emphasize the importance of this disclosure as more wealth is transferred to them in the coming years.

As the FDIC reviews the RFI comments, the IBA and its members encourage the FDIC to balance the consumer benefits against cost of various disclosure options and the ability to control vendor solutions. Putting in place more onerous requirements for financial institutions without implementing requirements on vendors and Fintechs could cause undue harm to the banking industry and increased customer cost and confusion. To facilitate understanding of the revised rules, member banks also suggest the FDIC provide user-friendly checklists or other plain-language guidance documents to assist with disclosures and clarify exemptions.

In summary, IBA members stress the rule relating to the official sign and advertising statement can be improved considering the methods that insured deposit accounts are advertised, opened and utilized. The challenge with the rule currently is, it is a violation to include the Member FDIC statement when prohibited and also a violation to omit the statement when required. Over-disclosure is not an option. Thus, the reason clear guidance on this matter is so critical. Using existing digital technologies, member banks would be able to provide more relevant and detailed information about FDIC insurance coverage when it is most important – at the time of advertising and account opening thereby providing necessary consumer protection and reducing risk of consumer harm. Adding exemptions as stated above would also serve to add clarity for consumers by disclosing the membership statement or logo when it truly applies and can be easily assimilated. The FDIC should consider not only the advertising methods in use today including social media and web-browser search engines, but what might be used in the future. We thank the FDIC for its thoughtful consideration of our comments. If you have any questions related to these comments, please feel free to contact me at 800-532-1423 or via the email address below. Thank you for your time and consideration.

Sincerely,

A solid black rectangular box used to redact the signature of Julie Gliha.

Julie Gliha, CRCM, MBA
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Iowa Bankers Association
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