



May 24, 2021

Via Electronic Submission

James P. Sheesley, Assistant Executive Secretary  
Federal Deposit Insurance Corporation

Attention: 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 and Potential Technological Solutions***  
**RIN 3064-ZA14**

Dear Mr. Sheesley,

On behalf of Cross River Bank ("Cross River" or the "Bank"), I thank you for the opportunity to provide comments on the Federal Deposit Insurance Corporation's ("FDIC" or the "Agency") Request for Information ("RFI") regarding official sign and advertising requirements. Cross River applauds the Agency's proactive efforts to examine potential technological solutions and modernization actions that will help distinguish FDIC insured products from uninsured products, keeping consumer's funds safe.

Cross River is a New Jersey state chartered, FDIC insured financial institution that merges the trust and reliability of a community bank with the innovative offerings of a technology company. Since inception, the Bank has consistently partnered with leading technology companies to offer a suite of products that empower consumers to take control of their financial health by facilitating access to affordable credit in a responsible manner.

As the regulated financial institution that empowers many fintech partners, Cross River fully understands the importance of clearly and unambiguously identifying which products are protected and insured. As the FDIC notes in the RFI's preamble, many institutions and fintech firms alike are embracing innovation, offering consumers more options and flexibilities in how they open accounts and accept deposits. Whether through online applications, websites or mobile phones, banks and their partners are adapting to an increasing digital world to meet the demand and needs of consumers.

While many of these solutions improve efficiencies and provide consumers with the flexibility they need, there may be times in which consumers are confused by digital products, and whether they are offered by insured depository institutions, partnerships between insured and non-insured depository institutions

or solely by non-insured depository institutions. The FDIC's efforts in the current RFI that seeks to clarify and establish uniform signage and advertisement requirements combined with the Agency's previous RFI related to misrepresentations about deposit insurance will help to create a safer financial system for consumers.

It is important to note that the digital and online products being offered to meet modern needs, whether by insured depository institutions directly or in coordination with fintech partners are not automatically nefarious in nature nor are they inherently unsafe because they are offered through digital channels. These products simply reflect the evolving nature of the financial services landscape providing more opportunities, access and flexibilities to consumers, especially to those who have been traditionally excluded from the financial system.

Modernizing the FDIC's official signage and advertising requirements will help to embrace responsible innovation and assist consumers in clearly identifying insured offerings. Please find below Cross River's responses to the following questions for comment: 1,2,4,5,6,7,11,12,13,14,15,16, and 17.

### **Questions for Comment**

1. *Should the rule continue to require the sign be a minimum size and a specific color? Is this needed to ensure consumers understand "deposit insurance?"*

Cross River believes that requiring uniformity with regard to size and color of signage per platform is the most effective way to guarantee that consumers understand deposit insurance. The more consistent the requirements in terms of size, color, placement, and font the more recognition and comfort consumers will have in identifying product offerings that are truly insured.

In the digital age, there are a number of ways financial institutions and their partners communicate with consumers. In addition to physical branch locations, banks often utilize websites, mobile phone applications and other similar social media platforms to advertise and offer their products. The FDIC should ensure uniform requirements and standards are consistent amongst each individual type of platform or channel used to communicate with consumers. For example, the requirements for posting this notice at a physical branch may not translate practically to a bank's website or mobile application. The FDIC should therefore look at each individual medium of communication and ensure there are consistent requirements amongst those specific platforms or platforms of a similar nature.

2. *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?*

The FDIC should continue to link the placement of the sign to each teller station or window as currently provided under the existing rule. Consumers have grown accustomed to this standard and it provides the important consistency that will help them to understand deposit insurance applicability. This requirement does not create any additional burdens or expensive compliance cost for banks and is useful in distinguishing insured depository institutions product offerings from non-insured depository institutions product offerings.

4. *Should the FDIC's current approach of allowing for permissive or optional placement and use of signage be broadened? How?*

While discretion and flexibility are important factors for the successful implementation of regulations, the FDIC should take a balanced approach to ensure that optional placement is not overly broad, consistency is not diminished, and consumers are not confused. The Agency does not need to be overly prescriptive in its requirements but should ensure that the flexibilities provided does not unintentionally undermine the goal of providing clarity, consistency, and certainty to consumers.

5. *Does the rule's definition of "Remote Service Facility" appropriately reflect current banking practices? For example, should the list of facilities (any automated teller machine, cash dispensing machine, point-of-sale terminal, or other remote electronic facility where deposits are received) be broadened? If so, what other "facilities" should be included?*

The definition of "Remote Service Facility" should be updated, expanded, or clarified to reflect the nature of digital channels that banks use to offer deposit products to customers; and more accurately and specifically, including mobile applications, websites, and social media platforms. While the current definition accounts for "other remote electronic facility", it is unclear if modern digital channels are incorporated under this definition.

To alleviate any confusion or misunderstanding the FDIC should either expressly expand the definition to include these new types of digital media or clarify that these digital channels unambiguously fall under the existing definition. There are several avenues and digital channels insured depository institutions use, and the FDIC should ensure all viable options are clearly included under this definition. Doing so will establish clear guidelines and help to remove any uncertainty of which facilities are covered under the definition.

6. *Are FDIC-insured institutions currently displaying a digital representation of the FDIC sign or logo on their websites/mobile apps at account opening? If not, should they do so?*

Currently, FDIC Institutions do display a digital representation of the FDIC sign and logo on their websites. Clearly indicating that the website is hosted by, and depository products are offered by, insured depository institutions on digital platforms will help give consumers the assurances they need to understand the insured nature of such depository institutions' existing products. Standardizing the approach of how institutions display this information would be a helpful tool in combating confusion and misrepresentation by organizations, whether intentional or not, that offer products that are not FDIC insured.

As with posting this notice in a physical branch location, requiring uniform, consistent, and comprehensive standards for website and mobile applications will help to eliminate any confusion or misunderstanding as to the product offerings insured status. The FDIC should consider the functionality of each of these digital channels and recognize that standards for websites may not smoothly translate to mobile applications. Just because these two platforms are both offered digitally, it does not mean that functionalities are equivalent and therefore standards should be developed per individual digital platform.

Consumers will benefit from a clearly identifiable notice on each of these digital platforms that signals their funds are insured and will help to distinguish FDIC insured financial institutions from those uninsured depository institutions that may be intentionally or unintentionally misleading consumers.

7. *Are FDIC-insured institutions currently displaying a digital representation of the FDIC sign or logo on their websites/mobile apps each time a consumer deposits funds? If not, should they do so?*

Insured depository institutions should not have to display the digital representation of the FDIC sign or logo each time a customer deposits funds. Such a requirement would create a redundant and cumbersome burden that does not help to further achieve the FDIC's goal of providing clarity to depositors. As discussed in our response to question 6 above, creating a single unambiguous, consistent standard for how banks post this notice on their website or mobile applications will serve the same purpose and create the necessary assurances for consumers without overburdening banks unnecessarily.

*11. Can the regulation be better clarified regarding which types of advertising require the inclusion of the official advertising statement? Should some forms of advertising currently subject to the requirement be made exempt? Are there newer forms of advertising that do not now but should include the official advertising statement?*

The FDIC should better clarify the regulation with regard to the types of advertisements that require the inclusion of the official advertising statement. Specifically, clarifications should be provided surrounding advertisements for non-specific banking products and services as well as offerings in the payments realm, to ensure customers are not unintentionally confused or misled.

Requiring Member FDIC status on advertisements or promotions of non-specific banking products would potentially suggest to consumers that all bank products and services are FDIC insured. As only specific products are insured, the FDIC should consider where it would be inappropriate to require the placing of this status on advertisements or promotions. For example, payment services such as wire transfers and real time payments services are not insured services and therefore should not necessarily require the specific Member FDIC disclosure. The FDIC should apply this logic to all products of a similar nature to help consumers avoid confusion about which products are and are not specifically insured.

*12. How do banks currently provide the advertising statement when promoting deposit products through non-traditional channels?*

Currently, the regulation does not thoroughly discuss or establish a standard for advertising done through modern social media channels. The FDIC should consider developing a standardized approach or requirement so that advertising through social media is not ambiguous or open to interpretation. When considering this approach, the Agency should consider the nature of social media platforms which generally limit the available characters that can be used or size of images that can be shared.

For social media platforms, such as Twitter, the FDIC could endorse a standard hashtag that would signal a bank's status as an insured depository institution and the status of specific insured offerings. For example, insured depository institutions could use the hashtag "#MemberFDIC" for the applicable insured products they advertise. This identifying hashtag would serve as an additional method to help consumers easily identify information or advertisements coming from insured depository institutions and separate them from non-insured or non-bank companies advertising uninsured products.

*13. If a bank is identified in a nonbank's promotion or advertisement for a deposit product or service, should the advertising statement be required, or conversely, should it be prohibited given that the advertisement is from an uninsured entity?*

As the financial service ecosystem has evolved, banks have begun working with fintechs and other technology firms to modernize their offerings. In these relationships it is the insured depository institution

that ultimately provides the account and is responsible for the oversight and regulatory compliance associated with the product. These accounts are offered by the insured depository institutions themselves, and FDIC insured institutions understand the responsibilities associated with them.

If the non-bank is promoting or advertising products offered by the insured depository institution itself and that product is in fact FDIC insured, then it would be appropriate to require the advertising statement as well as identification of the insured depository institution. It should be made clear to consumers when products are FDIC insured and who the insured depository institution behind the product is.

Non-banks should only be prohibited from using the advertisement statement if the products they are offering are not FDIC insured or the product itself is not being issued by a partner bank that is an insured depository institution. Requiring non-banks to identify the insured depository institution that actually offers the account is important to providing consumers with the necessary clarity, certainty, and comfort in understanding modern bank product offerings.

*14. Do consumers look for the FDIC name or logo when using financial institution websites and apps to confirm the validity of insured institutions' authenticity? Do they look for the logo when deciding to open new deposit accounts? During every interaction?*

Throughout the COVID-19 pandemic Cross River noticed that consumers asked about FDIC insurance and looked for the logo to confirm validity when inquiring about deposit products and accounts. This may be the result of general uncertainty caused by the pandemic, increased capabilities of existing, smaller insured depository institutions to scale at national levels or an increase in market participation. Regardless of the specific reason, it is clear that consumers are conscious of where they place their funds and want to ensure their hard-earned dollars are insured.

The development of a consistent standard will help consumers feel more comfortable, especially in identifying smaller institutions that they may not be as familiar with or that do not have the same name recognition as larger institutions, but are nonetheless offering modernized, insured products. Clarity in identifying insured institutions will have tangible benefits for both consumers and industry member alike.

*15. What technological options or other approaches could be utilized to allow consumers to distinguish FDIC-insured banks and savings associations from nonbanks across web and digital channels? What are the benefits and drawbacks of each approach? Is it necessary or desirable for the FDIC to try to "solve" this by rule, or can private sector initiatives better address this issue?*

The most effective additional approach the FDIC could take is to require non-banks, who are not partnering with insured depository institutions, to issue affirmative statements that their products are not FDIC insured. The affirmative statement could be similarly placed on these companies' websites, social media platforms and other channels in which they communicate with consumers or offer their products. To the degree appropriate, the FDIC should coordinate with other agencies to ensure companies are not intentionally or unintentionally misrepresenting the insured status of the products they offer.

*16. If the FDIC develops a technological solution to allow consumers to distinguish FDIC-insured banks and savings associations from nonbanks across web and digital channels, what challenges would institutions have in implementing such solutions? How would any solution work with third parties that have established legitimate business relationships with banks or savings associations?*

Cross River recommends that any technological solution include third parties that have legitimately established business relationships with insured depository institutions. The products offered through these relationships are ultimately owned and offered through the insured depository institutions themselves and it is the insured depository institution that creates the underlying relationship with the customer. The technological solution should provide an avenue for banks to easily register or declare their partnership offerings that are insured. It is crucial that these products be given the same level of clarity as products offered directly by such FDIC insured institutions so that consumers have no concerns or questions related to the insured status of the product offering.

*17. If the FDIC develops a technological solution to allow consumers to distinguish FDIC-insured banks and savings associations from nonbanks across web and digital channels, should its use be limited to FDIC-insured banks, or should third parties that market or facilitate access to deposit products (e.g., prepaid program managers, fintechs) be permitted or required to use such a logo in certain circumstances?*

As stated in our answer to question 16 above, Cross River recommends that the use of the technological solution should be extended to third parties who partner with insured depository institutions. If these partnerships produce insured products, then they should be permitted to use the appropriate logo and identifying statements to unambiguously show their FDIC insured status. It would also be helpful for the third-party partners to identify the insured depository institution in the partnership for additional awareness and recognition.

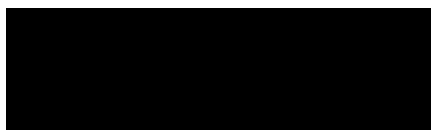
### **Conclusion**

Cross River appreciates the opportunity to provide comments to the current FDIC RFI. We applaud the Agency's efforts in modernize requirements that account for technological advancements within the industry while ensuring there are clear standards and guidelines to follow. Embracing responsible innovation will help to provide consumers with a more transparent and seamless experience. It is important to ensure that consumers are able to distinguish between products and services offered by or through insured depository institutions, so they have the information they need when making choices about their financial futures.

The Bank welcomes the opportunity to continue to collaborate with the Agency and serve as a partner. Transparency, communication, and coordination between industry and regulators is essential to the success of any future rulemaking.

If you have any additional questions, please do not hesitate to contact Arlen Gelbard, *EVP*, General Counsel at [agelbard@crossriverbank.com](mailto:agelbard@crossriverbank.com) or 201-808-7189. We look forward to continuing engaging in dialogue and serving as a resource for the Agency in the future.

Best,



Aaron Iovine  
Head of Policy and Regulatory Affairs