

People's Intermountain Bank
33 E. Main Street
American Fork, Utah 84003

September 23, 2016

Federal Deposit Insurance Corporation
thirdpartyloaning@fdic.gov

Re: FDIC Guidance for Third Party Lending

Dear Ladies and Gentlemen:

In connection with the Federal Deposit Insurance Corporation's ("FDIC") request for comments on Proposed Guidance for Third Party Lending ("Proposal") People's Intermountain Bank ("PIB") submits the following comments:

PIB is a \$1.6 billion asset community bank operating in Utah and Southern Idaho under the franchise names Bank of American Fork and Lewiston State Bank. It serves metropolitan and rural areas within the geographic scope.

PIB management is heavily involved with banking groups including the Utah Bankers Association and Western Independent Bankers as well as the American Bankers Association. Accordingly, PIB management believes they are aware of not only PIB concerns but concerns in general of smaller western community banks.

The Proposal attempts to address legitimate concerns that impact the safety and soundness of all banks including community banks. PIB is concerned with specifics of the Proposal as follows:

1. When "guidance" is issued to FDIC staff it essentially becomes a rule when examiners are on the ground in a financial institution. While the term "guidance" suggests otherwise, we continue to see such behavior. Language in the Proposal should address this issue. The purpose section should contain language that distinguishes rules from guidance.
2. The broad definition of third party lending will impose further cost and time on smaller banks that don't have the staff internally to perform the analysis required

On the surface smaller community banks may think it will not have effect on them since they might think they are not doing the type of third-party lending that is described in this proposal. In fact, this proposal covers many services they are already using that they may not have considered to be third party lending based on the definitions in the proposal and current usage of the vendors they have.

The examples of services performed by a third party, (e.g., marketing, borrower solicitation; credit underwriting; loan pricing; loan origination; retail installment sales contract issuance; customer service; consumer disclosures; regulatory compliance; loan servicing; and debt collection, aggregation or reporting) seems to be overly inclusive. A number of these services are already covered in other regulations or guidance and are in bank policies and procedures. Is it necessary to have to do another policy and procedures for these services? Examples of services should be closely examined by the regulators to understand all the ramifications the definitions can have.

3. The ABA Staff Analysis dated August 11, 2016 states, “the scope of lending activities covered by the proposal is very broad and could encompass all forms of lending activities involving a third party, potentially including participations, correspondent lending, indirect lending, mortgage brokers, and small dollar loans.” Is this the intent of the proposal? If not the scope should be limited.

4. When looking at the three (3) third-party lending arrangements discussed in the proposal and when there is a litany of what is expected in the third-party relationships it can be seen that there are some expectations that are not feasible with some third-party lenders.

As an example many community banks will have a third-party relationship with secondary market mortgage lenders. The proposed guidance says, “credit underwriting and administration standards must be established by the institution, not the third party.” This will not happen with secondary market mortgage lenders.

Furthermore, the proposed guidance says that there are a number of contractual considerations that banks should incorporate into their third-party contracts. This probably also won’t happen with contracts with large third-party lenders who have contracts or agreements with numerous financial institutions. The third-party lender has its “boiler-plate” contracts that the financial institution has to accept if they want to do business with the third-party lender.

5. Another area where the proposal will not always fit is for financial institutions that use loan platforms for lending which are developed by third-parties. These platforms are used by the financial institution based on a software license agreements developed by the third party lender and will be used by the financial institution under the license. The basic platform is standard with some parameters that can be set by the individual financial institution.

6. There will be some financial institutions that have not developed policies and procedures for the third-party lending arrangements that they have, or may contemplate having. From the apparent quantity of rules that will result from this Proposal financial institutions will have to dedicate more people and processes to develop these policies. The regulators will have to allow these institutions time to develop the proper policy and procedures.

7. Smaller community banks are going to see that it will be much more complex when contemplating a new relationship with a third-party lender if this proposal is put into place. There will probably be a number of relationships that will not be considered when the financial institution has to go through all the risk management that is necessary to establish these relationships. It appears this will especially be

true in any relationship with using a third party as an agent for the institution or allowing a third-party lender to function under institution's charter. The monitoring and oversight will probably be too excessive to want to create those relationships. This could have a negative impact on the services offered to customers.

8. Fintech is another new possible lending area that may offer opportunities for banks in the future and an area where some banks are now investing as they partner with fintech startups. This developing technology will offer opportunities for banks to do participation loans with these institutions.

Quoting from Rob Nichols in a testimony in behalf of the American Bankers Association before the Financial Services Committee Subcommittee on Financial Institutions and Consumer Credit of the United States House of Representatives on July 12, 2016 the following is stated on the subject of Fintech:

Quote, "Besides developing their own new products and apps, often through their own 'innovation labs,' banks are actively partnering with fintech startups to bring their customers the latest technologies. This is why the banking industry supports policies that empower banks to innovate and enable them to partner." End of Quote.

It seems that this type of "partnering" would come under some of the third party relationships defined in the Proposal.

9. PIB, at the present time, will be impacted since the Bank currently participates loans with other lenders, sells loans to the secondary market and uses brokers to buy and sell the securities in its portfolio. It also uses loan platforms for lending developed by third parties. PIB, in the 2015 sold \$229,600,000 in residential loans on the secondary market. It currently uses five (5) lenders and Fannie Mae and Freddie Mac to buy these loans.

Additionally, as of September, 2016 PIB has an investment portfolio of over \$366 million of which over \$161 million are MBS pass-through, CMOs, or Other Asset Backed Securities.

PIB, in the future, could be impacted by this Proposal if it were to want to develop relationships with third party lenders with using the third party as an agent or allowing a third party to function under the Bank's charter.

10. What PIB recommends is:

A. The proposal that says, "credit underwriting and administration standards must be established by the institution, not the third party", should be deleted with respect to banks using loan platforms developed by third parties and for secondary market mortgage lenders. As pointed out earlier these types of vendors have a multitude of banks they work with and are not going to make changes in their "boiler plate contacts." This would be a task that would be more futile than practical.

If the proposal is necessary, then keep it only for situations where the financial institution may use agents or allow a lender to work under the auspice of the financial institution's charter.

B. Because of the examples of services that are given are so broad it seems it would be appropriate to focus, for this proposed guidance, only on services that do not have their own policies and procedures, if there are any.

C. Ensure that when examiners are “on the ground” in the financial institution that this guidance is just that; guidance and not rules or regulations.

11. The above comments are not to be construed to say that financial institutions should not do all the due diligence required by policy and procedures, set by the institution, prior to signing any contracts or agreements with the third-party vendor. The comments also are not to be construed to mean that financial institutions should not still be responsible for continuing monitoring of all the vendors that are used. This monitoring will be done based on the criticality of each vendor and done on an appropriate schedule.

Sincerely,

/A. Jay Hunsaker/

A. Jay Hunsaker
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Compliance Officer and Vendor Manager
People's Intermountain Bank
American Fork, Utah