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September 27, 2018

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

sent via email to: comments@fdic.gov

Re: FDIC RIN 3064-AE89 – Proposed Rulemaking Regarding Limited Exception for a Capped Amount of Reciprocal Deposits From Treatment as Brokered Deposits – (Further reference FDIC FIL-47-2018 – and Federal Register Vol. 83, No. 187, Page 48562, published on September 26, 2018)

Dear Mr. Feldman:

Endeavor Bank (the “Bank”), a denovo California State Chartered commercial bank headquartered in San Diego, CA, opened for business on January 22, 2018, and wishes to comment on certain aspects of the above-referenced notice of proposed rulemaking (the “Proposal”). More specifically, our comments are focused on certain unintended negative consequences that the Proposal will have on healthy denovo banks that have not yet received a composite condition rating (“CAMELS” rating). The purpose of this letter is to describe those unintended negative consequences and suggest appropriate changes to the Proposal in line with the legislative intent of Section 202 of S.2155.

Under the Proposal, an “agent institution” that is both “well-capitalized” and “well-rated” (i.e., as those terms are defined in the Proposal) can take advantage of a liberal “general cap” on reciprocal deposits and will not be subject to interest rate limitations on those deposits. While denovo institutions are typically extremely well-capitalized, composite condition ratings are generally not received until approximately 14 months following the commencement of banking operations (i.e., estimated as approximately 12 months elapsed time prior to the commencement of the first safety and soundness examination, plus two additional months for field work and report finalization). Consequently, the Proposal as written implicitly excludes otherwise healthy denovo institutions until such time as a formal composite condition rating is assigned.

The Proposal also provides for a “special cap” applicable to institutions that are either not well-rated or not well-capitalized. However, the “special cap” is figured as the average amount of reciprocal deposits held at quarter-end during the last four quarters preceding the quarter that the institution fell below either well-capitalized or well-rated. Consequently, a denovo institution in its first year of operation is effectively

precluded from qualifying for the "special cap" simply because it does not have the requisite four quarters of prior participation in a reciprocal deposit program.

In summary, an unintended negative consequence of the Proposal is that it implicitly excludes denovo institutions in their first 12 to 18 months of operations – and does so without any consideration for the fact that recently formed denovos are subjected to a rigorous pre-opening examination and approval process, typically by both the FDIC and other applicable regulatory agencies. To correct this unintended negative consequence, the Proposal should be modified to treat a well-capitalized but unrated denovo institution the same as a well-capitalized and well-rated institution.

As explained below, denovo institutions are, in substance, classified by the FDIC as being healthy institutions, and consequently, in conformance with the legislative intent of S.2155 (i.e., "healthy" banks qualify for the limited exception; "problem" banks do not), the limited exception for a capped amount of reciprocal deposits from treatment as brokered deposits provided for in Section 202 should be available to a well-capitalized, unrated denovo as it executes on its business plan. Noteworthy considerations are as follows:

- Although, as a recent "denovo", the Bank has not yet received a formal composite condition rating, it did undergo a rigorous pre-opening examination and approval process both with the FDIC and the California Department of Business Oversight. Based on those reviews, both agencies permitted the Bank to open. Consequently, the pre-opening examination provides a defacto substitute until such time as a denovo institution receives its first composite condition rating, which as noted above is approximately 14 months following the commencement of banking operations.

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While the regulation does not explicitly state the relationship between CAMELS composite ratings and the supervisory groups, it is our further understanding that the FDIC has, since 2007, equated CAMELS composite 1 or 2 to supervisory group A, CAMELS composite 3 to supervisory group B, and CAMELS composite 4 or 5 to supervisory group C. Since the regulation states that supervisory group A institutions are financially sound with only a few minor weaknesses and to obtain an insurance certificate a bank must be financially sound, the FDIC places "un-examined" denovo institutions into supervisory group A.

By extension, the Bank believes that as a denovo institution, the substantive qualifications for the limited exception from brokered deposit treatment for reciprocal deposits provided in Section 202 of S.2155 have been met.

Endeavor Bank thanks you for considering these issues. If the FDIC would like additional information regarding these comments, please do not hesitate to contact me.

Regards,

Endeavor Bank
Robert J. Lampert
EVP / Chief Financial Officer