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October 31, 2019

Mr. Robert E. Feldman, Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street N W
Washington, DC 20429

Attention: Comments Regarding September 4, 2019- Interest Rate Restrictions on Institutions That Are Less Than Well Capitalized 12 CFA Part 337
Comment Request (RIN 3064-AF02)

Dear Mr. Feldman,

First and foremost, we thank you for FIL 49-2019 dated September 9, 2019 issued for Notice of Proposed Rulemaking (NPR). The NPR seeks input and comments in an effort to find a workable solution to Interest Rate Restriction applicable to institutions that are less than well capitalized. We also thank the FDIC for providing clarity on applicability of Rate Restriction rule to banks which are well capitalized. This applicability of deposit interest rate restriction to less than well capitalized banks removes a tremendous confusion for the banks which are well capitalized. Nevertheless, the feedback and comments are being provided to aid the FDIC in its ultimate decision to reform methodology for calculating the national rate and national rate cap for specific deposit products. The proposed rules would also modify the current local rate cap calculation and process by allowing institutions that are less than well capitalized to offer up to 90 percent of the highest rate paid on a particular deposit product in the institution's local market area.

Before we provide specific answers to the questions within the NPR, we would like to provide our overall views on this topic:

1. We believe that the proposed rule and change in methodology is a first step in coming up with a more realistic rate that a less than well capitalized bank can work with.
2. Deposit rates are driven by market realities and as such are unique to each geography. One national rate for less than well capitalized banks situated in disparate urban as well rural centers may not provide a competitive rate for their customer base.
3. The proposed revised methodology to calculate the rate still heavily favors market player with dominant market share. It does not factor in credit unions and other non-banks which are formidable competitions to community banks.
4. We understand the challenges faced by the FDIC in data gathering for rates that truly are offered by banks. In almost all the cases, banks offer "posted" rates but end up offering higher rates on deposit products to retain and or attract deposits. Then there are promotional and "off-tenor" rates that are not part of rates aggregated by the FDIC.
5. We firmly believe that brokered deposit regime needs real reform and such deposits should not be considered having a negative connotation. The reform proposed in FIL 49-2019 should be

carried out in tandem with acceptance of brokered deposits, which are stable and even slightly cheaper source of funding than are other deposits perceived as more stable.

6. As stated in the NPR, the rate cap either calculated under the current or proposed methodology does not apply to well-capitalized banks, the linkage of Section 29 to well capitalized banks is applied through identification of "potentially volatile funding source" concentration. Banks, in general, operate within a robust liquidity framework and as such these linkages to Section 29 need to be either clarified or removed. FDIC has provided virtually no guidance to the industry on this new approach to funding concentrations

Question 1. Does the proposed calculation of the rate caps enable less than well capitalized institutions to compete for deposits while satisfying section 29? If not, please explain why.

Overall no. The proposed rate methodology does improve the rate cap for such institutions, albeit slightly. The challenge for less than well capitalized banks to acquire and even to retain the existing deposits will remain daunting. Charts in Annexure 1 clearly and succinctly illustrate this dilemma. The plotted difference between the current and proposed rate cap is hardly visible for maturities under six months. Maturities of 6 Months and up are an improvement over the current rate cap but remain well under Top Rate offered by Listing Services (Red Line)

Question 2. The FDIC proposes to update the national rate cap information every month, with discretion to update the rate cap more or less frequently. Currently, the FDIC updates this information on a weekly basis. Should national rate calculations be provided more or less frequently than every month, as proposed?

One month is appropriate

Question 3. U.S. Treasury securities do not have maturities that are comparable to non- maturity deposit products (e.g., money market or interest checking). If the FDIC were to use U.S. Treasury securities in its calculation for the national rate cap, is there a fixed income product that could be used in place of U.S. Treasury securities as a proxy for the national rate cap for non-maturity deposit products?

Historically, the rate on Treasury securities may not reflect the characteristics that are inherent in a non-maturity deposit product. Fed funds and or Listing Services rates may be considered

Question 4. The proposed national rate and rate cap are weighted by deposit share, which gives relatively more influence to Internet-only institutions that have large deposit shares than the current all-branch approach. Is this weighting system appropriate?

The methodology based on market share is an improvement over the current approach, but is still flawed since the bulk of the market share is controlled by large banks including internet banks and non-banks. The business models of these institutions are very different from that of community banks. Instead of market share, the FDIC may consider one rate one bank approach.

Question 5. To address potential downward volatility in the national rate cap, the FDIC is proposing that, for institutions that are subject to the interest rate restrictions, any subsequent published national rate cap, that is lower than the previously published national rate cap, take effect 3 days after publication. In certain circumstances, the FDIC would also have discretion to delay the date on which a national rate cap takes effect. Is this a reasonable approach to address the effects of potential downward volatility in the national rate cap? Are there other ways to address or reduce the effect of potential volatility on less than well capitalized institutions that are subject to the interest rate restrictions?

3 days is fine since it only affects the rates offered by less than capitalized bank to new money and renewals.

Question 6. Data limitations do not allow consistent means to include certain special promotions, like cash bonuses, to be included in the proposed national rate calculations. Is it appropriate to incorporate specials and promotions? Is there another way to capture these promotions or deposit products that pay interest based upon an index or are triggered at some future date (e.g., step-up rates)?

We understand the challenges in data gathering especially rates related to an advertised promotion. Then there are un-advertised rate offerings at branches based on both the relationship and amount of deposit with the bank. We are not aware of any means to capture promo rates, advertised as well as unadvertised. We do know that banks offer rates which reflect their market and competition. Every bank makes an effort to keep their cost of funds down while trying to retain deposit to fund their growth.

Question 7. The proposed national rate plus 75 basis points is being proposed as an option for products whose rates converge, as seen with a few deposit products. While this appears to be a useful alternative for a few products in the current rate environment, it might be less appropriate in other rate environments. For example, this alternative could yield a rate cap that does not "significantly exceed" the prevailing rate in a high rate environment. Are there better options for setting a proxy to determine what it means to "significantly exceed" a prevailing market rate when rates converge?

75 Basis points is fine as long as the data gathered by the FDIC truly reflect or come close to the market rates.

Question 8. Should the local rate be exclusively limited to institutions with a smaller geographical footprint? If so, how should eligibility be determined?

Yes. It could be dependent upon number of states the bank operates in. For example, range could be 1 to 3 states considered local geography.

Question 9. If there is significant movement downwards in the national rate cap from one publication period to the next, do institutions need additional time to lower interest rates on particular products in an effort be in compliance with the rate caps? If so, what is an appropriate amount of time?

Kindly refer to answer to question 5

Question 10. Internet institutions are not included in the local deposit rate calculation. Is this a reasonable approach? If the FDIC allowed institutions to use Internet competitors in their local rate calculations, how would they choose such competitors and which ones should be chosen?

Internet institutions are a major factor for banks in retention of deposits. With ease in technology, these Internet-only banks and non-banks do factor in when looking at competitors. Since internet banks have no boundaries, all such banks should be considered.

Question 11. For purposes of the rate restrictions, the FDIC is considering an interpretation under which balances in non-maturity deposit accounts at the time the institution becomes less than well capitalized are not subject to the interest rate restrictions, but the balance would be if new funds were deposited into such accounts. Is this interpretation appropriate? Would there be substantial operational difficulties for institutions to monitor additions to these existing accounts in order to determine when they would be subject to the interest rate restrictions?

This will be highly impractical from tracking perspective as well as confusing for customers. We don't think this is workable.

We thank the FDIC for the opportunity to submit above comments.

Sincerely,

[redacted]

Saleem Iqbal
President & CEO