STATE OF LOUISIANA
OFFICE OF FINANCIAL INSTITUTIONS
BATON ROUGE, LOUISIANA

November 1, 2019

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Docket No. RIN 3064-AF02

Re: ***Proposed Rule on Interest Rate Restrictions Applicable to Less than Well Capitalized Institutions***

Dear Mr. Feldman,

The Louisiana Office of Financial Institutions (LOFI) appreciates the opportunity to comment on the Notice of Proposed Rulemaking issued by the Federal Deposit Insurance Corporation (the "FDIC") on August 20, 2019, titled "Interest Rate Restrictions on Institutions That Are Less Than Well Capitalized" (the "proposed rule" or "proposal").

The proposed rule revises the calculation used to determine the maximum interest rates payable on deposits by a bank or thrift that is less than well capitalized as defined in 12 C.F.R. Part 324, Subpart H, also known as Prompt Corrective Action or simply "PCA." The proposal would amend the limits imposed by 12 C.F.R. §337.6.

The proposal would allow an institution to pay the higher of up to the 95th percentile of the national rate, weighted by market share, or 75 basis points over the average weighted rate, for a given deposit product. It would also allow an institution to pay up to 90% of the highest rate paid in the institution's local market. The proposal also seeks comments on alternative solutions.

When an institution is attempting to recover from an adverse situation, funding options are often critical. LOFI wishes to ensure that institutions, under the supervision of state and federal regulators, have reasonable funding options available to them in such circumstances. We concur with the FDIC in its assertion that the interest rate restriction on deposits can have the effect of preventing an institution from retaining or obtaining funding on reasonable terms when they are most needed in an effort to continue to offer products and services to its community, while recovering from an adverse situation. Banks and thrifts represent the financial infrastructure of their communities. Without proper and reasonable funding, this infrastructure might be reduced, broken, or removed entirely. The consequences for individual communities can be devastating.

One concern is the effect that large institutions with national scope have on such calculations. These institutions might not have the same incentive to compete for local deposits and might have access to funds on more reasonable terms outside of a particular deposit product or community. The institution might offer a particular deposit product, but at a rate so low as to be noncompetitive and

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irrelevant to the marketplace. Including these rates in the calculation of an interest rate limit on deposits is not appropriate as a stand-alone measure. This is a factor in the current calculation and unfortunately appears to remain a factor in the primary proposal of the FDIC.

A second concern is the prevalence of deposit products that are available through the Internet makes it more difficult to draw an accurate picture of the marketplace. In other words, a community bank's competitor might affect local deposit rates from a great distance, because local depositors have access to that competitor. However, to attract deposits, a community bank or thrift might have to offer rates considerably higher than the internet options to remain competitive.

A third concern is that, even when an institution is allowed to price according to a local market metric, under the current or proposed mechanism, that institution might be forced to price below the internet competitors. A depositor seeking the highest return will simply not look to this institution, because a higher rate is immediately available from a competitor. In other words, the prevailing rate in a local market is effectively the highest rate in that market, because that is the rate most attractive to most depositors.

A fourth concern is that the imposition of an interest rate cap at a moment in time might contribute to a liquidity crisis that might otherwise be manageable. A sudden decrease in pricing might contribute to the flight of deposits from a bank. Further, where price is the deciding factor, this sudden decrease often prevents potential new depositors from placing funds at a bank. The FDIC has expressed similar concerns and asked related questions (Questions 9 and 11).

Finally, a fifth concern is the volatility of the rate caps as published weekly. The FDIC has also indicated some concern in this area and has asked for comments about the publication frequency of the national rates (Questions 2 and 5).

The FDIC offered several alternatives to the primary proposal. The first of these is in line with the approach suggested by CSBS; that is, to establish the national rate cap at the higher of the current simple average calculation plus 75 basis point or the previous calculation used between 1992 and 2009. The previous calculation was 120% or 130% of the comparable U.S. Treasury rates, plus 75 basis points. As the FDIC noted in its analysis, it is difficult to determine what an appropriate deposit rate is in a changing economic environment. This has to do with consumer behavior and alternatives that might or might not be more attractive than deposits. Allowing flexibility based on U.S. Treasury rates creates a competitive buffer for institutions in any part of an economic cycle to compete for much needed funding. It further encourages the institution to establish or maintain deposit relationships, which might aid the institution in achieving a more long-term and sustainable recovery, and an enduring presence in its community.

To address the concerns noted above, LOFI proposes to work within the concept of the first alternative; that is, the highest of multiple metrics. However, we propose to incorporate other concepts as well. Specifically, we propose that an institution that is less than well capitalized be empowered to compete reasonably for funds by pricing according to the higher of:

- The FDIC's primary national rate cap proposal; that is the higher of up to the 95th percentile of the national rate, weighted by market share, or 75 basis points over the average weighted rate, for a given deposit product,
- The previous, Treasury-based calculation used from 1992 to 2009; that is, 120% or 130% of the comparable U.S. Treasury plus 75 basis points,
- The second alternative presented by the FDIC; that is, the average of the top 25 rates offered in the nation,
- The highest rate offered by a local institution for a particular product, and
- For renewals of time deposits only, the rate currently paid to that customer for the same or lesser amount and for the same or lesser term.

One concern remains; that is, the volatility of rate caps. To address this concern, we propose that the FDIC continue to publish rates weekly, but allow less than well capitalized institutions to price deposits according to the highest of the last five rates published for a given product.

We believe the combination of these metrics will provide a reasonable framework for an institution to retain and compete for funds in a variety of economic and competitive scenarios, to prevent regulation from accelerating a liquidity crisis in an institution that is attempting to recover from an adverse situation, and to maximize the potential of the institution to recover from a troubled condition. We believe this will reduce the risk of failure in banks and thrifts, especially small community institutions. Consequently, this will reduce risk to community financial infrastructure, the U.S. financial system, and the Federal Deposit Insurance Fund.

We appreciate your attention to and consideration of our comments.

Sincerely,

[redacted]

John Ducrest, Commissioner
Office of Financial Institutions
State of Louisiana