CBA | CONSUMER BANKERS ASSOCIATION

November 4, 2019

VIA ELECTRONIC SUBMISSION

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429
Re: RIN 3064-AF02
Email: comments@FDIC.gov

Re: Notice of Proposed Rulemaking Regarding Interest Rate Restrictions on Institutions That Are Less Than Well Capitalized/RIN 3064-AF02

Dear Mr. Feldman:

The Consumer Bankers Association ("CBA" or "the Association")[1] appreciates the opportunity to offer our views on the Federal Deposit Insurance Corporation's ("FDIC") Notice of Proposed Rulemaking (the "Proposed Rule" or "the Proposal") concerning the FDIC's regulatory approach to the interest rate restrictions applicable to banks that are "adequately capitalized" or less than "well-capitalized," as defined under Section 29 of the Federal Deposit Insurance Act (the "FDI Act" or "Section 29").[2]

CBA appreciates the FDIC's long overdue efforts to modernize interest rate restrictions on brokered deposits. As the Association previously voiced in our comments to the December 18, 2018 Advance Notice of Proposed Rulemaking ("ANPR"), the current national rate and national rate cap calculations (collectively "the current rate calculations") are flawed methodologies that are not representative of true market rates. Specifically, the current rate calculations are based on bank branch networks, do not account for internet bank models that lack a geographic presence, and are artificially low compared to the prevailing deposit rates actually paid by banks.[3]

[1] The Consumer Bankers Association is the only national trade association focused exclusively on retail banking. Established in 1919, the Association is now a leading voice in the banking industry and Washington, representing members who employ nearly two million Americans, extend roughly $3 trillion in consumer loans, and provide $270 billion in small business loans.

[2] See 12 U.S.C. § 1831f and 12 C.F.R. § 337.6 (the "Brokered Deposits Rule").

[3] Compare FDIC's Weekly National Rate Caps to the table of average acquisition pricing across all bank types attached herein as Appendix 1. Source: Novantas Comparative Analytics Database of account-level data ($3T and

The methodology set forth in the Proposal, using a weighted average based on an institution's share of total domestic deposits, is an improved approach to the current rate calculations and provides more flexibility and competitive features to mitigate the risk of sudden and unintended liquidity strains on banks. CBA applauds the FDIC for recognizing the dangers of setting the national rate cap too low and prohibiting a less than well capitalized bank from competing for deposits during times when attracting deposits is critical to improving a bank's financial condition. The Proposed Rule reflects a thoughtful approach to provide less than well-capitalized institutions better access to market-rate funding while upholding Section 29's statutory restriction prohibiting these institutions from offering a rate that "significantly exceeds" the prevailing rate.

CBA further commends the FDIC for revising its Risk Management Supervision Manual of Examination Policies to clarify to examiners that rate caps apply only to insured depository institutions that are less than well capitalized and should not be used as proxies for "high risk" deposits for well capitalized banks.

While the Association is generally supportive of the proposed rule, there are a few provisions we believe could be improved. For example, the Proposal does not fully address the impact of internet banks and depository listing services within a local market. While the proposal provides a channel for institutions to seek FDIC approval to offer a "local rate" that is 90% of the highest interest rate paid on a particular deposit product within the institution's local market area (a readily defined geographical area), such rate will be artificially low (posing the same challenges as the current rate calculations) in light of the participation of internet banks, depository listing services, and other participants within a local market. CBA believes the proposed rule should permit insured depository institutions to better compete with all participants within the local market area, particularly if geographic branch footprints continue to decline over time or there is a significant uptick of online institutions targeting marketing within a specific local market area.

Another provision that warrants closer scrutiny is the calculation for rates offered at the 95th percentile. Under the Proposal, the FDIC would calculate "an average rate per institution for each specific deposit product that the institution offers." CBA encourages the FDIC to consider using the highest rate per institution for each specific deposit product that the institution offers given the significant volume of deposits for any deposit product that likely flow to the highest rates.[4]

Additionally, we believe the national rate caps should continue to be updated weekly, with discretion to update the rate cap more or less frequently after institutions have transitioned to the proposed new methodology. Weekly publication would not reflect a change from current

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150+mm accounts) extrapolated to the entire banking universe and weighted based on Deposits by bank type (top-10, 11-25, >25, Direct).

[4] See Appendix 1.

practice, would be transparent, and would provide both the FDIC and banks with more complete data to understand how the new methodologies are applied in practice particularly during times of rate volatility.

In sum, CBA supports a proposed national rate and rate cap weighted by deposit share and believes this approach better reflects the reality that customers and banks are no longer solely dependent on branch networks to obtain or solicit deposits. CBA appreciates the opportunity to provide comments to the Proposed Rule, and appreciates the time and care devoted by the FDIC's staff to developing the proposal. If there are any questions, please do not hesitate to contact the undersigned.

Sincerely,

[redacted]

[redacted]

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Appendix 1

AVERAGE ACQUISITION PRICING ACROSS ALL BANK TYPES

CD	
0 - 18 Months	
1/31/2019	2.38%
2/28/2019	2.39%
3/31/2019	2.47%
4/30/2019	2.43%
5/31/2019	2.39%
6/30/2019	2.32%
7/31/2019	2.16%
8/31/2019	1.99%
19 - 40 Months	
1/31/2019	2.42%
2/28/2019	2.38%
3/31/2019	2.34%
4/30/2019	2.19%
5/31/2019	2.04%
6/30/2019	2.00%
7/31/2019	1.73%
8/31/2019	1.49%
41 + Months	
1/31/2019	2.17%
2/28/2019	2.12%
3/31/2019	1.94%
4/30/2019	1.81%
5/31/2019	1.62%
6/30/2019	1.56%
7/31/2019	1.59%
8/31/2019	1.40%
All CDs	
1/31/2019	2.56%
2/28/2019	2.57%
3/31/2019	2.54%
4/30/2019	2.46%
5/31/2019	2.40%
6/30/2019	2.34%
7/31/2019	2.17%
8/31/2019	2.01%
Savings	
1/31/2019	1.50%
2/28/2019	1.50%
3/31/2019	1.59%
4/30/2019	1.63%
5/31/2019	1.65%
6/30/2019	1.57%
7/31/2019	1.55%
8/31/2019	1.43%

Source: Novantas Comparative Analytics Database of account-level data ($3T and 150+mm accounts) extrapolated to the entire banking universe and weighted based on Deposits by bank type (top-10, 11-25, >25, Direct).